

## **e-Bulletin**

### **No. 10 of 2016, 14 July 2016**

#### ***The environment's legal team since 1992 - protecting the public interest - evening the odds***

The EDO is an independent community legal centre specialising in public interest environmental law. We provide legal advice and where possible court representation, engage in law reform activities and participate in legal education activities for the South Australian community.

In the last fortnight we have been busy working with our client the Wilderness Society SA in their bid to have BP Aust's oil spill modelling released into the public arena. There is more information on this case under News and Events.

We are also well underway with our project looking at public participation provisions in our environmental laws. If you have a story to tell about how the law has helped or hindered your ability to get information, have your say or challenge a decision please give us a call or send an email – we'd love to hear from you.

**To help us to continue this and other vital work we ask that you please consider a donation - all amounts over \$2 are tax deductible.**

Please click here to [make a tax-deductible donation](#).

We are also on [Facebook](#).

#### **[EDO memberships are due](#)**

EDO memberships are now due for renewal. Being a financial member is a great way to show your support. Membership rates are \$66 waged, \$33 concession, \$120 corporate and \$66 NFP. You can join or renew online [here](#) or contact us for further information on 8359 2222.

#### **Calling volunteer lawyers**

We are still interested in hearing from lawyers who might be interested in volunteering with the EDO advisory service. You might be retired, on extended leave or in academia and don't wish to renew your ordinary practicing certificate. If that is you it is now possible to apply to the Law Society for a volunteer practicing certificate (at much less cost than an ordinary practicing certificate). For more information contact the Law Society and/or the EDO.

## IN THIS BULLETIN:

### NEWS AND EVENTS

#### South Australia

- Save the date – EDO Heritage Hypothetical, Thurs 18th August
- EDO acting for client in Great Australian Bight oil spill modelling FOI case
- Nuclear Citizens' Jury releases first report
- Coal gasification – banned in Queensland, now under way in Leigh Creek, SA

### NOTICES AND INQUIRIES

#### South Australia

- Proposed changes to SA's wildlife regulations – public consultation
- SA's native vegetation regulations set to change as well – public consultation
- Major Development – Adelphi Tce, Glenelg – Minister's Report recommends approval
- EPA consultation - Evaluation distances for effective air quality and noise management

#### Commonwealth

- EPBC Act notification – Port Augusta Renewable Energy Park

### PREVIOUS NOTICES: REMINDERS

## NEWS AND EVENTS

### South Australia

#### [Save the date – EDO Heritage Hypothetical, Thurs 18<sup>th</sup> August](#)

Come along to a lively session debating the value of heritage - what's it worth? Members of the Panel will include Brian Hayes QC, the Hon Mark Parnell, environmental lawyer David Cole and others. The hypothetical will commence at 6pm after a complimentary drink on arrival followed by discussion over refreshments and an art auction. Tickets \$20, student/concession \$5. Donations of art are most welcome!.

**When:** 5:30pm, Thursday **18 August 2016**.

**Where:** **1<sup>st</sup> floor, Room 1, Flinders University City Campus, Victoria Sq, Adelaide**

**RSVP and/or to donate artwork :** By **16 August** [edosa@edo.org.au](mailto:edosa@edo.org.au) , or call and leave a message on (08) 8359 2222

## [EDO acting for client in Great Australian Bight oil spill modelling FOI case](#)

The EDO is acting for the Wilderness Society SA in its challenge to a decision by the Office of the Australian Information Commissioner. The decision concerns the release of BP Aust's oil spill modelling associated with its proposal to explore for oil in the Great Australian Bight. The OAIC's decision was influenced by BP Aust's claim that the information is a trade secret, or of commercial value, as it could reveal the size of the reserve to other resource companies.

BP Aust's oil spill modelling is of critical public interest and only limited details have been released. Independent modelling by the Wilderness Society SA shows that an oil spill could extend along the entire southern Australian coastline affecting pristine marine environments and important tourism and fishing industries.

The case was heard in the Administrative Appeals Tribunal on the 12 July and we are now awaiting a decision. In the meantime BP Aust has until the 31 August to lodge a further version of its environment plan to the National Offshore Petroleum Safety and Environment Authority (NOPSEMA). As the regulator of offshore petroleum projects NOPSEMA makes the final decision on whether BP Aust can proceed with exploration in the Bight.

## [Nuclear Citizens' Jury releases first report](#)

The Citizen's Jury who recently met over two weekends as part of the statewide consultation following on from the Nuclear Fuel Cycle Royal Commission has now released its report. The 50 member Jury was tasked to identify the key questions and issues arising from the Royal Commission's report that will need to be discussed in more detail.

The Jury narrowed in on the topic of a high level nuclear waste dump. Other issues of nuclear power, nuclear fuel processing and expanded mining were not dealt with in their report as the Jury, like the Royal Commission, concluded that these other activities were unlikely to ever get off the ground.

The Jury's report identifies four key themes that they believe South Australians should discuss during the state-wide consultation, including:

- Community consent – and the importance of an informed opinion
- Economics – including the benefits and risks to the State. The Jury particularly wanted to see the economic modelling further corroborated.
- Safety – including key issues around storage, health and transport
- Trust – noting that accountability and transparency must be built into any regulatory systems.

The report also includes a 'call to action', requesting all South Australians to join the Jury in being part of this process of shaping the State's future. The report, as well as a video archive of much of the Jury's deliberations, can be accessed at the headline link above.

A 3 month statewide public consultation will now take place beginning late July. Following that, a larger jury of 350 will look at the community feedback and make recommendations to the Government.

### [Coal gasification – banned in Queensland, now under way in Leigh Creek, SA](#)

The former Marathon Resources, now trading as Leigh Creek Energy, has announced the commencement of drilling operations at its Leigh Creek site on the way to developing a coal gasification demonstration facility, and ultimately a \$1 billion eastern states gas supply deal. The company is utilising Alinta Energy's old coalfield, 550 km north of Adelaide, which was to be abandoned after that company closed its coal fired power stations at Port Augusta.

Coal gasification involves the heating of coal to very high temperatures and pressures underground, which converts the coal to gas – mainly methane and hydrogen. The leaking of various pollutants during and after the process is common. The process will now be banned in Queensland following serious contamination near Chinchilla, 300km east of Brisbane, with toxic chemicals including hydrogen sulphide and carbon monoxide working their way into the air, soil and water of the area. The Queensland Environment Minister went on to name the episode "...the biggest pollution event probably in Queensland's history".

## **NOTICES AND INQUIRIES**

### **South Australia**

#### [Proposed changes to SA's wildlife regulations – public consultation](#)

The Department of Environment, Water and Natural Resources (DEWNR) has developed a draft of the *National Parks and Wildlife (Wildlife) Regulations 2017*, which has been released for public comment. The Wildlife Regulations govern how members of the public and industry keep, trade and rescue native animals, as well as governing the importing and exporting of protected animals to and from the state. They also ensure people collecting native plant material or farming and harvesting wildlife in general do so in a manner that does not adversely affect wild populations or ecological communities.

A number of changes have been proposed. These relate to:

- permit types
- record-keeping and reporting requirements
- fees and charges
- the type of native animals held in captivity that require permits (Schedule 6 and 7)
- labelling requirements for interstate transport of native animals
- reporting requirements for the transport of kangaroo carcasses.

DEWNR says that the proposed changes aim to make the regulations easier to understand, more efficient in their application and also provide an update to the permit descriptions.

Comment can be made by way of an online survey, by participating in an online discussion, or by the usual means of a formal submission.

Submissions are due by **August 8 2016**.

### **[SA's native vegetation regulations set to change as well – public consultation](#)**

Proposed changes to the rules for clearing native vegetation are now in draft *Native Vegetation Regulations 2016*.

The Regulations allow for clearance for activities routinely carried out by South Australians, such as building new homes, managing farms, upgrading or establishing new infrastructure, or making recreational trails. DEWNR says the draft regulations seek to strike the right balance between the requirements of people needing to clear, with the need to protect and restore the remaining native vegetation left in South Australia. The current activities based approach to what is allowed to be cleared is to be replaced by a risk based approach in which those considering clearance undertake a self assessment process. The EDO has concerns that the Regulations do not have sufficient checks and balance and this will compromise the general object of the Native Vegetation Act to preserve native vegetation. Administrative streamlining appears to be the foundation of the reforms rather than improving environmental outcomes

The current review, which commenced in October 2014, is an opportunity to consider how effectively the regulations have been working, determine the relevancy of the activities included, and determine whether new activities which enable clearance of native vegetation should be added.

Submissions are due by **15 August 2016**.

### **[Major Development – Adelphi Tce, Glenelg – Minister's Report recommends approval](#)**

On 7 May 2015, the Minister for Planning declared an integrated hotel development at 6-10 Adelphi Terrace, Glenelg, to be a Major Development pursuant to section 46 of the *Development Act 1993*. The proposal, by proponent Q Developments, is to demolish the existing Comfort Inn Marina Motel building to construct a new 14 level integrated hotel that includes residential and tourist accommodation, retail and commercial premises, and a function centre.

The Development Assessment Commission had determined that the developer should prepare a Development Report (DR) regarding the proposal, which was released for public scrutiny in February this year. The Minister has now released a final assessment report, which recommends to the Governor that the project be approved, subject to conditions.

The Minister's report is available for download at the above link.

## [EPA consultation - Evaluation distances for effective air quality and noise management](#)

The South Australian Environmental Protection Authority (EPA) has reviewed and updated its Guidelines for separation distances. The new *Evaluation distances for effective air quality and noise management* will replace the current guidelines which have been used to guide proponents in submitting proposals for new developments (or changes to existing activities).

The EPA says that while many of the recommended distances are unchanged, explanatory text in the new publication has been revised to better describe what they are intended to do, how they are to be used, and their role in risk-based assessment of air and noise impacts of proposals.

The EPA is asking for public feedback on the draft document, and is happy to field any questions in relation to them.

Submissions are due by **19 July 2016**.

## [Regular SA Government Consultations](#)

Below are links to a number of SA Government agencies and bodies who undertake regular environmental audits or assessments open for public consultation. Whilst there are too many such consultations for us to list them all fully in the e-Bulletin, the links are included here as they may nevertheless be of interest to readers. The e-Bulletin will publish consultations in these categories where we deem them to be of wide public importance.

[Current Crown Developments and 'Category 3' Developments before the DAC](#)

[Current Ministerial Development Plan Amendments](#)

[Current YourSAy consultations](#)

[Current EPA license applications](#)

[Current DSD mining proposals](#)

## **Commonwealth**

[EPBC Act notification – Port Augusta Renewable Energy Park](#)

The Federal Environment Minister has made a decision that no approval is required under the *Environment Biodiversity and Conservation Act 1999* in regard to the proposed \$650 million Port Augusta Renewable Energy Park (REP). The project, proposed by DP Energy Australia Pty Ltd, will be comprised of 4 km<sup>2</sup> of solar photovoltaic arrays and up to 59 wind turbines to a total installed capacity of around 375MW. The project site is located approximately 8 km south-east of the city of Port Augusta in the southern Flinders Ranges, South Australia (c. 320 km north of Adelaide) on both sides of the A1 Augusta Highway.

The power generated will be exported from a site substation in the northwest corner of the site via two underground cables to the Davenport substation approximately 4 km to the north. Once operational the Port Augusta REP site is intended to operate for up to 25 years prior to decommissioning. Decommissioning options include either reverting the site to its former condition, or upgrading to the latest generation technology.

The Minister has decided that the project does not constitute a controlled action under the Act, and therefore requires no assessment.

### Regular Commonwealth Government Consultations

Below are links to Federal Government agencies and bodies who undertake environmental audits/assessments that may be open for public consultation. Whilst there are too many such consultations for us to list them all in the e-Bulletin, the links are included here as they may nevertheless be of interest to readers. The e-Bulletin will publish consultations in these categories where we deem them to be of wide public importance.

### Department of Environment Public Notices and Invitations to Comment

## **PREVIOUS NOTICES: REMINDERS**

### [Adelaide's National Parks – draft management plan amendments](#)

- Submissions are due **22 July 2016**.

### [EPA consultation – River Murray shack wastewater management planning](#)

- Submissions are due **1 August 2016**.

### [Glenside Hospital Site – Development Plan Amendment public consultation](#)

- Submissions are due **17 August 2016**.

### [The next generation of Australia's environmental laws – public consultation](#)

➤ Due date unspecified.