

# editorial

Dear Readers

This first issue of 2008 has a new look which we hope reflects an exciting new phase for NELA. So far this year NELA has contributed strongly to the development of climate law in Australia through our highly successful conference at Fremantle, and we are delighted to announce that those conference papers will soon be published as a book by Thomson Reuters.

In this issue we have details of the first Federal Budget of the Rudd Government and several perspectives on recent developments in the law of climate change. The Federal Budget is notable for its ground-breaking commitment to tackling climate change through the proposed Australian emissions trading scheme, as well as many new initiatives on water. The two leading articles in this issue are both by Allens Arthur Anderson partner Grant Anderson, who has analysed two key elements of the Federal response to climate change, the *National Greenhouse and Energy Reporting Act 2007 (Cth)* and Professor Garnaut's discussion paper on the design of an Australian Emissions Trading Scheme. With respect to greenhouse and energy reporting requirements, Grant cautions that companies will need to familiarise themselves with the definitions of the terms that define the scope of their reporting obligations, and that some of the reporting rules are likely to be modified once the ETS rules are worked out. With regard to the Garnaut recommendations for the Australian ETS, Grant has observed that the auctioning of emissions permits is the favoured approach, however it does support compensation for 'trade-exposed, emissions-intensive' industries. He also notes that the discussion paper questions the economic rationale for continuation of renewable energy schemes under an ETS framework.

The implications of climate change for biodiversity protection is the topic of an article by Larissa Waters of the Queensland EDO. Her paper examines existing biodiversity protection laws in Queensland and at the national level and concludes that there is a clear need for specific legislation to deal with the many threats to biodiversity which are presented by of climate change.

The final paper in this issue is on corporate social responsibility, written by Belinda Simmons of EcoDirections. Belinda critically discusses the current legal framework in the light of the recent CAMAC and PJC reports and concludes that it is likely that mandatory measures are unlikely in the near future, and thus corporate social responsibility will continue to be largely a matter for corporations to decide in their own discretion.

In casenotes the important NSW Land and Environment Court decision of *Walker v the Minister for Planning*, is summarised by AAR partner Jim Parker. The decision deals with global and Australian trends in the development of ESD principles and the application of those principles (such as the precautionary principle and inter-generational equity) to major project assessment in NSW, particularly in relation to the assessment of climate change impacts. The court has firmly acknowledged that where 'climate change' is a relevant principle of ESD in an environmental assessment, it must be taken seriously by applicants and decision makers alike.

Regards,  
Wayne Gumley