

Jackson Smith solicitors

Court declares Water Sharing Plan valid over the objection of the Nature Conservation Council.

On 21 February 2003 the Minister for Sustainable Natural Resources made a Water Sharing Plan for the Gwydir Regulated River Water Source. The Plan was declared under section 50 of the Water Management Act.

Water Management Plans are being introduced to New South Wales for water sharing as a means of implementing the principles set out in the Water Management Act.

The principles that must be applied are set out in the Water Management Act and are as follows:

- The way in which water is shared from a water source must protect the water source and its dependant ecosystem and basic landholder rights.
- In relation to flood plain management, land degradation must be avoided, including soil erosion, compaction, geomorphic instability, contamination, acidity, water logging, decline of native vegetation, where appropriate, salinity, and where possible land must be rehabilitated, the impacts of flood works on other waters should be avoided or minimised and the risk to human life and property arising from occupation of flood plains must be minimised.
- In relation to controlled activities the carrying out of controlled activities must avoid or minimise land degradation, including all of the matters referred to in the last paragraph and the impacts of carrying out of controlled activities on other water uses must be avoided or minimised.
- In relation to aquifer interference activities the carrying out of these activities must avoid or minimise each of the matters referred to above and the impact on other water uses must be avoided or minimised.

The Nature Conservation Council of New South Wales Inc complained that the Water Sharing Plan for the Gwydir River Water Source did not deal with any of these matters.

Each of the matters referred to above was examined by His Honour Justice Talbot of the Environment Court who found that they had all been dealt with in the Water Sharing Plan.

His Honour conceded that the Plan may not be as specific or as categorical in its provisions as the Nature Conservation Council would have preferred nevertheless the Sharing Plan considered in the context of the dynamic body of water is generally consistent with and showed due regard to the water management principles in the Water Management Act and provides for water sharing generally in accordance with the Water Management Act and established rules.

I hope that this information is of some interest and benefit to you, and to your clients.

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