

## **e-Bulletin**

### **No. 12 of 2017, 17 August 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

#### **[Support the EDO in the City-to-Bay fun run!](#)**

Join us and thousands of Adelaideans on Sunday 17 September as we make our way from the Festival Centre to Glenelg. You can run or walk 12km, 6km or 3km as part of team EDO\*SA, or you can donate to help our cause.

The EDO defends the environment in a way that no other organisation can – as the environment's legal team!

All money raised goes towards keeping the EDO running and ensuring it can make a difference to our environment. The EDO is an independent community legal centre specialising in public interest environmental law. We offer professional legal advice and (in a small number of cases) representation, law reform and policy work and community legal education.

Everything you need to know to register or support us is in this [handy document](#).

Or you can sponsor our EDO SA running team directly at:

<https://personalchallenge.gofundraise.com.au/pages/search?query=EDO>

## [Public Forums for Inner and Middle Metropolitan Corridor Ministerial DPAs](#)

Two Ministerial Development Plan Amendments (DPAs)– the Inner and Middle Metro (Sites) DPA and the Inner and Middle Metro (Design) DPA – were recently on consultation and have attracted significant public interest. Due to the high number of submissions (and requests to be heard), a number of public meetings have been organised to hear verbal submissions for both DPAs. For those who have not attended, two dates still remain:

- Monday 21 August 2017, 7.00pm – The Orchid Rooms, SAGE Hotel, 208-226 South Terrace, Adelaide
- Thursday 24 August 2017, 7:00pm - The Orchid Rooms, SAGE Hotel, 208-226 South Terrace, Adelaide

More information may be found by following the headline link above.

## **Commonwealth & Interstate**

### [Commonwealth Bank shareholders initiate landmark proceeding to require climate risk disclosure](#)

Lawyers at Environmental Justice Australia have filed proceedings on the 8<sup>th</sup> of August against the Commonwealth Bank on behalf of two CBA shareholders, Guy and Kim Abrahams. The couple allege there has been a failure to adequately disclose the risks posed by climate change to the business in the Bank's 2016 annual report. The claim states that CBA has breached certain requirements found in the *Corporations Act 2001* ensuring risks are disclosed as major or material, and that accurate information is provided of the company's financial position and performance. They are not seeking financial relief but orders to prevent the oversight of such information in future reports.

The Bank's inability to rule out whether it will provide funds to the unpopular Adani Carmichael coal mine was also addressed in the claim, asserting that the Bank's current stance is a risk that was required to be disclosed. CBA has since confirmed it has ruled out the prospect of lending money to the project.

In February of this year the Federal financial regulator APRA (the Australian Prudential Regulation Authority) warned that the risk posed by climate change to the financial system was "...foreseeable, material and actionable now." The regulator said that this could no longer be passed off by companies as an indeterminate future risk, adding weight to the current shareholders' claim against CBA.

## NOTICES AND INQUIRIES

### South Australia

#### [Waste reform amendments to the Environment Protection Act](#)

A Bill has been introduced into the South Australian Parliament to amend the *Environment Protection Act 1993* aiming to enable the Environment Protection Authority to implement reforms in waste management and resource recovery. In his 2<sup>nd</sup> reading speech, the Environment Minister said that the Bill also provides improved tools for dealing with excessive stockpiling, waste levy avoidance, illegal dumping and contraventions of the Environment Protection Act.

The changes are targeted to benefit legitimate waste operators and deter and/or punish those who "...avoid or delay the costs involved in the safe and lawful disposal or recovery of waste through excessive stockpiling, misclassifying material or illegal dumping."

Enforcement and prosecution tools have been strengthened under the Bill, including increased fines and jail sentences for illegal dumping, and for those who provide false or misleading information.

#### [Changes to the 'Significant Developments' approvals process](#)

Back in 2014, the State Government saw fit to introduce a new method by which developers could have their projects bypass the standard local council approvals process. Whilst the state had long had a 'major projects' stream that did exactly that, the introduction of the Development (Assessment of Significant Developments) Variation Regulations 2014 lowered that bar significantly, allowing developers to seek special treatment where the construction value of their project totaled as little as \$3 million, so long as it were of "economic significance to the State".

With the recent gazetting of amendments to Schedule 10 of the Development Regulations, that requirement for 'economic significance' has now been removed. For developments in Metropolitan Adelaide only, the value of the project must now exceed \$5 million in order to qualify. The proposed development now must also not be "solely for prescribed residential purposes".

Changes also include specifying what the State Coordinator-General can consider in valuing the total amount to be applied to the project.

## [EPA – Consultation on site contamination professional certification](#)

South Australia's Environment Protection Authority is proposing to utilise certified site contamination practitioners from early 2018.

The EPA says that assessment and remediation of site contamination is complex and requires professionals with specialist knowledge, experience, skills and competencies as described in the National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013). Currently, persons may hold themselves out as a site contamination practitioner (or consultant) without having the necessary qualification or experience to do so.

This has, and continues to:

- pose a significant risk to human health (from inappropriate assessment and 'sign-off')
- may contribute to significant financial loss to property owners and future owners
- cause severe personal hardship to unaware property owners and future property owners
- cause confusion and the presentation of unreliable information for planning authorities
- result in the inappropriate development of land impacted by site contamination.

As a result, the community can lose confidence in the regulator, professional bodies, consultant organisations and the site contamination profession, which has led the EPA to initiating a move to professional certification, and commencing this review.

Submissions are due by **8 September 2017**.

## [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**

### [Regular Commonwealth Government Consultations](#)

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### [Department of Environment Public Notices and Invitations to Comment](#)

## **PREVIOUS NOTICES: REMINDERS**

### [EPA – Consultation on site contamination professional certification](#)

- Submissions due by **8 September 2017**.

### [Review of Australia's Gene Technology Scheme](#)

- Submissions due by **15 September 2017**.

### [Australian Marine Parks – consultation on draft management plans](#)

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

### [SA Planning – Consultation on a Community Engagement Charter](#)

- No specific due date has been given.