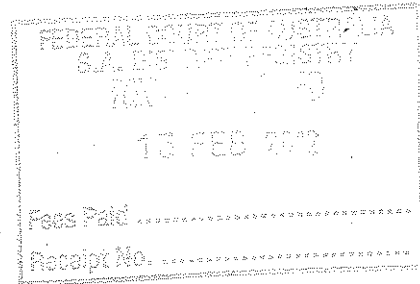


Originating application for judicial review

No. ~~SA~~ 39 of 2012

Federal Court of Australia
District Registry: South Australia
Division: General Division



Kevin Buzzacott

Applicant

Minister for Sustainability, Environment, Water, Population and Communities

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing: 9.30AM ON TUESDAY 13 MARCH 2012

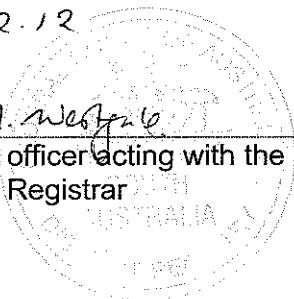
Place: Level 5, Roma Mitchell Commonwealth Law Courts Building, 3 Angas St, Adelaide SA 5000

The Court ordered that the time for serving this application be abridged to

Date: 13.2.12

A. West

Signed by an officer acting with the authority
of the District Registrar



Filed on behalf of (name & role of party)	Kevin Buzzacott, the Applicant		
Prepared by (name of person/lawyer)	Ruth Beach		
Law firm (if applicable)	Environmental Defenders Office (SA) Ltd		
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Application for an order to review the decision of the Respondent made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) on 10 October 2011 (**Decision**), to approve with conditions the expansion of the Olympic Dam copper, uranium, gold and silver mine and processing plant, including all associated infrastructure in South Australia and the Northern Territory (**Approved Action**). On 16 January 2012, the Respondent's statement of reasons for the Decision was received by the Applicant's solicitors.

Details of claim

The Applicant is a person who is aggrieved by the decision, pursuant to the extended standing conferred by section 487 of the EPBC Act, because:

1. During the two years immediately before the Decision, the Applicant has engaged in a series of activities in Australia for protection or conservation of, or research into, the environment, including in relation to the protection and conservation of the South Australian environment.

Grounds of application

1. The Decision leaves so much of the proposal comprising the Approved Action (including the assessment of the environmental impacts of the Approved Action and the proposed measures to protect or mitigate the impact of the Approved Action on the environment) to be defined by proposed plans and studies, yet to be prepared or undertaken, that:
 - a. pursuant to sections 5(1)(e) and 5(2)(h) of the *Administrative Decisions (Judicial Review) Act 1997* (**ADJR Act**), the making of the Decision was an improper exercise of the power conferred by sections 133 and 134 of the EPBC Act because the Respondent exercised the power in such a way that the result of the exercise of the power is uncertain; and
 - b. pursuant to section 5(1)(d) of the ADJR Act, the making of the Decision was not authorised by the enactment in pursuance of which it was purported to be made.
2. Pursuant to sections 5(1)(e) and 5(2)(b) of the ADJR Act, the making of the Decision was an improper exercise of the power conferred by sections 103(1) and 133 of the EPBC Act because the Respondent failed to take into account a consideration required to be taken into account by section 136(1)(a) of the EPBC Act, being the impact that the Approved Action would have on the environment due to the above ground storage of mine tailings.
3. Pursuant to sections 5(1)(e) and 5(2)(b) of the ADJR Act, the making of the Decision was an improper exercise of the power conferred by sections 103(1) and 133 of the

EPBC Act because the Respondent failed to take into account a consideration required to be taken into account by section 136(1)(a) of the EPBC Act, being the impact that the action would have on the environment due to the export of uranium.

4. Pursuant to sections 5(1)(e) and 5(2)(b) of the ADJR Act, the making of the Decision was an improper exercise of the power conferred by sections 130(1) and 133 of the EPBC Act because:
 - a. the Respondent failed to take into account a consideration required to be taken into account by section 134(4)(a) of the EPBC Act, being conditions that were imposed, or were likely to be imposed, under South Australian law for the taking of additional groundwater from the Great Artesian Basin; and
 - b. as a consequence of (a), the Respondent also failed to consider as required by section 136(1)(a) of the EPBC Act the impact that the action would have on the environment due to the continued and increased extraction of groundwater from the Great Artesian Basin.
5. Pursuant to section 5(1)(f) of the ADJR Act, the Decision involved an error of law in that the Respondent assessed the Approved Action on the basis that continued water extraction from the Great Artesian Basin for the purpose of the Approved Action was not within the scope of the action and did not require EPBC Act approval.

Orders sought

1. An order setting aside the Decision.
2. An order referring the matter to which the Decision relates to the Respondent for further consideration according to law.
3. Costs.
4. Such further or other order as the Court deems fit.

Applicant's address

The Applicant's address for service is:

Place: c/- Ruth Beach, Environmental Defender's Office (SA) Inc, 1st Floor, 408 King William St (SE Cnr Gilles St), Adelaide, SA

Email: ruth.beach@edo.org.au

The Applicant's address is 2/795 Marion Road, Mitchell Park, South Australia 5043.

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 13 February 2012



Signed by Ruth Beach
Lawyer for the Applicant