

## **e-Bulletin**

### **No. 10 of 2017, 6 July 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](mailto:edosa@edo.org.au)**

**Our services are only possible with the support of the South Australian community. The need for community support to keep the EDO's services going is stronger than ever. Your donation will enable us to continue our fight to defend the environment using the law. Please consider a tax deductible donation - all amounts over \$2 are tax deductible.**

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 Chairperson’s Report](#)

The EDO Management Committee has been considering the review of EDO activity at a national level as part of a general review of EDO activity in each state, and has supported a researched analysis of how having a national voice might be achieved. More news on this over the coming months.

We are now in the run-up to a state election in 2018, and have prepared a number of questions for state candidates and parties. My contribution to the process has included the following queries regarding planning and heritage:

What is your policy and/or your opinion regarding:

(1) Would you support a more consultative approach to development in publicly owned land and the right of representation and third party appeal rights with the ERD Court?

The fact that the Adelaide Park Lands are categorised as Category 1 in the current and proposed planning system. Is this consistent with ‘open and transparent government’ when the public have no rights of notification of development within public land, no right of representation and no right of challenging developments involving offices, apartments and other land uses that are inconsistent with the purpose of the Park Lands?

(2) Do you support the Expert Panel’s recommendation that a Community Engagement Charter should provide guidance regarding input to policy matters and development in planning?

(3) Will you support a review of current notification of development applications and subsequent third party appeal rights to enable third party appeals where a development is contrary to the planning Code of Planning and Design?

(4) Do you support state incentives for owners of heritage listed buildings and places?  
(formerly the state and local government shared to costs of a heritage advisory service to owners of listed state and local heritage places- no longer the case)

(5) Do you support reinstatement of the standing of the State Heritage Fund?

(6) What policies would you support for the Farm Preservation Overlay currently in place in the planning system?

(7) Policies for biodiversity in the planning system - do you support addressing species loss and environmental degradation through land use and development changes ? What are your views regarding these?

Now is the time to get in touch with your local member and candidates to express your views and seek their policies!

On a lighter note our 25th Anniversary Dinner will be held at the Hackney Hotel on Thursday, the 3rd August to celebrate the achievements of the EDO and its members in South Australia over the period. There is also a Vintage Fashion Parade on Sunday, the 13th August.

Many thanks to those who have helped with the organisation of these events, and especially for the Hypothetical Debate recently held.

Dr Iris Iwanicki

### **[Reminder – EDO 25<sup>th</sup> Anniversary Dinner](#)**

THE EDO is celebrating a special anniversary of 25 years and will be holding the 25<sup>th</sup> Anniversary Dinner at the Hackney Hotel, Hackney.

**The date will be Thursday the 3<sup>rd</sup> of August 2017, with a 6.30 arrival for 7.00 pm dinner.**

We are very pleased that our after dinner guest speaker on the night will be renowned explorer and environmentalist Tim Jarvis. A little background...

“Jarvis is in the business of making things happen, applying the same vision, leadership and problem-solving ability to everything he does, whether it is a world-class expedition, achieving sustainability outcomes or helping an individual or organisation reach a business or life goal.”

This will be a special night for the EDO and we hope all members and supporters can come and celebrate.

To book tickets: <http://www.edosa.org.au/dinner>

## NOTICES AND INQUIRIES

### South Australia

#### [Major Development - Kangaroo Island Plantation Timber Port - assessment by EIS](#)

On 16 February 2017, the Minister for Planning, John Rau, exercised his authority under s 46 of the *Development Act 1993* to declare a proposed deep-water port facility on Kangaroo Island to be a Major Development. The port, to be located at Smith Bay on Kangaroo Island, is to be a multi-user facility primarily developed to export plantation timber from the island.

The Development Assessment Commission (DAC) has now determined that the proposal is to be assessed by means of an Environmental Impact Assessment (EIS), and has released guidelines as to how that document should be prepared.

The DAC has stated that an EIS was considered appropriate due to a number of issues to be investigated, including:

- potential impact on the marine environment, including fisheries and biosecurity risks
- the level of unconformity with existing zone policies within the Development Plan
- the establishment of a shipping port in a rural coastal location
- traffic generation and implications for the existing local road network
- potential economic benefits to the region
- potential impacts on other, existing commercial operations within the vicinity of the proposal
- potential impacts on protected, threatened or vulnerable species, including migratory species
- visual and community impacts
- climate change and greenhouse gas emissions
- construction and operational impacts (including noise, dust and vibration)
- infrastructure requirements, in particular public roads

The *Development Act 1993* requires that, once completed, an EIS be publically exhibited for a period of at least 30 business days and for a public meeting to be held during this period.

A copy of the EIS guidelines can be downloaded from the above headline 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**

### [Parliamentary Inquiry – Australian Government's role in the development of cities](#)

The House of Representatives Committee on Infrastructure, Transport and Cities has commenced a new inquiry into the Australian Government's role in the development of cities in the face of an expected doubling of Australia's population by 2075. The Inquiry will examine city planning and sustainable urban development, focusing on how to transition existing capital cities, and how to develop new and existing regional centres.

Committee Chair, Mr John Alexander MP, said collaborative and flexible urban planning is essential to Australia's future, and that existing cities cannot continue to absorb the anticipated high population growth without affecting Australia's high standard of living. "We need options for adapting infrastructure and services in existing cities to sustainably accommodate much larger populations. We also have to examine opportunities to develop new or existing regional centres," Mr Alexander said.

The inquiry will be split into two sub-inquiries:

- 1) Sustainability transitions in existing cities; and**
- 2) Growing new and transitioning regional cities and towns**

Submissions are due by **31 July 2017**.

### [Treasury Discussion Paper – Tax deductible status for environmental groups under threat](#)

The Commonwealth Treasury has released a discussion paper that considers potential reforms to the Deductible Gift Recipient (DGR) tax arrangements that contains disturbing implications for not-for-profit groups in the environmental protection sector. DGR status allows an organisation to receive gifts and contributions for which donors are able to claim a tax deduction.

Following on from recommendations made by the House of Representatives Inquiry into the Register of Environmental Organisations, the Treasury Discussion Paper asks (at Qu. 12):

*Stakeholders' views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?*

The proposal here appears to be that environmental organisations should not be able to receive tax deductible donations unless at least 25% of their annual expenditure is spent on fixing environmental damage that has already taken place. This of course would preclude organisations such as the EDO, whose focus is on public advice, education, and advocating for strong laws able to prevent environmental damage from occurring in the first place.

The proposal in the Treasury Paper seems to defy logic. It holds remediation to be more worthy than environmental protection. If it were applied consistently across the philanthropic sector, it would mean, for example, that a charity that focused on preventing cancer and raising awareness would be stripped of tax-free donations unless they could also demonstrate substantial expenditure on cancer treatment.

Prevention of environmental damage is clearly an important societal goal in its own right, and worthy of tax deductible status.

Submissions are due by **14 July 2017**.

### [NOPSEMA – further extension granted to Duntroon marine seismic survey](#)

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has granted a further extension to Petroleum Geo-services Pty Ltd (PGS) to prepare its Environmental Plan for a multi-client three-dimensional (MC3D) and multi-client two-dimensional (MC2D) marine seismic survey (MSS) in the Great Australian Bight (GAB) known as the Duntroon MC3D and MC2D MSS.

The Environment Plan for the proposal was originally submitted for assessment to NOPSEMA on 27 February 2017. In April 2017 the regulator refused the Plan, and asked the proponent to

modify and resubmit it, as they were "... not reasonably satisfied that the plans meets the acceptance criteria set out in the regulations." NOPSEMA has subsequently granted an extension of timeframe to the proponent, and has now granted a further extension. Resubmission of the Environment Plan is now required by **31 August 2017**.

The marine seismic survey area in question covers approximately 29,500 km<sup>2</sup>. It is located approximately 51 km from Cape Carnot, Eyre Peninsula (mainland South Australia), 95 km west of Kangaroo Island and approximately 80 km south-south west of Port Lincoln, the nearest township. The water depths of the survey area are in the range 100m to 3500 m with the shallowest water depths located along the northern boundary of the survey area.

The survey will take approximately 190 days, split across two periods in order to avoid the worst Winter sea conditions. The first 60 days of surveying were originally planned to commence on 1 April 2017.

NOPSEMA assessments are not open for consultation to the general public.

### **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**

### **[Senate Inquiry – Future impacts of climate change on housing, buildings and infrastructure](#)**

- Submissions date extended – now due by **16 August 2017**.