



# The importance of environmental law

By Kirsty Ruddock

While seen by many as a specialist field of legal expertise, environmental law maintains public health by ensuring there is clean water, clean air and a healthy and sustainable environment for the whole community. Given current attacks on environmental laws as 'green tape', and the political contentiousness of other environmental issues such as climate change and the Murray-Darling Basin Plan, this edition of *Precedent* is very timely. At the core of these issues is the question of how we can ensure our continued economic prosperity, particularly from mining, while protecting our environment for future generations. This essential tension means that environmental law will continue to be a growing and hotly contested area.

Dr Chris McGrath reinforces the importance of the 'green safety net' of environmental law with examples of past damage to the environment when environmental laws were weak. The first example involves the dioxin contamination of Sydney Harbour by the Union Carbide factory at Homebush Bay. Ongoing damage from this contamination still results in health warnings not to eat fish caught in that part of the Harbour. The second example involves litigation over a contaminated site at Armidale, where the council breached its duty of care in approving a residential development on a highly contaminated site.

The *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) protects important areas such as World Heritage areas, wetlands of international importance and migratory species, in accordance with our international environmental law obligations. Rachel Walmsley raises strong arguments in defence of the federal government's role through the EPBC Act in environmental assessment and approvals, countering proposed reforms from COAG to reduce 'green tape' in response to pressure from business.

The network of Environmental Defender's Offices (EDO) empowers the community to protect the environment through law. At a time when the EDOs in Queensland and NSW are under concerted funding attacks, Felicity Millner and Tom Dreyfus explain the importance of the Victorian EDO's work. The EDO has been involved in important public interest cases to stop Dual Gas building a new power plant powered by brown coal, and to test the limits on police powers under the Victorian Charter of Human Rights and Responsibilities

on behalf of environmental activists. The EDO is also undertaking important law reform work on mining, coal seam gas and the Murray-Darling basin.

In a country where water scarcity is an ongoing challenge to our communities and environment, water law is becoming increasingly important. Professor Fisher focuses on the recent Commonwealth involvement in regulating water through the *Water Act 2007* (Cth) and the complexities of the interaction between Commonwealth and state laws in this area. Meg Good's article exposes the problems with the lack of Commonwealth regulation of water pollution, in contrast to the US where the national government has a clear role through the *Clean Water Act*. She focuses on current problems with diffuse pollution from agriculture and the risks of water pollution from the coal seam gas industry.

Andrew Macintosh explains the Carbon Farming Initiative, which has an important dual role in improving soil, vegetation and habitat while providing carbon benefits to mitigate the impacts of climate change.

Environmental Impact Assessment (EIA) plays an important role in improving environmental outcomes. Mandy Elliott explains the history, role and key issues with EIA, and how the EIA system operates at both state and federal levels.

The unprecedented mining boom in Australia has pitched economic growth against the preservation of the natural environment and agricultural assets. Josie Walker explains the process of objecting to mining leases in WA and how private landowners, pastoral leaseholders, native title holders and environmental groups have used it to fight for greater environmental protections against mining in the Mining Warden's Court. She also discusses the important decision of the EPA and WA government to reject coal mining in the Margaret River area.

The Land and Environment Court of NSW has developed a distinct set of rules, particularly on public interest costs and apportionment, which are explored at length by costs expert, Phillipa Alexander.

We hope you will find this issue of *Precedent* informative and that it will enhance your understanding of the importance of environmental laws to the wellbeing of us all. ■

**Kirsty Ruddock** is a principal solicitor for the EDO NSW.  
PHONE (02) 9262 6989 EMAIL [Kirsty.ruddock@edonsw.org.au](mailto:Kirsty.ruddock@edonsw.org.au)