



**E** NVIRONMENTAL  
**L** AW  
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**A** DVISORY  
**S** ERVICE (SA) INC

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## GREENLAW

### NEWSLETTER OF THE ENVIRONMENTAL LAW COMMUNITY ADVISORY SERVICE SA INC.

**No 3: 1995**

#### Management Committee Membership

At the ELCAS Annual General Meeting held on 8th August 1995, the following were elected to the Management Committee:

M. Parnell  
J. Levinson  
J. Scanlon  
F. Petrone  
P. Leadbeter  
M. Doherty  
R. Fowler  
E. De Wit  
D. Cole

Originally there were 9 nominations for the 8 positions. John Scanlon withdrew his nomination indicating that he was prepared to assist the Management Committee in an unofficial capacity and to be co-opted onto the Committee.

At the next meeting of the Management Committee the following officers were elected:

D. Cole - Chairperson  
E. De Wit - Treasurer

It was determined that in view of the fact that James Blindell's contract as Co-ordinator has been renewed, there was little need for the position of Secretary to be filled. The Constitution allows this flexibility.

John Scanlon was formally co-opted onto the Committee.

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#### Kangaroo Island Eco-Action Incorporated v. District Council of Kingscote

This matter was initiated through ELCAS and is currently being handled by Johnston Withers.

The Action is unusual in that it is a private prosecution bought under the *Native Vegetation Act* alleging breaches of the Act by the District Council of Kingscote in that they unlawfully cleared native vegetation on road reserves vested in their care and control.

On 24th July, 1995 Mr Boxhall SM handed down his judgment. He found for the prosecution concluding "that the District Council of Kingscote did not clear vegetation in accordance with Part 5 of the *Native Vegetation Act*, 1991 and accordingly committed an offence pursuant to section 26 of the *Native Vegetation Act*, 1991".

Nevertheless, the matter has been taken on appeal to the Supreme Court by the District Council. The appeal will not be heard until Mr Boxhall has imposed sentence and determined costs.

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### **Application for Commonwealth Funding**

ELCAS has submitted its proposal for the funding of an Environmental Lawyer's position under the Commonwealth Government's Justice Statement package which provides for the development of a national network of environmental lawyers. If successful, this will allow ELCAS to establish an office (preferably sharing resources with a comparable organisation), dispense a wider range of services than is currently the case and to provide more effective representation for those with environmental law problems.

It is hoped that a Government decision will be made by approximately November 1995 and that the process of recruiting can commence at that point. We anticipate that if matters proceed to plan, the office can be operating by February/March 1996.

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### **Meetings with Politicians**

Over the last several weeks, ELCAS has conducted a series of meetings with key politicians associated with

environmental matters. These include David Wotton, Minister for Environment and Natural Resources; Terry Roberts, Shadow Minister for Environment and Natural Resources; and staff from the Office of the Attorney-General, Trevor Griffin. It is proposed to meet with Mr Mike Elliot, MLC (Democrats) in the near future.

Whilst the meetings to date have all been productive, it is unfortunate that the Attorney-General was unable to meet with us. Nevertheless, we anticipate that our information and comments presented in the meeting with his advisers will be transmitted to him.

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### **Native Vegetation Act**

ELCAS understands that the Government is proposing to introduce amendments to the *Native Vegetation Act*, 1991 which will allow merit appeals from decisions of the Native Vegetation Council. These decisions arise from applications for the clearance of native vegetation. ELCAS is particularly concerned about any attempt to reduce the integrity of an Act which has been critical to the arresting of broadacre clearance of remnant vegetation in South Australia. At the same time, ELCAS recognises that there are significant issues of fairness and social justice associated with determinations of the type made by the Native Vegetation Council.

ELCAS has indicated to the Conservation Council of South Australia Inc. that it is prepared to assist the Conservation Council in protecting the integrity of the Act. The Conservation Council is also concerned at recent appointments to the Native Vegetation Council. The previous presiding officer, Mr John Bradsen from the Adelaide Law School has not

been re-appointed. Similarly, the highly respected biologist, Ms Enid Robertson, has also not been re-appointed to the Council. Such decisions add weight to ELCAS' concerns that the government may be planning a concerted attack on the legislation, or alternatively, is prepared to subvert the effectiveness of the Act through a series of administrative decisions which do not require legislative amendment.

ELCAS will continue to monitor the situation and, where possible, support those organisations who require legal advice on matters arising from the Act and its implementation.

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### **Environment Resources and Development Court**

Information obtained on the "grapevine" indicates that the current Government, particularly the Attorney-General, is considering modifications to the role of the Environment Resources and Development Court. The current Government when in Opposition did not support the introduction of the Court. Its opposition to the Bill was vigorously led by the then Shadow Attorney-General, now Attorney-General, Trevor Griffin.

ELCAS is strongly of the opinion that a specialist Court for environmental matters is absolutely essential. ELCAS believes that a substantial number of matters being, and likely to be, handled by the Court require specialist expertise due to their scientific, cultural and social complexity and that it would be inappropriate for such matters to be handled in a jurisdiction where this expertise was not necessarily available.

ELCAS additionally believes that of all the South Australian jurisdictions, the ERD Court is significantly a public

interest Court and has been established not only to adjudicate disputes between parties but to specifically inject public interest considerations into the process. ELCAS is fundamentally opposed to any erosion of the current role and responsibilities of the ERD Court.

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### **National Community Legal Centres Conference August 1995 - Hobart**

In May, at a meeting of representatives of existing EDOs and prospective EDOs in Adelaide, following the ACEL conference, it was considered that the EDO movement should develop more fully its profile in the national CLC movement. As part of this process it was considered important that a representative of the EDO movement attend the national conference in Hobart. The ELCAS Management Committee subsequently decided to fund the attendance of James Blindell at the conference to represent ELCAS and raise the EDO profile.

The conference workshops covered a wide range of topics including environmental issues, with Gerry Bates being one of the opening speakers and running two workshops. Other workshops dealt with the Justice Statement funding scheme and strategies for moving from being an unfunded voluntary organisation to a funded organisation with strong support from volunteers. Through the workshops, ELCAS made contact with a number of people who are very experienced in the processes involved in setting up full-time CLCs (the pitfalls and the tactics).

The time spent with SA CLC delegates was very useful in developing an understanding of the financial and political issues in SA for CLCs. All

delegates from specialist (eg welfare rights, tenants, women, immigration, consumer credit, youth) and generalist CLCs had an appreciation of the importance of environmental issues for all their clients.

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### **The Future of the National Association of Community Legal Centres (NACLC)**

At the conference there was much discussion about the future direction of the NACLC. The organisation is currently undergoing a structural review. ELCAS, in response to an options paper, has made a submission advocating closer links between EDOs' and the NACLC and the representation of a national EDO network in the NACLC.

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### **The ELCAS Roster**

Since the commencement of the current roster in June, up until 5th October, there have been approximately 35 appointments, which is a massive increase in demand for the Service (financial year 94/95 generated 39 appointments). There is also a noticeable increase in the number of clients from the country who are provided with telephone advice. Thanks to all the volunteer advisers for their time and commitment.

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### **Membership**

ELCAS' application to the Commonwealth for tax deductibility status for donations languishes as we remain below the membership threshold of 50 to qualify.

Recruit a friend or, if you don't have one, sign up a member of your family. A form is enclosed with "Greenlaw" and the individual membership fee is only \$10-00.

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### **Solicitors Excess Guarantee Fund**

ELCAS has made application to the State Attorney-General for a \$10,000 grant available from the administration of the Fund. The \$10,000 would be used to produce a series of ten Environmental Law Fact Sheets and to provide community environmental law education, through a number of seminars, to various groups throughout Adelaide and possibly regional centres. The funds will be allocated in November.

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# JOIN, JOIN, JOIN, JOIN ELCAS - NOW!

**WHY?** BECAUSE ELCAS IS THE ONLY VOLUNTARY ORGANISATION IN SA DEDICATED TO PROVIDING FREE LEGAL ADVICE ON ENVIRONMENTAL ISSUES.

**WHY?** BECAUSE YOU WILL GET REGULAR NEWSLETTERS TELLING YOU WHAT ELCAS IS UP TO.

**WHY?** BECAUSE YOU WILL FIND OUT ABOUT OUR DINNERS & OTHER SOCIAL FUNCTIONS

**BUT MOST OF ALL BECAUSE YOU WILL, IN YOUR OWN SPECIAL WAY, BE HELPING PEOPLE TO PROTECT OUR ENVIRONMENT.**

IF YOU ARE NOT ALREADY CONVINCED AND REACHING FOR THAT CHEQUE BOOK - RING THE ELCAS ADMINISTRATOR, JAMES BLINDELL (085) 583545 TO FIND OUT EVEN MORE REASONS WHY YOU SHOULD BECOME A MUCH RESPECTED MEMBER OF ELCAS.

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ENVIRONMENTAL LAW COMMUNITY ADVISORY SERVICE (SA)  
INC.

## MEMBERSHIP FORM

I wish to become a member of ELCAS:

Name:

Address:

Ph. no:

Membership Fee \$10.00 per annum (\$ )

Donation (\$ )

Total (cheque/money order etc.) (\$ )

Please forward to:

The Treasurer of ELCAS  
GPO Box 170  
Adelaide SA 5001