

e-Bulletin

No. 2 of 2018, 22 February 2018

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

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.

What has the EDO been up to?

In the last fortnight we have finalised our Environmental Law Reform Priorities Paper for the upcoming State Election. We are seeking all parties and candidates to commit, as a priority, to improving SA's environmental laws, with a strong focus on creating more transparent, engaging and rigorous environmental planning and assessment processes.

Overall, there is a need for greater transparency of information and a more interactive process in the review of environmental legislation, including regulations, where much of the implementation processes are found. While acknowledging for example DPTI's work to make planning processes more user-friendly, there is a need for more community rights to challenge decision making.

The paper is now on our website.

Chairperson's report

The national discussion continues regarding the formulation of an EDOA Constitution and state arrangements in a national body. I acknowledge the contribution made by Peter Robertson in attending the latest national meeting. Updates will be provided when available via our e-bulletin. Presently this is a watching brief, and the final decision will be made by our membership.

I hope to see you at our Film Fundraiser coming up at the Capri cinema next Tuesday 27th February – details below. The proceeds benefit the cinema as well as EDOSA and both are worthy causes to support while enjoying the movie, 'Finding Your Feet'.

Dr Iris Iwanicki – EDO(SA) Chairperson

NEWS AND EVENTS

South Australia

- NEXT TUESDAY - EDO Film Night Fundraiser – “Finding Your Feet”
- Government rules out sale of waterfront public land to K.I. golf course developer

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- Better Laws for a Better Planet: A Symposium on the Future of Australia's Environment Laws

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NEWS AND EVENTS

South Australia

NEXT TUESDAY - EDO Film Night Fundraiser – “Finding Your Feet”

The EDO will be hosting a film night fundraiser at the end of this month, screening ‘Finding Your Feet’ at the heritage listed Art Deco Capri Theatre on Goodwood Rd.

‘Lady’ Sandra Abbott (Staunton) finds the courage to reinvent herself after she flees a broken marriage to stay with her bohemian sister in London. Starring Imelda Staunton, Celia Imrie, Timothy Spall and Joanna Lumley, Finding Your Feet is a hilarious and heartwarming comedy proving it's never too late to start again.

Join us at 5.30pm for 6.30pm screening - enjoy free nibbles and a cash bar, catch up with friends and support this great cause. We will also have a raffle and a silent auction on the night.

When: Tuesday, **27 February 2018** at 5:30pm - 9:30pm

Where: Capri Theatre, 141 Goodwood Rd, Goodwood

Bookings: http://www.edosa.org.au/film_night

Government rules out sale of waterfront public land to K.I. golf course developer

The South Australian Government has ruled out the sale of waterfront Crown Land to the developer of ‘The Cliffs’ golf resort on Kangaroo Island.

In June this year, the South Australian Planning Minister approved a significantly updated development authorisation for the golf course - designated a Major Development under s46 of the *Development Act 1993* in February 2014. The updated authorisation allowed the golf course to be sited much closer to the coastline and the cliff edge than was originally proposed, consulted on and approved.

The last obstacle to this significant alteration was the purchase of waterfront Crown Land, allowing the golf course to be brought right onto to the cliffs of the island’s southern coastline. The South Australian Government can dispose of Crown land to an adjoining owner if it has been declared ‘surplus’. [You can view a map of the land here.](#)

Following a consultation which raised overwhelming community concern about public access and protecting wildlife, the State’s Environment Minister declined the sale. More than 780 submissions were received in the consultation, with only five submissions broadly supportive of the proposal.

The golf course has been characterised as an 18 hole championship links course, with a 180 bed hotel, luxury clubhouse/lodge and associated tourist facilities - to be located at the narrowest point of the island, adjacent to Pennington Bay. The course can still be constructed in accordance with its original approval, however will not now be on the immediate waterfront as proposed in the redrafted plan.

Commonwealth & Interstate

[Better Laws for a Better Planet: A Symposium on the Future of Australia's Environment Laws](#)

Almost 20 years since the inception of our key national environmental law, the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*, the condition of Australia's natural and cultural environment continues to decline across most indicators.

With the review of the Act due by 2019, we have an opportunity to improve environmental law and governance in Australia. We need to better value, manage, conserve and restore nature, and reduce adverse environmental impacts.

This symposium brings together experts and interests from across disciplines, sectors and demographics to discuss the key challenges and directions for the next generation of environment laws to deliver genuine environmental protections.

WHEN: Tuesday, **27 March 2018**, 9:00 am – 5:30 pm.

WHERE: University House Hotel, 1 Balmain Crescent, Acton, ACT 2601.

BOOK: [Eventbrite](#)

NOTICES AND INQUIRIES

South Australia

[Submissions open for Murray-Darling Basin Royal Commission](#)

The Murray-Darling Basin Royal Commission was established on 23 January 2018. The purpose of the Royal Commission is to investigate the operations and effectiveness of the

Murray-Darling Basin system. The Royal Commission is seeking submissions from the public and interested parties in regard to:

1. Whether the Water Resource Plans defined by the Act and Basin Plan (which are to include the long-term average sustainable diversion limits for each Basin water resource) will be delivered in full and in a form compliant and consistent with the Basin Plan by 30 June 2019.
2. If any Water Resource Plans are unlikely to be delivered in full and in a form compliant and consistent with the Basin Plan, the reasons for this.
3. Whether the Basin Plan in its current form, its implementation, and any proposed amendments to the Plan, are likely to achieve the objects and purposes of the Act and Plan as variously outlined in ss.3, 20, 23 and 28 of the Act, and the 'enhanced environmental outcomes' and additional 450 GL provided for in s. 86AA(2) and (3) of the Act, respectively.
4. Whether the underlying assumptions in the original modelling used to develop the objects and purposes of the Act and the Basin Plan have been sufficiently adjusted for the impact of improved technologies.
5. If the Basin Plan is unlikely to achieve any of the objects and purposes of the Act and Basin Plan and/or the 'enhanced environmental outcomes' and the additional 450 GL referred to above, what amendments should be made to the Basin Plan or Act to achieve those objects and purposes, the 'enhanced environmental outcomes' and the additional 450 GL?
6. Any legislative or other impediments to achieving any of the objects and purposes of the Act and Basin Plan and/or the 'enhanced environmental outcomes' and additional 450 GL referred to above, and any recommendations for legislative or other change if needed.
7. The likely impact of alleged illegal take or other forms of non-compliance on achieving any of the objects and purposes of the Act and Basin Plan, and the 'enhanced environmental outcomes' and the additional 450 GL, referred to above.
8. In relation to any found instances of illegal take or work, whether appropriate enforcement proceedings have been taken in respect of such matters and if not, why.
9. Whether, in any event, the enforcement and compliance powers under the Act are adequate to prevent and address non-compliance with the Act and the Basin Plan, and any recommendations for legislative or other change if needed.
10. Whether monitoring, metering and access to relevant information (such as usage data) is adequate to achieve the objects and purposes of the Act and Basin Plan and the 'enhanced environmental outcomes' and additional 450 GL referred to above.
11. Whether water that is purchased by the Commonwealth for the purposes of achieving the objects and purposes of the Act and Basin Plan and/or the 'enhanced environmental outcomes' and the additional 450 GL referred to above will be adequately protected from take for irrigation under water resource plans, and any recommendations for legislative

or other change if needed.

12. Whether the Basin Plan in its current form, its implementation, and any proposed amendments to the Plan, are adequate to achieve the objects and purposes of the Act and Basin Plan, the 'enhanced environmental outcomes' and the additional 450 GL referred to above, taking into account likely, future climate change.
13. Any other related matters.

Submissions are due by **30 April 2018**.

[Character Preservation Acts Review – public consultation period extended](#)

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* are currently being reviewed as required by legislation.

This legislation provides that the special character of the two districts is recognised, protected and enhanced while providing for the economic, physical and social wellbeing of the communities within the districts. It restricts the creation of additional residential development in the rural areas of the districts to halt urban sprawl to the north and south of Adelaide's built-up area, thereby seeking to provide for continued viable farming and primary production activities.

This legislation is crucial as it seeks to protect productive land from inappropriate development, including land use change. Facilities for tourism also potentially can alienate viable food productive areas. Members are encouraged to read the discussion paper, and remember housing alienates fertile land as a source of food. Land capability mapping should be the basis of a more informed way to protect potential fertile land (McHarg, Design with Nature). If you wish to discuss the matter with the EDOSA, please contact the chairperson of the EDOSA management committee on 0438 535 058.

Submissions are due by **28 February 2018**.

[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 SCAP](#)

[Current Ministerial Development Plan Amendments](#)

[Current YourSAy consultations](#)

[Current EPA license applications](#)

[Current DSD mining proposals](#)

[Current DSD petroleum proposals](#)

Commonwealth

[Senate Inquiry - Clean Energy Finance Corporation Amendment \(Carbon Capture and Storage\) Bill 2017](#)

On 8 February 2018 the Senate referred the Clean Energy Finance Corporation Amendment (Carbon Capture and Storage) Bill 2017 to the Environment and Communications Legislation Committee for inquiry and report by 8 May 2018. This bill would amend the *Clean Energy Finance Corporation Act 2012* to remove the prohibition on the Clean Energy Finance Corporation investing in carbon capture and storage technologies.

Submissions are due by **13 March 2018**.

[EPBC Act determination – Bird in Hand Gold Project](#)

The Federal Environment Minister has determined under the *Environment Protection and Biodiversity Conservation Act 1999* that a proposal from Terramin Exploration Ltd to construct an underground gold mine approximately 2km east of the town of Woodside in the Adelaide Hills of South Australia is not a controlled action, and does not require formal approval under the Act.

The proposed mine would be located in a predominantly rural area, adjacent to several wineries. The mine seeks to utilise the historic Bird-in-Hand gold deposit, which has not been mined since the 1880s. The mine has a predicted resource of 233,000 ounces of gold, which the proponents say would require a mining life of 6 years to extract – possibly more if additional resources are found.

The company itself has conceded that “a major concern for all stakeholders, particularly Terramin, is the impact a mining operation will have on the regional groundwater and possible effect on groundwater users.” The referral listed 13 listed threatened species and 9 listed migratory species which may potentially be impacted by the operation of the mine.

[National Energy Guarantee consultation open](#)

The first consultation paper for the National Energy Guarantee (NEG) has been released by the Energy Security Board, which is now seeking public submissions on the proposals. The NEG was considered by the COAG Energy Council at its last meeting in November 2017 which agreed that further development work and public consultation should be conducted.

The Guarantee will require retailers to contract with, or directly invest in, electricity generation, storage or demand response so that:

- there is a minimum amount of dispatchable energy available to meet consumer and system needs (reliability requirement); and
- the average emissions level of the electricity they sell to consumers supports Australia's international emission reduction commitments, as set by the Commonwealth Government (emissions requirement).

Chair of the ESB, Dr Kerry Schott, said "We are seeking feedback from stakeholders on the high level design of the mechanism's reliability and emissions component.

"While the Federal Government will set the emission target itself we need stakeholder inputs on how contracting and compliance associated with meeting annual electricity emissions targets will work in practice.

"Reliability requirements will be set for each region across the whole power system, and we welcome contributions exploring the effectiveness of proposed incentives for investment in dispatchable energy and compliance arrangements."

Submissions are due by **8 March 2018**.

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.

[EPBC Act Public Notices and Invitations to Comment](#)

[Department of the Environment and Energy - Public Consultation Notice Board](#)

PREVIOUS NOTICES: REMINDERS

[Draft Revision of Australia's Biodiversity Conservation Strategy – consultation open](#)

- Submissions due by **16 March 2018**.

[Senate Inquiry - United Nations Sustainable Development Goals](#)

- Submissions due by **29 March 2018**.

[Senate Inquiry – Selection process for a national radioactive waste management facility in South Australia](#)

- Submissions are due by **3 April 2018**.