



Attendees at the EIA workshop, from left to right: Ian Le Provost, Anthony Sutton (OEPA); Phil Scott (Preston Consulting)

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Stimulating discussion at the EIA workshop

Aligning Federal and Western Australia EIA: The Future of Impact Assessment

By Jamie Shaw

Almost 150 members of the environmental fraternity attended the ECA-hosted workshop in June to discuss "Aligning Federal and Western Australian EIA". The workshop was the brainchild of Dr Angus Morris-Saunders (Murdoch University) and Dr Garry Middle (Curtin University) and attracted representatives from regulatory authorities, public infrastructure providers, consultants, the conservation sector industry and academic institutions.

Attendees were keen to hear from the impressive line-up of key speakers, which included Nicole

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The ECA WA committee meets on the third Monday of the month. Please contact committee members or Bec James if there is anything you would like to raise for discussion.

Editorial contributions welcome

The editorial deadline for the next edition of ECA News will be advised in the ECA weekly email updates. Please email articles and contributions to ECA News Editor, Jo Thierfelder at editorecanews@eca.org.au

ECA WA News is a periodical publication of the Environmental Consultants Association (WA) Inc. It aims to inform members on the activities of the ECA and its members, events and training, and developments in the environmental industry. The views and opinions expressed in ECA WA News are those of the article authors and do not necessarily reflect those of the ECA WA.

Matthews, Department of the Environment; Dr Paul Vogel, EPA; Dr Phil Gorey, DMP; Piers Verstegen, Conservation Council and Gavin Price, BHP Iron Ore.

The objective of the workshop was to consider the implications of the new EIA Bilateral Agreement between Federal and State governments, and what it meant to effective EIA. As Gavin Price, Head of Environment, BHPIO asked: "What does good (EIA) look like?" Gavin also wanted to consider the opportunities that arise from the agreement, noting that it needed to be efficient, timely and effective.

Paul Vogel noted the strength of Western Australia's Environmental Protection Act and how no other jurisdiction boasts all of the features in one piece of legislation as the EP Act does. He also pointed out that the EPA has been handling MNES for nearly 10 years under previous versions of the Bilateral Agreement and highlighted that proponents will now need to undertake consultation on Assessment in Proponent Information levels of assessment.

Piers Verstegen cautioned against removing the checks and balances currently enjoyed by having more than one assessment body and asked us to consider whether we can trust the State to assess projects in which it has a vested interest.

Angus Morris-Saunders noted a global movement toward streamlining environmental assessment, but suggested the emphasis is always on timeliness and efficiency, instead of effective process. He pointed out that there had been an intent and desire to see this happen in WA since as early as 1975.

Nicole Matthews gave a detailed overview of the agreement and explained that an Approval Bilateral will follow. She stressed that



Left to right: Mat Brook (Strategen); Garry Middle; Anthony Sutton (OEPA)



Left to right: Melissa O'Toole (MRWA); Polly Hammond (Jupiter Resources); John Braid (AECOM); Alix Chinnery (AECOM)

the intention is to make things simpler, faster, less expensive, and outcomes-focused.

In summation, Phil Gorey identified that the objective of the assessment process is to make sound decisions and demonstrate they are being made, and that streamlining is different for each objective. He said to expect teething issues during the early stages, which will need to be worked through. He also highlighted the need for the agreement to be flexible enough to allow the State process to adapt without the need to amend the whole agreement every time there is a change.

Christine Moro hosted a World Café workshop in the afternoon, which fostered an atmosphere of open participation, free from judgement, ensuring a range of ideas was considered. Attendees were asked to consider what they liked about the Bilateral Agreement and what they thought could be improved.

As each table presented its top two points, a number of common views emerged. Finally, we were asked about what suggestions we had for delivering effective and streamlined EIA

under the bilateral agreement. The outcomes of these discussions formed the basis of the ECA's submission to the Department of the Environment. A copy of our submission can be found on the ECA website.

The day ended with an opportunity to network with our peers and enjoy a few drinks.

The ECA would like to thank our guest speakers, Angus and Garry for their effort in organising the day and collating the outcomes of the workshop, Christine Moro for facilitating the World Café and all our participants who made it such a success.

If you have any feedback, including ideas for our next event, please don't hesitate to get in touch.

New Editor for ECA News

Welcome to the new look ECA News, the Environmental Consultants' Association (WA) periodical newsletter.

Jo Thierfelder has taken over the role of Editor for the ECA News. She is a communications professional with 13 years experience and runs her own boutique, multi-skilled consultancy, [Finesse Communications](#), specialising in the property, environment and sustainability sectors.

"I hope you find the new format interesting and the content engaging. I look forward to working with the ECA WA Committee and membership to bring you a high quality, professional newsletter."

If you need marketing communications advice or support for your business, get in touch with Jo on 0421 589 548 to discuss your requirements.

Feedback on EPA's 2014 Strategic Planning day

By Jamie Shaw

Jamie Shaw and Mat Brook attended the EPA Strategic Planning Day on behalf of the ECA on 11 June. We were asked to provide our observations on:

- the level of service and assistance our membership receives from the OEPA and our experience of interactions with the EPA
- the policy and guidance provided by the EPA / OEPA
- the implementation of environmental approval reforms

In addition, we were asked to provide feedback on the EPA's first Annual Report on the Environment and Strategic Plan.

This was an invaluable opportunity for the ECA to contribute to how the EPA and OEPA operate, as well as strengthening our relationship so that we can better represent our membership with the regulatory authorities. It was notable that the records of feedback provided at a similar opportunity in 2011 were essentially no longer relevant, suggesting that concerns previously raised had been largely addressed over that time.

Our feedback began with recognition that there had been a distinct improvement in accessibility to OEPA officers, both prior to and following referral of projects, which helps proponents understand expectations and map out approvals strategies. However, we did note that we had received comments about inconsistencies in the advice provided by officers of the OEPA, which was mainly attributed to varying levels of experience.

Other points raised included the quality of technical reports being prepared and the role that the ECA and OEPA have in maintaining standards of quality; the reluctance of some agencies to engage until EIA documents had been submitted; and issues with generic OEPA prepared scoping documents.

Our feedback was well received and the Chairman thanked us for our frank and honest views. Unfortunately, I didn't have time to canvass the entire membership, but I'd like to thank those that provided their thoughts for their input.

Bagging a Quenda

Photo story

Very large pouch young from Quenda (*Isoodon obesulus fusciventer*) captured in remnant bushland north of Perth as part of a monitoring program undertaken by Natural Area Consulting (NAC).

These animals were only a few weeks from being independent and were too large to be taped into the pouch. They were released successfully by leaving them in the bag and allowing them to leave in their own time, a technique known as 'bagging'. They were all recaptured the next day and released again by the same method.



Photos submitted by Sue Brand, Senior Environmental Scientist at Natural Area Consulting.



“My project will untangle the mysteries of this remarkable interaction system as a case study of the importance of a cross-disciplinary approach to biological investigations.”

Winner of the 2014 Ray Hart Scholarship

Congratulations to Samuel Lymbery

By Ian Le Provost

Samuel was, by far, the best of nine candidates who applied for this year's Ray Hart Scholarship at UWA. Samuel is undertaking a BSc Honours in Zoology and Conservation Biology at UWA. His application addressed the selection criteria well and he also presented very well at the interview.

His research topic is: “The effect of a symbiotic endemic fly on the carnivorous strategy of the Albany Pitcher Plant”. Excerpts from his application are provided below to give an indication of the scope of research proposed and its conservation implications.

“My project addresses the importance of a cross-disciplinary approach to zoological and botanical studies across evolutionary biology, ecology, conservation and management. In the biodiversity hotspot of south-western Australia there is a fascinating and unexplored interaction system.

The iconic Albany pitcher plant, the only member of its genus, provides a home for the larvae of the endemic fly *Badisis ambulans*, and a stage for a remarkable natural history story. The larvae somehow overcome the digestive properties of the pitcher fluid, and feed on the plants' insect pre [missing text]. The adult flies are flightless mimics of the ant *Iridomyrmex conifer*, which intriguingly seems to be caught by the plants in disproportionate numbers.

My project will untangle the mysteries of this remarkable interaction system as a case study of the importance of a cross-disciplinary approach to biological investigations. Specifically, this project will incorporate animal symbionts into the general cost-benefit model of plant carnivory by determining the effect of *B. ambulans* on three key aspects of the carnivorous strategy. These questions will be addressed primarily in a manipulative field experiment in Two Peoples Bay Nature Reserve, in association with a laboratory experiment.

The proposed project is ideally suited to the purpose of the Ray Hart Memorial Award. First, its central purpose is to emphasise and advance the zoological-botanical cross-disciplinary approach to important ecological and conservation questions. By extension, the project will have significant conservation and management implications.

Depending on the nature of the Interaction between *C. follicularis* and *B. ambulans*, effective management of this iconic and spectacular endemic plant (which has a restricted range and is

potentially vulnerable to future changes in climate and land -use) will require concurrent management of *B. ambulans*, and possibly also *I. conifer*. Effective system level conservation and management will require an understanding of the ecological processes involved. Furthermore, carnivorous plants have been proposed as sensitive indicator species for environmental changes (such as pollution); any attempt to use them for this purpose must account for the confounding effects of cross-species interactions. This project also combines questions related to plant nutrition, behavioural ecology and adaptive responses and plasticity.

The project is therefore truly cross-disciplinary from all perspectives. It is also field-focused, with an emphasis on developing effective field techniques for providing informative conclusions. In particular, the importance of an experimental approach to field studies to demonstrate causation rather than correlation is emphasised."

YECA Update

Mentoring Program rollout

By JJ Rao

YECA has held three successful events in recent months: the highly anticipated YECA Round Table on 16 April and two casual sundowners. The Round Table event gave junior consultants the opportunity to discuss their careers, hot topics in the environment industry and their work with senior experienced consultants who provided some great advice. The ECA and YECA Committees received a great deal of excellent feedback determining this night a success.

YECA has recently begun the rollout of a mentoring program, developed in conjunction with the ECA Committee and the Old and Retired Consultants Association, also known as ORCA. This program has a flexible structure where mentors and mentees will be able to discuss and design their own program's level of commitment and involvement.



From left to right: Laura Zimmerman (GHD), Oliver Wells (RPS), Amy Hinchcliffe (Jacobs-SKM), Felicity Harrison (GHD) and Luke McManus (ERM).

Don't forget to mark your calendars for the ECA WA Annual General Meeting on **27 August 2014.**

If young consultants are interested in this program, and would like to be connected with an experienced consultant on a regular basis to discuss their career in the environmental industry, the YECA will be holding an informal mentoring evening to allow them to make contact with a potential mentor. This evening will allow young consultants to exchange details with their preferred mentor and discuss commitments that would suit both mentor and mentee.

If you are a young consultant interested in this program, please email yec@eca.org.au so the YECA committee can gauge levels of interest. Likewise, if you are an experienced ECA consultant (including retirees) and interested in becoming a potential mentor, please contact the YECA committee.

Recently, the YECA has benefited from a closer relationship with the ECA committee which has been providing funding, advice and extra hands to enable the YECA to hold more events, without which, the vast majority would not have been possible. The YECA endeavours to bridge the experience levels between young and senior experienced consultants within the ECA while strengthening the ECA's professional network.

In addition to regular events and the mentoring program, if you have a great idea you would like to contribute to the YECA and ECA, or you would like to join the YECA committee please let us know as we are always on the lookout for enthusiastic young professionals to help.

Stay tuned to the ECA newsletters, YECA email bulletins or LinkedIn page for future YECA events. The YECA encourages all ECA members to join the [YECA's LinkedIn group](#) as it is an unobtrusive and efficient way of keeping track of the YECA endeavours.

Have your say at the ECA AGM

Mark your calendars for the AGM on 27 August.

This year's ECA AGM will be held at the Rydges Hotel in Hay Street Perth. We will have another entertaining, topical and interesting speaker, as well as the usual rundown on the year's activities and the year ahead.

Submit your entry for the ECA Annual Photo Competition

Calling all photos and stories for the ECA's annual photo competition, which will be judged at the AGM on 27 August 2014. Keep an eye out for details in our weekly email. A \$150 dinner voucher will be awarded to the winning entry as judged by the ECA Committee.

Get involved and nominate yourself for the ECA committee

If you are a member of the ECA WA and would like to contribute to debate and help shape the policies that affect the environmental industry, then you should volunteer for the ECA committee.

The ECA Committee is a volunteer-led group and welcomes new members who can contribute their time and professional expertise in the effective representation of commercial environmental consultants in WA.

ECA Code of Conduct revision

The ECA Committee is presently reviewing the ECA's Code of Conduct to provide increased clarity on the responsibilities and accountability of consultant members. The revision will be discussed at the upcoming Annual General Meeting.

Changes to the ECA services matrix

In the years since the ECA was first established, the environmental consulting industry in Western Australia has experienced considerable growth and change in the scope of services provided.

In order to remain up-to-date with current industry focus and terminology, the ECA Committee has recently undertaken a review of the ECA services matrix. This is the first significant review of the matrix since its inception.

The ECA proposes to implement several changes to the services matrix in light of the review, including the removal and addition of some services, splitting of others and name changes to several categories. The proposed changes are outlined below.

Applications for listing under new/additional services can be made by completing the Professional Services Section (Part C) of the Membership Application Form.

Three removed categories:

- Training/Education

- Heritage
- Quality / Salinity / Nutrients

"Training/Education" and "Heritage" will be removed because the Committee considers that these categories do not fall strictly within the mandate of the ECA. "Quality/Salinity/Nutrients" will be removed because these are parameters that may be measured and analysed in wetland assessments, hydrological assessments, hydrogeological assessments and marine studies. This category is therefore subsumed under these other categories.

Name revisions to nine categories:

- Environmental Assessment will become Environmental Impact Assessment
- Environmental Management will become Environmental Management Plans
- Statutory Submissions will become Compliance Reporting
- Environmental Planning will become Land Use Planning
- Community Liaison will become Stakeholder Consultation
- Marine will become Coastal and Marine
- Groundwater will become Hydrogeology
- Surface Water will become Hydrology
- Air Pollution will become Air Quality

One category split:

- Fauna will be split into four service categories in recognition of the specialist skills applicable to these disciplines:
 - i. Terrestrial Vertebrate Fauna
 - ii. Terrestrial Invertebrate Fauna
 - iii. Subterranean Fauna
 - iv. Marine Fauna

Members will need to reapply for listing under these new categories and demonstrate appropriate experience for each.

The ECA looks forward to maintaining an ongoing dialogue with EIANZ and working closely with them into the future.

Four new services:

- Offsets
- Mine Closure Planning
- Sustainability
- Climate Change

For more information or if you have any queries, please contact Rebecca James at admin@eca.org.au

ECA collaboration with EIANZ

By Jamie Shaw

Recently, EIANZ WA Division President Carel van der Westhuizen attended an ECA WA committee meeting to talk about how our two organisations might best collaborate. We agreed there are a number of areas where we provide complimentary services to our memberships. The main opportunities are through jointly organising events, promoting each other's events and working together on training. You would have already seen joint promotion of events over recent weeks.

Carel also noted that the EIANZ conference is in Perth next year and planning has already commenced. We plan to discuss opportunities for the ECA to become involved in the conference through the submission of papers or developing conference topics. At some stage, we hope to issue an invitation to our membership to participate.

The topic of Certified Environmental Professional scheme was discussed. The EIANZ is considering the scheme and how it wishes to apply it, but we suggested that there is an opportunity for appropriate ECA arranged events to be endorsed as contributing toward the necessary annual training requirements.

We look forward to maintaining an ongoing dialogue with EIANZ and working closely with them into the future.



Environment
Institute of
Australia and
New Zealand



Photo courtesy of WA Department of Agriculture and Food

Genetically Modified v Organic

The Western Australian Supreme Court's recent decision of *March v Baxter [2014] WASC 187* grapples with the impact of genetically modified crops on organic crops.

By Sarah Mansfield, Senior Lawyer, Castledine Gregory

Mr and Mrs March (the Marchs) claimed that Mr Baxter's adjoining genetically modified canola crops (GM Canola) caused their property to lose its organic certification and commenced legal proceedings founded in the common law actions of negligence and nuisance. The Marchs sought damages in the sum of \$85,000 (for the loss of profit caused by not being able to sell certified organic produce at a premium price) and an injunction preventing Mr Baxter from growing GM Canola.

Commencing an action founded in the law of negligence and nuisance in response to the impacts of a neighbour's activities or developments is a well-worn path for affected landowners. Such actions have been most famously used in the context of noise, air and water pollution and contaminated land. The issue at the centre of *March v Baxter*, was whether Mr Baxter, by allowing swathes of his lawfully grown GM Canola to blow into the Marchs' certified organic property, was negligent or caused an actionable nuisance.

The Marchs' cases against Mr Baxter failed, primarily on causation. That is, the Supreme Court found that the presence of swathes of GM Canola did not pose a material threat to the Marchs' certified organic crops and did not cause them to lose their organic certification. While the Supreme Court did not need to make a finding on this point, it certainly suggested that the National Association of Sustainable Agricultural Australia's standards were misapplied by NASAA Certified Organic Pty Ltd when it decertified 70% of the Marchs' property.¹

The Supreme Court made some useful findings...which are relevant to incompatible land uses and polluting and contaminating activities generally.

In concluding that the Marchs' claims failed, the Supreme Court made some useful findings regarding the application of the law of negligence and nuisance, which are relevant to incompatible land uses and polluting and contaminating activities generally. In particular, the Supreme Court held that:

- A complainant landowner may hold 'genuine and strongly held philosophical and ideological' objections to the activities being carried out on a neighbouring property, as the Marchs did in this case. However, for there to be a cause of action in negligence or nuisance, the impacts of the activities complained of must be scientifically proven;²
- Complainants impacted by a neighbour's activities/development, are often tempted to leave the evidence of those impacts (in this case, the loose swathes of genetically modified canola), on the assumption that doing so will assist any court action commenced. However, such action rarely assists and is often heavily criticised by the Supreme Court.³ It is also at odds with the impacted landowner's duty to mitigate their losses. Consultants providing advice in such circumstances should be mindful of this;
- Some degree of impact on your neighbour is permissible. However, where that impact gives rise to a risk of harm to human health, the environment or property, the law of negligence and nuisance will require a neighbour to take significant and costly steps to prevent that impact;⁴ and
- However, when the physical impacts are innocuous, and the only potential impacts are financial, the steps and effort required of the neighbour are significantly less.⁵

The Supreme Court's comments on the evidence given by witnesses were also informative. Witnesses who came across as being objective and even admitting a degree of error were much preferred to those who were considered to be advocates for the clients and themselves. All expert witnesses should be mindful of this.

The Marchs have appealed the Court's decision to the Court of Appeal and therefore the issue is not finally resolved at this point in time.

¹ *March v Baxter* [2014] WASC 187 at [733] to [739]

² *Ibid* at [186] and [235]

³ *Ibid* at [114] to [115]

⁴ *March v Baxter* [2014] WASC 187 at [327] and [334]

⁵ *Ibid* at [336] to [338]

Two new subterranean ameirids expose weaknesses in the conservation of SREs threatened by mining developments in WA

An article published on 31 October 2013 in the CSIRO journal *Invertebrate Systematics* reports the discovery of two new species of stygofauna from Western Australia. Despite the advanced level of environmental protection policy in Western Australia, this taxonomic study highlights limitations in EIA practices and discusses potential improvements which have global relevance in regions where short-range endemics coincide with extraction of mineral resources.

The abstract and article can be accessed [here](#). For more information contact Dr Stefan Eberhard, Director, Subterranean Ecology on (08) 9349 7695 or stefan@subterraneanecology.com.au

Threatened ecological communities newsletter released

Communities for Communities is a newsletter which will help keep you informed about threatened ecological communities nominated for listing under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) and related information available on the Department of the Environment's website. To access the latest May 2014 edition, [click here](#).

Upcoming Events

Soil Science Australia Conference 2014

The biennial conference of Soil Science Australia will be held at the MCG in Melbourne on 23 - 27 November 2014. The theme for the conference is 'Securing Australia's soils – for profitable industries and healthy landscapes'.

Approximately 400 delegates from throughout Australasia are expected to attend, including



This photo of a soil profile from Ravensthorpe was provided by Keith Lindbeck, Director, Clark Lindbeck & Associates.

researchers, analysts, educators, advisors, extension agents, land managers and policy makers from national, state and local government, universities and the private sector. The conference program will cover the breadth of soils, landforms and climate across the region, and the corresponding breadth of land use; from agriculture to forestry, conservation, recreation and urban use. This conference offers something for everyone concerned with understanding and managing soils.

On Tuesday 25 November, attendees can participate in one of a number of day field trips looking at various matters relating to soils.

The conference will also act as a launching pad for an increased focus and promotion on the importance of securing Australia's soils during the International Year of the Soil 2015. Early bird registration closes on 25 August 2014. Details are available on the [Society's website](#).

The Environment Institute of Australia and New Zealand (EIANZ) will be holding its 2015 annual conference in Perth.



Coast to Coast Conference 2014

The 2014 Coast to Coast conference explores how knowledge, generated both from the community and science, can help address the various changes occurring on the coast.

Where: Mandurah, Western Australia

When: Monday, 27 October to Friday, 31 October

The main focus will be on the value of working collaboratively and through partnerships to sustain use, management and development of our coast.

The forum will provide the opportunity to network and discuss environmental and coastal practice with officials from the nation's leading authorities.

For more information visit the [Coast to Coast website](#) or call (08) 9332 2900.

EIANZ 2015 Conference in Perth

The Environment Institute of Australia and New Zealand (EIANZ) will be holding its 2015 annual conference in Perth. The ECA WA and EIANZ have been in discussion regarding their synergies and ways in which they can potentially collaborate in support of environmental professionals and the industry as a whole.

For more information on the Annual Conference visit the [EIANZ website](#).