

## **e-Bulletin**

### **No. 1 of 2017, 2 February 2017**

#### ***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 assistance, engage in law reform and participate in legal education activities for the South Australian community.

The EDO is looking forward to working with the SA community in 2017 to protect our precious environment.

We are currently working on two major projects - a response to the State Government's review of mining laws ( see details below ) and a review of public participation provisions in South Australia's environmental laws. Please contact Melissa Ballantyne at the office if you have any suggestions or recommendations or in regards to these projects.

The EDO is also advising SA residents on a number of important issues including the possible removal of approximately 80 significant and regulated trees at the old Glenside Hospital site. If you are seeking advice on any environmental or planning issue please visit our website or email [edos@edo.org.au](mailto:edos@edo.org.au)

However our financial situation remains difficult. We hope to see you at the EDO's first fundraiser for the year – a film night this Saturday at the Capri – details below.

**You could also consider making a donation to the EDO - all amounts over \$2 are tax deductible. All donations are vital in helping us to continue providing our services to the SA community.**

Click here to [join us](#) or [make a tax-deductible donation](#).

We are also on [Facebook](#).

**Please feel free to share this eBulletin with your networks.**

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### South Australia

#### [EDO film night – ‘Lion’ – this Saturday!](#)

The EDO’s film night fundraiser is already upon us! This Saturday we will be screening ‘Lion’ at the heritage listed Art Deco Capri Theatre on Goodwood Rd.

The movie is based on a true story: “A five-year-old Indian boy gets lost on the streets of Calcutta, thousands of kilometers from home. He survives many challenges before being adopted by a couple in Australia; 25 years later, he sets out to find his lost family”. The film stars Nicole Kidman, Dev Patel, Rooney Mara and David Wenham.

Please support the EDO and attend this great night out with family and friends. Tickets are \$25 (includes nibbles and a drink). Bar facilities are available and there will be a raffle on the night.

**When: 5:30pm (for 6:30pm screening) on Saturday, 4<sup>th</sup> February 2017**

**Where:** Capri Theatre, 141 Goodwood Rd, Goodwood

**Bookings:** [http://www.edosa.org.au/film\\_night](http://www.edosa.org.au/film_night)

### [Thanks to our in-kind sponsors](#)

The EDO is fortunate to have support from many different organisations, including Flinders University, Wavetel Communications, GUI Visuals, Glashaus - strategic thinkers, Leaconfield and Richard Hamilton Wines, Temple Bruer Wines and B&C Legal Software Solutions.

Recently we were able to replace one of our old desktop computers with a re-conditioned HP 8100 PC, kindly donated by Peter from the Computer Recycling Scheme workshop in Burton. It is these acts of generosity that help your EDO to continue providing service to the public despite severe government funding cuts.

### [Case Notes: \*The Wilderness Society South Australia Inc v Department of the Environment \(Freedom of Information\)\*](#)

On 30 August 2016, Deputy President Katherine Bean of the Administrative Appeals Tribunal (AAT) handed down her judgment in *The Wilderness Society South Australia Inc v Department of the Environment (Freedom of Information)*.

The case concerned certain documents requested pursuant to the Freedom of Information Act 1982 (Cth) (FOI Act). The documents related to a referral by BP Developments Australia Pty Ltd under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) concerning a proposed offshore drilling program in the Great Australian Bight. The Wilderness Society South Australia Inc sought to review the decision of the Office of the Australian Information Commissioner (Information Commission) to uphold the decision of the Department of the Environment (Department) not to give TWS SA full access to the documents.

The AAT determined that access not be allowed as the information was of commercial value. The case highlights a difficulty for environmental interest groups seeking to obtain such information as they will need to obtain evidence that the information is not of commercial value and won't be destroyed or diminished if released. There are obvious practical difficulties of obtaining such information from similar corporates given that in most if not all cases an environmental group will not have precise details of the information they are seeking to obtain and it is unlikely that similar corporates will assist with the collection of relevant evidence.

### [READ MORE HERE](#)

*This article first appeared in Australian Environment Review Volume 31 No 9 from page 329. It may be cited as (2016) 31(9) AE 329.*

## NOTICES AND INQUIRIES

### South Australia

#### [Major Development – American River resort approved on Kangaroo Island](#)

In July 2015 the South Australian Minister for Planning, John Rau, exercised his powers under s 46 of the *Development Act 1993* to declare a proposed tourist resort and commercial harbor operation at American River on Kangaroo Island to be a Major Development due to its “major economic importance” to the State. The Development Assessment Commission (DAC) subsequently determined that the appropriate method of assessment for the project would be through the preparation of a Development Report (DR).

The Governor of South Australia, on advice from the Government, has now granted development authorisation to the project, subject to a number of conditions (which may be viewed by following the above link).

The plans include the building of a 200 bed four-star hotel resort on a separate 80 ha parcel of land away from the existing marina. It will include the construction of 10 lodges, 20 cabins and 20 cottages, along with restaurants, bars, conference facilities and resort suites. The proposal had previously included the construction of a new ferry terminal at the American River Wharf and the expansion of the current marina - however these elements were removed from the proposal.

#### [Review of the SA Mining Acts – Opal Mining \(Discussion Paper 3\) now released](#)

The Mineral Resources Division of the Department of State Development has been conducting a review of the various South Australian Mining Acts. Discussion Paper 3, regarding the *Opal Mining Act 1995*, is now available for public comment.

The Department says that the review will allow for “...the modernisation of these laws to ensure South Australia stays a leader in adopting modern and efficient practices for exploration and mining activities.” More than 95% of the world’s opal now comes from Australia, and approximately 50% of that production comes from South Australian opal fields. The Act and the Regulations came into operation on 21 April 1997. Prior to that, opal mining in South Australia was regulated under Part 7 of the *Mining Act 1971*. Only minor amendments have been made to the Act since it commenced. The Department says that “...any amendments identified throughout the Review should improve the Act’s ability to balance the various competing interests and priorities around opal mining, and increase community confidence in both the industry and regulatory process.”

Discussion Paper No.3 may be downloaded by following the above headline link.

Submissions are due by **24 February 2017**.

### [Review of the SA Mining Acts – Public consultation drop-in sessions](#)

As part of the Mining Acts Review, the Department of State Development will also be conducting a series of drop-in sessions where interested members of the public can discuss their thoughts and express their views with members of the Department.

The sessions will be held at various locations across SA , with the final session on February 17<sup>th</sup>. The Adelaide session will take place on Monday 6 February.

For a full list of times and locations, please follow the above link.

### [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](#)

[Current DSD petroleum proposals](#)

## **Commonwealth**

[EPBC Act referral – Adelaide Festival Plaza Precinct Upgrade](#)

The Federal Environment Minister has received a referral under the *Environment Protection and Biodiversity Conservation Act 1999* from Lendlease Building Contractors Pty Ltd in regard to their proposal to conduct an upgrade of the Adelaide Festival Centre (AFC) Precinct. The project aims to redevelop the Art Space Plaza and Station Rd, as well as create a new square, a “Walk of Fame” and a new pedestrian link. Major works to the Adelaide Festival Theatre are also planned.

The Works will largely take place within an area that has been specifically excluded from the National Heritage listed Adelaide Park Lands. Nevertheless, some of the works will encroach into a portion of those listed lands (namely Elder Park).

The referral also lists the presence, or potential presence, of 9 listed threatened species and 10 listed migratory species in the development’s proximity.

Submissions are due by **13 February 2017**.

### **[Independent review into the future security of the National Electricity Market](#)**

The Independent Review into the Future Security of the National Electricity Market, chaired by the Chief Scientist, Dr Alan Finkel AO, is undertaking a wide-ranging public consultation process on its Preliminary Report to inform the development of recommendations for a final blueprint.

The Australian National Electricity Market (NEM) is the longest geographically connected power system in the world, supplying the states and territories of eastern and southern Australia – Queensland, New South Wales, the Australian Capital Territory, Victoria, South Australia and Tasmania. It generates around 200 terawatt hours of electricity annually, accounting for around 80 per cent of Australia’s electricity consumption.

This Preliminary Report does not contain findings or recommendations. Instead, it fulfils the role of an issues paper, setting out observations and questions to guide a process of open consultations on the design of a new blueprint for the electricity sector.

Seven key themes are identified, each supported by specific questions to be raised with the community:

1. Technology is transforming the electricity sector
2. Consumers are driving change
3. The transition to a low emissions economy is underway
4. Variable renewable electricity generators, such as wind and solar PV, can be effectively integrated into the system
5. Market design can support security and reliability
6. Prices have risen substantially in the last five years

## 7. Energy market governance is critical

A copy of the Preliminary Report can be downloaded by following the above link. Dr Finkel and the Panel welcome submissions responding to the Preliminary Report.

Submissions are due by **21 February 2017**.

### 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

### [MDBA proposes cuts to River Murray environmental flows](#)

- Submissions are due by **10 February 2017**.

### [Review of the SA Mining Acts – Discussion Paper No.1 now released](#)

- Submissions date extended and now due by **24 February 2017**.