

e-Bulletin

No. 1 of 2019, 7 February 2019

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 working on a submission to the Adelaide Oval Redevelopment Inquiry (with particular focus on the proposed hotel). We are also commenting on the proposed new planning regulations covering assessment of development proposals and the first draft of the new planning and design code covering the outback – please see update under South Australia – Notices and Inquiries.

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. 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.

NEWS AND EVENTS

South Australia

- **Public Meeting – Restoring Rigour to the Murray-Darling Basin Plan**
- **Briefing on the Draft Development Assessment Regulations**
- **Murray-Darling Basin Royal Commission releases final report**

NOTICES AND INQUIRIES

South Australia

- Inquiry into the Redevelopment of the Adelaide Oval
- SA Planning Reform - Consultation on the draft Development Assessment Regulations and Practice Directions
- Planning and Design Code for the Outback
- Container Deposit Scheme review
- Impacts of single-use plastic products

Commonwealth

- NOPSEMA – Bight marine oil survey has been approved

PREVIOUS NOTICES: REMINDERS

EDO(SA) Recent Submissions

NEWS AND EVENTS

South Australia

[Public Meeting – Restoring Rigour to the Murray-Darling Basin Plan](#)

Two important reports were released recently about the effectiveness of the Basin Plan. This free seminar aims to provide context and discussion on how we can make sure the Plan is effective.

Hosted by Healthy Rivers Ambassadors Anne Jensen & Bob Newman

Supported by Conservation SA, Wentworth Group of Concerned Scientists, Australia Institute, Australian Conservation Foundation

WHEN: 5.30—7.30pm, Wednesday **12 February 2019**

WHERE: The Joinery, 111 Franklin St, Adelaide

BOOK: [Here](#)

Briefing on the Draft Development Assessment Regulations

Community Alliance SA has organised a briefing by the State Planning Commission to help decode the *Draft Planning Development and Infrastructure General Development Assessment Variation Regulations 2019*.

As detailed in the Notices section of this eBulletin, the above regulations have now been released for consultation and public submissions. The Regulations and associated Practice Guidelines are very complicated legal focused documents, and not very user-friendly for the broader SA community. Community Alliance pointed this out to the State Planning Commissioner and has been offered a briefing to which interested persons may attend.

WHEN: Tuesday, February 12 from 6:30pm to 8:00pm

WHERE: 50 Flinders Street Adelaide, in the Ground Floor Meeting Room.

Murray-Darling Basin Royal Commission releases final report

After a year of investigation the Murray-Darling Royal Commission has handed down its final report. The scathing report found the Murray Darling Basin Authority (MDBA) to have been "...unwilling and incapable of fulfilling their statutory functions and obligations..." under the *Water Act 2007*. In several respects the Royal Commission found that the conduct of the Authority amounted to either negligence, maladministration, or both.

Particular findings included that:

- *Politics rather than science ultimately drove the setting of the Basin-wide SDL and the recovery figure of 2750 GL. The recovery amount had to start with a '2'. This was not a*

scientific determination, but one made by senior management and the Board of the MDBA. It is an unlawful approach. It is maladministration.

- *In 2011, management of the MDBA improperly pressured the CSIRO to alter parts of the CSIRO's 'Multiple Benefits' report. ... The CSIRO should not have agreed to the changes that were made. This conduct too represents maladministration.*
- *In 2009, the CSIRO advised the MDBA that for its modelling for the period of implementation of the first Basin Plan... the MDBA should consider the recent climate of the past 10–20 years, and its climate change projections. This advice was ignored by the MDBA. This amounts to negligence, and maladministration.*
- The Commission was also highly critical of the 'Triple Bottom Line' approach implemented by the Authority. This was used to surreptitiously undermine the requirements of the *Water Act* for social and economic considerations, when the Act requires environmental priorities be given primacy when determining water flows.

A full copy of the Royal Commission report may be found at the above link.

NOTICES AND INQUIRIES

South Australia

[Inquiry into the Redevelopment of the Adelaide Oval](#)

The Legislative Council has established a Select Committee to inquire into and report on a redeveloped Adelaide Oval, with particular reference to -

- (a) The economic and financial benefits of the redevelopment of Adelaide Oval, including to whom the benefits are accruing;
- (b) The operations and financial management of the Adelaide Oval;
- (c) The corporate governance of the Oval, including the Stadium Management Authority;

- (d) The financial returns to the South Australian National Football League, the South Australian Cricket Association, and the Adelaide and Port Adelaide Football Clubs;
- (e) The financial contributions into the Oval infrastructure and into the broader sporting community from the Oval's operations;
- (f) The proposed hotel development at the Adelaide Oval, and the process by which the Government considered the proposal and approved financing the proposed hotel development;
- (g) The impacts on the hotel industry in Adelaide of the proposed hotel development;
- (h) The legislative, regulatory and other legal frameworks governing the operations of the Adelaide Oval, and any opportunities for improvement;
- (i) The impact of the Oval and its operations on the surrounding parklands and the legislative, regulatory and other legal frameworks governing further development in the parklands; and
- (j) Any other related matters.

Submissions were originally due on 1 February, however the Committee has said that they will continue to accept late submissions for the time being.

A link to a copy of the EDO's submission may be found at the bottom of this eBulletin.

[SA Planning Reform - Consultation on the draft Development Assessment Regulations and Practice Directions](#)

As part of the South Australian Government's ongoing planning reforms, the Department of Planning, Transport and Infrastructure has released for public consultation its draft Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019 (the draft Regulations), as well as four draft practice directions, which support the *Planning, Development and Infrastructure Act 2016*.

The draft Regulations and Practice Directions cover the following areas upon which the Department is seeking feedback:

- Relevant authorities
- Application time frames
- Information requirements
- Public notification
- Variations
- Exemptions
- ePlanning

- Building matters

The Draft may be viewed by following the above headline link. Feedback may be submitted through a range of online forums or polls, or through traditional written or emailed submissions.

Submissions are due by **1 March 2019**.

[Planning and Design Code for the Outback](#)

As part of the South Australian Government's broader planning reforms, the State Planning Commission has released its draft *Planning and Design Code for the Outback*, which proposes new planning and development 'rules' for land outside of council boundaries. The Government says that this "...will guide future development in the outback regions of South Australia and protect key infrastructure and natural resources."

The state's overall Planning and Design Code is being developed in three stages, commencing with the Code in the outback (land outside of council boundaries) and then progressing to the Code in regional areas before moving to the Code in metropolitan areas.

A copy of the draft Code is available at the link above.

Submissions are due by **29 March 2019**.

[Container Deposit Scheme review](#)

The Minister for Environment and Water has announced a review of the South Australian container deposit scheme (CDS). Introduced in 1977 South Australia's CDS has been a successful environmental program aimed at litter reduction and resource recovery. In 2017–18, almost 603 million containers (42,912 tonnes) were recovered by collection depots for recycling.

Much has changed since the start of the CDS in 1977, including in terms of types of containers, consumer choices, technology, and markets for recycled materials. The Government says that it is looking for opportunities to improve the CDS, both in terms of its role in recycling, and in litter reduction.

A copy of the scoping paper for the review is available by following the above headline link. Submissions can be made in writing or through an online survey or discussion forum.

Submissions are due by **22 February 2019**.

[Impacts of single-use plastic products](#)

In addition to the review of the Container Deposit Scheme, the South Australian Government is also assessing the environmental impacts associated with single-use plastic products. Single-use plastics are attracting considerable local, national and international interest. The South Australian community has increasingly been calling for action on items such as plastic bags, coffee cups and polystyrene.

The *Turning the tide on single-use plastic products Discussion Paper* is calling for public feedback on:

- which single-use plastic items to focus on
- the community and business impacts of any government action in relation to those items
- what are the best approaches government could take to address the issue of single-use plastics (eg. legislation, education, incentives).

A copy of the discussion paper is available by following the above headline link. Submissions can be made in writing or through an online survey or discussion forum.

Submissions are due by **22 February 2019**.

[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

[**NOPSEMA – Bight marine oil survey has been approved**](#)

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has approved - at the third attempt - the Environment Plan proposal from Petroleum Geo-services Pty Ltd for their planned Duntroon Multi-client 3D and 2D Marine Seismic Survey in the Great Australian Bight.

An Environment Plan was originally submitted for assessment to NOPSEMA on 27 February 2017. The regulator refused that Plan in April 2017, and asked that the proponent modify and resubmit it. NOPSEMA then rejected the resubmitted plan in April 2018, whilst still inviting the proponent to submit yet another attempt. That third Environmental Plan proposal has now been approved by the regulator.

The earlier proposals had been refused on the basis that NOPSEMA was “not reasonably satisfied” that the environment plans met criteria set out in regulation 10A of the Environment Regulations that such a plan:

- (a) is appropriate for the nature and scale of the activity
- (c) demonstrates that the environmental impacts and risks of the activity will be reduced to an acceptable level.
- (g) demonstrates that:
 - (i) the titleholder has carried out the consultations required by Division 2.2A
 - (ii) the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate

The marine seismic survey area in question covers approximately 29,500 km². 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 is to be undertaken during the Spring season, from 1 September 2019 to 30 November 2019, with the same dates repeated in 2020 if still required by the proponent.

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 – ‘Fair Dinkum’ Power](#)

- Submissions are due by **15 February 2019**.

[EPA consultation - Radiation Protection and Control Bill 2018](#)

- Submissions are due by **15 February 2019**.

[Planning and Design Code: Productive Economy Policy Discussion Paper](#)

- Submissions are due by **22 February 2019**.

EDO(SA) Recent Submissions

EDO(SA) has recently released the following completed submission, which is available for download:

[Submission on Inquiry into Adelaide Oval Redevelopment](#)