

e-Bulletin

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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 <http://www.edosa.org.au/> or email edosa@edo.org.au

The EDO has been very busy since the last ebulletin dealing with a number of ongoing issues including protection of native vegetation, biodiversity, mining law changes, preservation of open space from development and protection of significant trees.

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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NEWS AND EVENTS

South Australia

[EDO Chairperson's report](#)

It's been a busy time for the EDO lately, keeping up with the Planning Reform process, which will result in all state Development Plans replaced by a single Code of Planning and Design. The aim is to reduce over two hundred different zones across the state with not more than 50 zones - an arbitrary number in an attempt to increase efficiency in the planning system. The community will be consulted in a manner to be determined by the new Community Engagement Charter(see below for an update on this).

Our view is that effective public participation in a planning system that delivers flexibility and certainty must apply to both policy review and development. At this stage the legislation does not allow for community engagement with development processes, except in very limited circumstances. Recourse to legal review, via the Environment , Resources and Development Court, planning decisions is also limited.

Another concern is that with the replacement of three elected members with one on local development assessment panels, decisions by Council Assessment Panel (CAP) specialist members will become more contentious than ever. Local government is the facilitator of a planning system set down by the state. Both specialist and elected members were able to discuss the effectiveness of policies and the latter could report back to council on what was working and what wasn't. By having 3 elected members, discussions in the council chamber

were better informed with respect to how the system worked. As the new CAPs very shortly commence in October, less understanding of planning processes appears likely. However, as local councils are responsible for implementing state planning laws, councils will continue to be the main target for planning, despite their marginalisation on CAPs.

Planning affects everyone and everywhere. It is hoped that research based analysis of environmental, cultural, social and economic health trends, informed by regular audits of how development delivers effective outcomes in South Australia, will also underpin the Planning and Design Code.

In the meantime the 2017 AGM is coming up on Monday 23rd October from 6.15pm. All are welcome to attend, and hear our guest speaker Prof. Norman Etherington, AM, who is the President of the National Trust. Prof Etherington will speak on the opportunities and challenges presented by our unique built heritage. You can also nominate to join the EDO Management Committee at the AGM –please contact the office on 8359 2222 or email us for more information. Hope to see you at the AGM.

Dr Iris Iwanicki
Chairperson, EDO(SA) Management Committee

[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. All money raised goes towards keeping the EDO running and ensuring it can make a difference to our environment. The EDO team is looking forward to getting fit (or pain!). A very big thank you to people (including Anonymous donors) who have sponsored our team to date. Just a reminder that all donations over \$2 are tax deductible.

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>

[Deductible Gift Recipient Status Issue](#)

The push to undermine the tax deductible status of conservation groups including EDOs continues. The inquiry by the Australian Taxation Office has finished taking public submissions and their report is imminent. Most controversially there is a proposal that conservation groups use at least 25% and perhaps up to 50% of their donations to fix ‘on-ground’ environmental damage i.e. 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.

This illogical position holds remediation to be more worthy than environmental protection. As one commentator put it recently, it would require organisations like the EDO to “...pick up the dead fish instead of advocating to stop the poisons going into the stream.” If such a policy were

applied consistently across the philanthropic sector, it would mean, for example, that a charity that focused on preventing cancer and raising cancer awareness would be stripped of tax-free donations unless it also provided cancer treatment facilities.

In the meantime there has been a change to the Statistical Return of Tax Deductible Donations. In this return the EDO must now report expenditure on campaigning and advocacy, legal expenses, and “on-ground environmental remediation”. The last of these has of course no application to our work. We will continue to speak out against this attempt to wind back the advocacy work carried out by EDOs and other conservation groups.

NOTICES AND INQUIRIES

South Australia

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

As we reported last month, a Community Engagement Charter is being developed by the new State Planning Commission. The Commission is now holding a public consultation on a Discussion Draft, which is intended to be a first pass at what the Charter may look like. The draft builds on an earlier discussion by a panel of 50 community members assisted by 70 professional planners who aimed to design the overarching principles of the Charter and the expectations on how the community wants to be engaged in the planning system.

The Charter is being developed under s 44 of South Australia’s new *Planning, Infrastructure and Development Act 2016* requires the establishment of a Community Engagement Charter which should provide that “...members of the community... have reasonable, timely, meaningful and ongoing opportunities to gain access to information about proposals to introduce or change planning policies and to participate in relevant planning processes...”

It is worth noting at the outset that the Charter only applies to policy development and **not** to assessment processes. This is a key concern of the EDO. We believe that most community members are interested and want to have a say when a development is proposed in or around their community.

A copy of the Draft Community Engagement Charter can be found by following the above headline link.

Submissions are due by **9 October 2017**.

[Consultation on Native Vegetation Guidelines](#)

The Department of Environment, Water and Natural Resources (DEWNR) is undertaking a public consultation on the following two interim guidelines which have been reviewed under s 25 of the *Native Vegetation Act 1991*.

(1) Interim Guideline for a Significant Environmental Benefit for the clearance of scattered trees.

This guideline sets out the conditions and circumstances that allow the Native Vegetation Council (NVC) to provide consent to the clearance of scattered trees when deemed 'seriously at variance' with the Principles of Clearance (schedule 1) of the *Native Vegetation Act 1991*.

(2) Interim Guideline for clearance association with the maintenance of existing agriculture, forestry or farming.

This guideline sets out the circumstances where clearance can occur on land that has been consistently used for maintaining existing agriculture, forestry or farming activities over the past 10 years.

Submissions are due by **7 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

[EPBC Act referral – Glenelg Dolomite Quarry](#)

The Federal Environment Minister has received a referral under the *Environment Protection and Biodiversity Conservation Act 1999* in regard to the proposal by Sibelco Australia Limited to establish the Glenelg Dolomite Quarry, approximately 24km south-east of Mt Gambier in South Australia. Dolomite is used for industrial, construction and agricultural purposes – commonly for concrete aggregate and for acidity buffering in horticultural soils. The proposed quarry will be some 135ha in area, and has an operating life expectancy of 15-20 years.

Despite noting that the Piccaninnie Ponds Conservation Park is located only 1.5 kilometres to the south of the Mineral Claim, the referral asserts that there is no likelihood of the development having any impact – direct or indirect – upon on the members of any listed species or any threatened ecological community, or their habitat. This is a highly unusual position to take in an EPBC Act referral.

Submissions are due by **5 September 2015**.

[Senate Inquiry – Waste and Recycling](#)

The Senate Standing Committee on Environment and Communications has commenced an inquiry into the waste and recycling industry in Australia. The Inquiry includes issues relating to landfill, markets for recycled waste and the role of the Australian Government in providing a coherent approach to the management of solid waste. The Terms of Reference require it to pay particular attention to:

- a) the quantity of solid waste generated and the rate of diversion of solid waste for recycling;
- b) the accreditation and management of landfills;
- c) the extent of illegal landfilling;
- d) the role of landfill levies in determining the end destination of material, including the hypothecation of collected levies for enforcement and waste diversion purposes;
- e) the role of different incentives and collection methods in determining the quality and quantity of material collected for recycling;
- f) the destination of material collected for recycling, including the extent of material reprocessing and the stockpiling of collected material;
- g) the current economic conditions in the industry, including the market for material collected for recycling;
- h) the transportation of solid waste across state boundaries;
- i) the role of the Australian Government in providing a coherent, efficient and environmentally responsible approach to solid waste management, including by facilitating a federal approach; and

j) any other related matters.

Submissions are due by **20 October 2015**.

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

[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**.

EDOs of Australia Recent Submissions

EDOs of Australia has recently released the following completed submissions, which are available for download:

- [Submission on governance and operation of the Northern Australia Infrastructure Facility](#)

- [Inquiry into the Future of Australia's Cities](#)
- [Inquiry into the Environment and Infrastructure Legislation Amendment \(Stop Adani\) Bill 2017](#)
- [Tax Deductible Gift Recipient \(DGR\) Reform Opportunities](#)