

RESOURCE MANAGEMENT LAW ASSOCIATION OF NEW ZEALAND INC.

RM NEWSLETTER

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THIRD MEETING OF THE ENVIRONMENTAL LAW ROUNDTABLE OF AUSTRALIA AND NEW ZEALAND (ELRANZ) and THE 1ST FORUM ON THE PENALTY INFRINGEMENT NOTICE (PIN) RESEARCH PROJECT

This double headed event was held in the boardroom of Clayton Utz, Lawyers, Sydney on 21 November 2005 thanks to the generosity of Clayton Utz who provided refreshments at the end of the Forum (about 2 hours in all).

The small interested multidisciplinary audience of 30 included Justice Brian Preston (Chief Judge, Land and Environment Court) and Justice Nicola Pain (Land and Environment Court).

A number of apologies asked to be kept informed with ELRANZ activities. There are two ways of being kept informed about ELRANZ activities. You can join the Working Group or become an Associate of ELRANZ. There is no joining fee for RMLA members. Send me an email to johnhaydon@ecodirections.com

After the welcome words of support for the Roundtable from Peter Briggs (Partner at Clayton Utz) Tim Mellor

(President of the National Environmental Law Association (NELA)) and Karol Helmink (Executive Officer of RMLA) spoke about the joint project concept developed through ERLANZ.

Karol's comments included:

ELRANZ is an exiting new venture that provides a real opportunity for Trans-Tasman cooperation in the development and harmonization of environmental law.

The current degree of interconnection between the Australian and New Zealand economies and the prospect of further convergence as a result of Closer Economic Relations provides a commercial impetus for initiatives such as ELRANZ. At Central Government level regular meetings between relevant Ministers and Senior Officials at the Environment Protection and Heritage Council of Australia and New Zealand ("EPHC") provides a further impetus for cooperation at professional within the jurisdictions.

The development of specialist environmental courts and tribunals in Australia and New Zealand (the largest cluster of such institutions on a regional basis worldwide), and the development of modern effects based environmental legislation also provides evidence

of a shared vision and commitment to the development of a coherent body of environmental law. Whilst each of the jurisdictions remains distinct, there is a sufficiently strong degree of similarity between them in the legal and institutional framework and the techniques used for implementing environmental principles and rules to make comparative analysis and joint working a useful exercise.

RMLA welcomes the opportunity, in conjunction with NELA, to sponsor the ELRANZ and looks forward to participating in the activities of the Working Group both at National Committee level and among individual members. Indeed, the first project undertaken by the Working Group on Penalty Infringement Notices has provided a real opportunity to work together. We look forward to working on this and other projects in the future.

As Convenor I gave an overview of ELRANZ so far.

Matthew Baird presented an introduction to the PIN Research Project followed by the Forum (a dialogue facilitated by me). We now have some very interesting feedback for incorporation into the PIN Discussion Paper. Once released and uploaded on the RMLA web site the opportunity for RMLA members to comment will be available up to the end of March 2006. The proposal then is to produce a PIN Position Paper with recommendations for harmonisation across New Zealand and Australia.

The PIN Discussion Paper will draw upon and develop further consideration from:

- The Australian Law Reform Commission in 2002 produced report no 95 entitled Principled Regulation: Civil and Administrative Penalties in Australian Federal Regulation.
- The New Zealand Law Commission released on 30 August 2005 a Study Paper on the infringement system. The study paper contains the Commission's recommendations regarding the breath and scope of infringement offences and their penalty structures. The New Zealand Ministry of Justice has also released, as part of a joint review with the Law Commission, a discussion paper entitled "Review of the infringement system: Options for reform".

It is intended that the question of the use of infringement notices will be followed by a consideration of environmental offences and penalties across New Zealand and Australia in a separate Discussion Paper. PINs will then be seen in the context of the wider environmental enforcement requirements.

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