

e-Bulletin

No. 6 of 2017, 13 April 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. If you are seeking advice on any environmental or planning issue please visit our website or email edosa@edo.org.au

Our services are only possible with the support of the South Australian community. Please consider making a donation either one off or ongoing to the EDO - all amounts over \$2 are tax deductible.

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IN THIS BULLETIN:

NEWS AND EVENTS

South Australia

- EDO(SA) Chairperson's Report

NOTICES AND INQUIRIES

South Australia

- SA Parliamentary Inquiry releases Biodiversity Report
- EPA proposes ban on certain fire-fighting foams
- Peregrine proponent releases response document on Kensington Major Development

Commonwealth

- NELA - call for 2017 National Conference abstracts and session ideas

PREVIOUS NOTICES: REMINDERS

EDO(SA) Recent Submissions

NEWS AND EVENTS

South Australia

[Chairperson's Report](#)

As this e-bulletin is going out on the eve of the Easter break, I wish you a peaceful and happy Easter. I was honoured this week to chair the first EDO seminar for this year. The seminar is one of two that are presented annually by the EDO and this one was on public participation provisions in a number of SA statutes. We had a panel of speakers presenting from across the spectrum of legal practitioners, law educators, state and local government representatives. Speakers included Associate Professor Karen Bubna-Litic who, jointly with our staff solicitor Melissa Ballantyne, have prepared a report summarizing public participation provisions in nearly 30 South Australian statutes which impact on environmental decision making. This report will form the basis for EDO law reform activities and we also hope it is a useful educational and advocacy tool for the community. The report will shortly be on our website and hard copies are available on request.

The content of the presentations covered current consultation approaches by the state and local government, as well as summarising public participation provisions in legislation. There are efforts to consult comprehensively and well in the public consultation process, but the notable missing link is the ability to challenge decisions via third party appeal rights and enforcement.

The question and answer session involving our speakers raised a number of issues - concerning fiduciary responsibilities of government agencies, the outcomes of citizen's juries on different topics and the need for consultation processes to acknowledge and respond formally to what people have said, and reasons why decisions are made following consultation.

Special thanks to our other speakers Alison Brookman (Wallmans Lawyers), Dan Popping (Department of Premier and Cabinet) and Lisa Teburea (Local Government Association)., who made the time to participate in both presentation and panel discussion, to the volunteers who helped with the research for the paper and of course, to the people who attended! We also thank Flinders University for providing the venue and the Law Foundation of SA for funding the preparation of the report.

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On other matters, we are organizing a further hypothetical debate, an anniversary dinner for our 25th anniversary and wondering whether to get a team up representing the EDO for the City to Bay run in September. Any takers? Do you really want to get fit?

Dr Iris Iwanicki

NOTICES AND INQUIRIES

South Australia

[SA Parliamentary Inquiry releases Biodiversity Report](#)

South Australia's Environment, Resources and Development Parliamentary Committee has released the final report of its Biodiversity Inquiry. The report was highly critical of the current legislative arrangements protecting biodiversity, and found that the condition of biodiversity in the State "...continues to decline."

The report argued that existing legislative arrangements are out-of-date, lack cohesion and consistency, and are fractured across at least 20 pieces of legislation. There has also been inadequate consideration of biodiversity conservation, particularly in legislation that regulates human activities - such as land use planning, assessment and approval.

The report also highlighted that the State's native biodiversity "...is facing myriad of current threats, including habitat loss and fragmentation (due to development and changing land-use), pest plants and animals, and control burn regimes," as well as augmented future threats from climate change and increasing urbanisation.

The final report can be viewed by following the above headline link.

[EPA proposes ban on certain fire-fighting foams](#)

The Environment Protection Authority (EPA) is seeking comment on a proposed draft amendment to the Environment Protection (Water Quality) Policy 2015.

The proposed amendment will establish a ban on the use of fire-fighting foams containing perfluorinated compounds (PFCs); specifically perflourooctane sulfonate (PFOS), perflourooctanoic acid (PFOA), and chemicals that degrade to PFOS or PFOA.

PFCs are contaminants of emerging concern in Australia and internationally. In the environment, PFCs are known to be persistent and bio-accumulative and have been shown to be toxic in some animals.

PFCs have been added to some types of fire-fighting foams to improve the foam's ability to smother fires. There are believed to be stockpiles of fire-fighting foams containing PFCs still in use in South Australia.

As such, the Environment Protection Authority considers the banning of use of these fire-fighting foams appropriate to prevent any potential future environmental harm. The ban is proposed to apply to all use of these foams with consideration to be given during consultation as to whether the ban should extend to hand held extinguishers. Consultation will focus heavily on obtaining industry views regarding implementation elements such as timeframes for compliance, and whether the scope of the ban should apply to hand-held extinguishers.

The EPA will be holding a public information session to discuss the proposed amendment, detail of which can be found by following the link in the headline above.

Submissions are due by **5 June 2017**.

[Peregrine proponent releases response document on Kensington major development](#)

On 26 November 2015, the Minister for Planning declared the redevelopment of the existing Peregrine Corporation head office at 270 The Parade, Kensington, to be a Major Development pursuant to section 46 of the *Development Act 1993*. The proposed redevelopment originally comprised a multi-level office building, together with associated storage and car parking (314 spaces), retail floor space and a restaurant. The project has been more recently amended to include accommodation as part of the development.

The Development Assessment Commission (DAC) then required that the proponent prepare a Development Report, which was completed and released for public comment on 30 September 2016.

The proponent has now prepared a response document addressing issues raised in the public comment period. The response document can be found by following 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 & Interstate

[NELA - call for 2017 National Conference abstracts and session ideas](#)

The National Environmental Law Association has announced that they will be holding their 2017 annual conference in Brisbane on 4 August 2017.

The organisers are now inviting abstracts, speaker suggestions and session ideas for a range of environmental resource management and regulatory issues. Suggested topics include:

- Climate disclosure obligations
- Mining and rehabilitation
- Negotiation with native title holders (including updates on the recent High Court decision regarding Indigenous Land Use Agreements)
- Access to information (including proposed changes to Freedom of Information legislation in several states)
- Climate change litigation activities – nationally and internationally
- Management of contaminated sites
- Highlights (and lowlights) from the State of the Environment Report
- Policy work to protect the Great Barrier Reef
- Assessing and managing off-site impacts
- Private conservation options
- Incorporating social and economic values into environmental impact assessments
- Modernising Australia's energy system

Submissions are due by **21 April 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

[Draft Threat Abatement Plan for the Impacts of Marine Debris on Vertebrate Marine Species](#)

- Submissions due by **13 April 2017**.

[Productivity Commission releases National Water Reform issues paper](#)

- Submissions due by **18 April 2017**.

[Climate Change Authority releases 'Land and Farming' issues paper](#)

- Submissions due by **20 April 2017**.

[Draft Marine NRM Plan open for public consultation](#)

- Submissions due by **21 April 2017**.

[House of Representatives Inquiry – Modernising Australia's electricity grid](#)

- Submissions due by **28 April 2017**.

[Review of Australia's climate change policies – Discussion Paper released](#)

- Submissions due by **5 May 2017**.

[State NRM Plan review](#)

- Submissions due by **31 May 2017**.

EDO(SA) Recent Submissions

EDO(SA) has recently released the following completed submission, which is available for download:

- [Mining Act Submission 30/03/17](#)