

e-Bulletin

No. 4 of 2018, 29 March 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.

In the last fortnight we have been advising community members on dust and odour pollution issues, protecting state listed built heritage and the proposed national nuclear waste facility for SA. In addition we are finalising submission to the Senate Inquiry regarding siting of this facility.

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.

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NEWS AND EVENTS

South Australia

[EDO\(SA\) Chairperson's Report](#)

The newly elected Liberal government have a number of policies of interest which we will be closely monitoring. They include:

- Commitments on native veg and fire management
- Support for a biodiversity focussed carbon offset industry
- Removal of SA's renewable energy target and other energy policies such as building an interconnector between SA & NSW and subsidising batteries for 40,000 households
- Review of SA's GM moratorium
- Moratorium on fracking in the SE
- Funding for greener neighbourhoods
- Review of marine park sanctuary zones
- Reform of commercial fishing industry
- Modernising aquaculture legislation
- Measures to protect Adelaide's coastline

- Replacement of NRM Act with new Landscapes SA Act. Adelaide Mt Lofty NRM Board to be abolished. Creation of 2 new Boards and also Green Adelaide to focus on ecology of metro Adelaide
- NRM levies to be capped and must be spent within region paid
- New national park in southern suburbs
- Increase to park ranger numbers
- Wilderness protection for part of the Simpson
- Reinstatement of the Wilderness Advisory Committee
- More accommodation options in national parks
- New cycle tourism trail from Adelaide to Melbourne
- Overhaul of public transport to increase visitor numbers (includes abolishing suburban tram extensions in favour of electric buses and extension of O-bahn to Golden Grove)
- Moratorium on further water allocation cuts in the SE pending a review of the science

Ministerial appointments of interest include:

- Stephan Knoll is the Planning Minister
- David Pisoni is the Minister for Industry and Skills, encompassing State Development
- Vickie Chapman is Attorney-General
- David Speirs is the Minister for Environment and Water
- Dan van Holst Pellekaan as Minister for Energy and Mining

It was noted by “Footprints” that in his [first speech](#) to state parliament in 2010, van Holst Pellekaan said "our natural environment must be protected and improved". "We will never be able - and should not try - to return the planet to the condition it was in thousands of years ago," he said. "We should use our natural resources to continue to improve our society." "However, we must harness ever-improving technology and public will to reduce our environmental impact with every new project that goes ahead, and some projects or some components of projects should not go ahead if the environmental cost is too high compared to the return to the state." More recently, in a [speech](#) last November, he said there must be a shift away from fossil fuels towards renewable energy, "but it must be done in a sensible, well-planned, well-managed transition, not in the helter-skelter approach that the current government has taken".

Meanwhile, [describing](#) his approach to the environment while in the position of shadow minister, Speirs said he had "little time for empty symbolism and ideological purity". "When I look at the government's environment bureaucracy I see an obsession with planning and a deficit of doing," Speirs said. "It's time to change that and reposition our state's Environment Department as a place which has the independence, the resources and the passion to nurture, sustain and

transform our natural environment," he said. "That means more people on the ground, stronger community groups and projects and programs which empower land users."

On other matters it has been asked recently - are our national environmental laws up to the task of protecting our environment ? - many argue they are not. A discussion paper released by the Australian Panel of Experts on Environmental Law (APEEL) proposing a new suite of national environmental laws is worth checking out at apeel.org.au/introductory-paper. Members who would like to hear more on the recommendations released by this academic think tank should contact our office, for there may be a possibility of having an APEEL member speak at an EDO seminar.

Important developments have also occurred with respect to donations to NGOs, particularly environmental groups. Please check and consider signing on handsoffourcharities.org.au - online petition.

Finally, our next event will be on Thursday, 26th April - An Update on ICAC. We are very pleased to be able to present this seminar and thank the organisation for its willingness to do so. Booking on line always helps with organisation of these events, but turning up on the night is great too! See below for details.

Wishing you all a very happy Easter.

Dr Iris Iwanicki – EDO(SA) Chairperson

[EDO Public Seminar – An update on ICAC](#)

ICAC CEO, **Michael Riches**, will provide an overview and update on the workings of the Independent Commissioner Against Corruption since its inception in SA. Specific cases will be referred to and a review of procedures and ethics addressed, followed by a panel discussion and time for questions.

Light refreshments will be available prior to the seminar.

WHEN: Thursday **April 26, 2018** at 6pm - 7:30pm

WHERE: Flinders University City Campus, Room 1, level 1, 182 Victoria Sq, Adelaide.

BOOK: [Here](#). \$5, all tickets.

[Case report: McLachlan & Ors v Mid Murray Council & Tilt Renewables Australia](#)

The Environment, Resources and Development Court of South Australia has ruled in favour of Tilt Renewables Australia Pty Ltd regarding its proposed wind farm. The development is set for the eastern face of the Mount Lofty Ranges extending from southern Palmer to Cambrai, approximately 60 km ENE of Adelaide.

The action was brought by four appellants, including the Eastern Mount Lofty Ranges Landscape Guardians and well as AFL chief executive Gillon McLachlan. The appellants were dissatisfied with the proposed location given its proximity to local housing, degradation to the visual landscape and hazard for birds and bats. Tilt Renewables submitted their development application on 28 February 2014, which initially stipulated the construction of 114 turbines. After providing public notice and receiving 208 representations, the application was granted on 18 December 2015, subject to 26 conditions, resulting in a reduction to 103 turbines.

The Court gave regard to the visual impact, noise generation, impacts to human health, ecological concerns, shadow flicker generation, potential ignition risk, effect on fire fighting capacity, traffic and aviation issues, electricity market contribution and Aboriginal heritage. Paired with the evidence submitted by numerous experts regarding each consideration, the Court ruled in favour of Tilt Renewables and the construction of the proposed wind farm.

NOTICES AND INQUIRIES

South Australia

[Planning and Design Code Discussion Paper – Future Land Use](#)

South Australia's new *Planning, Development and Infrastructure Act 2016* (the Act) is being progressively introduced to replace the *Development Act 1993*. The Planning and Design Code will be a central feature of South Australia's new planning system, becoming the state's "single planning rulebook for assessing all development applications". The Government has said that it will replace the complex and at times inconsistent planning rules found within the 72 development plans currently in use across the state.

A series of discussion papers is planned before the Code becomes finalised. An [introductory information paper is already available](#), and now the first discussion paper has been released.

This first consultation concerns the development of a suite of fresh land use definitions and classes to be included within the soon to be developed Planning and Design Code.

The Government is calling on planning practitioners and other regular users of the planning system to provide feedback on potential gaps, areas of conflict or opportunities for improvement within the current suite of land use definitions and classes in South Australia.

Some definitions under our current planning system may no longer be relevant in contemporary planning. Other definitions may simply need updating to reflect current language, while others may continue to perform well within contemporary planning. There may also be a need for completely new definitions for more recent and emerging land uses not catered for in our current system.

We are now seeking feedback in relation to five key questions:

1. What land use definitions are working well?
2. What improvements could be made to better reflect today's policy and development trends?
3. What gaps or areas of conflict are there within our current definitions?
4. What land uses and development types might better function if grouped together?
5. How can we present the concept of land use classes in the Code and reduce the number of change of use applications?

Submissions are due by **20 April 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

[Product stewardship consultation - action on environmental impacts of products](#)

Australian governments are working together to develop a strategic approach to prioritising national product stewardship action to reduce the environmental impacts of products, and are seeking public feedback.

Reducing the social, economic and environmental impact of waste from products in Australia poses a complex challenge. Decisions made at every step in a product's life-cycle (from design through to manufacture, use and disposal) can result in waste.

The Department of the Environment and Energy, in consultation with a working group representing the states, territories and local government is developing a set of principles and processes to guide strategic national prioritisation of action to minimise the environmental impacts of waste from products.

Consultation documents are available at the above link.

Submissions are due by **4 May 2018**.

[Murray-Darling Basin Plan 5yr assessment – Productivity Commission consultation](#)

As reported in the last eBulletin, the Federal Treasurer, Scott Morrison, has instructed the Productivity Commission to undertake an Inquiry into the effectiveness of the implementation of the Murray-Darling Basin Plan and the water resource plans. This is to be the first of the five-yearly assessments that are required under s 87 of the *Water Act 2007*.

Overall, the Inquiry is to assess progress towards implementing the actions required under the Plan within legislated timeframes, as well as the extent to which the current framework for implementing the Basin Plan, including the framework for monitoring, compliance, reporting and evaluation, is likely to be sufficient.

An Issues Paper addressing these matters has now been released by the Commission for public consultation, which can be found by following the above headline link.

Submissions are due by **19 April 2018**.

[Review of the Lake Eyre Basin Intergovernmental Agreement](#)

The Federal Department of Agriculture and Water Resources is coordinating public consultation on the second review of the Lake Eyre Basin Intergovernmental Agreement (link is external) on behalf of the Lake Eyre Basin jurisdictions.

Under the existing Agreement, the Lake Eyre Basin Ministerial Forum must cause a review of the Agreement and review the condition of all watercourses and catchments within the Lake Eyre Basin Agreement area every 10 years.

The Lake Eyre Basin is one of the last unaltered unregulated water systems in the world. The existing Intergovernmental Agreement was established between the Australian, Queensland, South Australian and Northern Territory governments to provide for the adoption of policies and strategies to manage cross border impacts.

The review looks at the operation of the existing Agreement; the extent to which the purpose and objectives of the Agreement have been achieved. The review also considers possible changes to improve the effectiveness of the existing Agreement and to reflect new knowledge, emerging issues and institutional frameworks.

The consultation process is the public's opportunity to assist governments in identifying on-ground issues affecting the Basin.

Submissions are due **2 May 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

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

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

[Consultation on the operation of the Emissions Reduction Fund Safeguard Mechanism](#)

- Submissions due by **30 March 2018**.

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

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

[House of Representatives Inquiry - the management and use of Commonwealth environmental water](#)

- Submissions are due by **12 April 2018**.

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

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

[Accredited Professionals Scheme discussion paper](#)

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