

GREENLAW AWARDS



Photos courtesy of the fabulous Bill Doyle

Environmental Defenders Office (SA) Inc.

JANUARY 2007 GREENLAW # 22

WINNERS

The EDO SA mission is to empower the community to protect the environment through law.

What has been happening at the EDO?

We are a membership based organisation and we would like to acknowledge our members for their support.

At the 2006 **Annual General Meeting**, an enthusiastic new Management Committee was elected. These volunteers are members who have some time and expertise to offer. They guide the staff as well as play a leading role in setting the agenda for Community Legal Education, and Law Reform as well as casework and advice.

David Cole (past committee member) was our **Guest Speaker** at the AGM. He took the opportunity to make some observations about the future role of the EDO.

David recapped on the history of the EDO and its humble beginnings. The EDO has now become a recognised force in environmental conflict

resolution in South Australia. Sometimes, it has even influenced government policy. For litigation, it has represented its clients in the courts, but in only one of the three cases did the EDO receive the desired outcome, as the government intervened and laws were changed.

David reminded us that we are essentially reactive, and challenged the new committee to re-look at the Strategic Plan of the EDO. The EDO could consider being more pro-active with the intention of re-shaping the State's environmental agenda.

The EDO could assume a leadership role using the special skills and powers of lawyers to not only understand the law but the administrative and legal processes which implement those laws.

Current chairperson, Rob Fowler spoke of the good work David has done for the EDO and thanked him for his efforts.

Rob presented a **Certificate of Life Membership** to Chris Hales for her dedication to the EDO. Chris has played an important support role and built up an efficient administrative system for the organisation.

New EDO Management Committee

Rob Fowler—Chair
Academic, School of Natural and Built Environments, University of South Australia

Patricia von Baumgarten—Treasurer
Policy Officer, Department for Environment and Heritage

Phil Broderick
Solicitor, Lempriere, Abbott and McLeod

Steven Churches
Barrister, Elliott Johnston Chambers

John Cugley
Scientist

Suzanne Dickey
Law Clerk, Finlaysons

Andrew Fowler-Walker
Solicitor, Wallmans

Duncan Hartshorne
Academic, University of South Australia

Rina Reina
Solicitor, Norman Waterhouse

Monica Stasiak
Centre for Environmental Management and Compliance, University of South Australia

Thursday night Advisory Service.

Clients make appointments with our volunteer lawyers who are on a roster to give advice on environmental and planning issues.

There are usually times for two appointments starting at 6pm. Ring 8410 3833 if you want to talk to a lawyer for advice.

Some of the issues from our evening advisory service...

On Planning & Development

A category 2 development is being proposed next door.

The building is going to be very close to the boundary, and is .5 metre above the clients land level. Client wanted help with a submission to council.

Client and his neighbours are adjacent to a scrub and have scrub on their land protected under the Native Vegetation Act. One neighbour has installed an off road motor racing track and is driving through the native vegetation areas. Is

The neighbour runs stormwater onto the ground and it flows into the client's property. At mediation the neighbour agreed to address the problem by putting pipes in to channel the water away. He has not done this yet. What can the client do?

A developer of a housing complex has mowed down native reeds for a second time. The Native Vegetation Council have written to the developer telling them not to do this but not taking any further action. The client wants help in taking the developer to court.

The developer has got approval to demolish an 1800s cottage and also to build a two storey dwelling— both are Category 1. As this is in a Heritage Conservation Zone and abuts seven 'character homes, the client believes that the category is wrong, and wants to challenge it in the Supreme Court.

The client has built a house on a marina where the PAR says there is to be no fish processing. Someone has started tuna processing in one of the sheds. What can be done?

**A BRIEF OVERVIEW OF THE CASEWORK OF EDO
STAFF SOLICITOR**

CASEWORK

with Melissa Ballantyne

Whyalla Red Dust Case

In the last issue of the Newsheet I reported on the effective end to the current litigation against OneSteel. However this has not ended our client's determination to combat the ongoing dust problem in Whyalla. The group's resolve has been strengthened by appalling levels of dust throughout 2006 which resulted in approximately 30 exceedances of the National Environment Protection Measure.

My previous report also referred to OneSteel's Project Magnet which the Company claims will lead to a significant reduction in dust emissions. However, the full implementation of Project Magnet is still some time away and members of our client group say that steps taken to date have not had any discernible effect on dust levels.

Despite the current state of the litigation our client has been invited to participate in mediation with OneSteel in an effort to bring about some resolution of the issues between the parties including restoration of houses and the like which have been severely damaged by continuous coatings of the fine red dust. The way in which the mediation is to occur is in the process of finalisation.

Entech

As noted in the previous edition of our newsheet our clients were served with proceedings alleging they had defamed Entech and one of its Directors as a result of the publication of a flier and letter published in the Messenger Press. Our clients have had concerns for some time over fumes emanating from premises owned and operated by Entech.

We were fortunate to obtain the free services of Stephen Kenny, solicitor and Henry Heuzenroeder, barrister, in defending this matter.

Due to their efforts the matter resolved at a settlement conference in a manner favourable to our clients.

The case though is a further example of how environmental activists are at risk of been sued in defamation when they choose to speak about environmental harm caused by businesses. The risk though has been somewhat reduced as a result of changes to defamation laws which came into operation on January 1 2006. One of the fundamental changes means that companies with ten or more employees are precluded from commencing defamation actions. For more information on the current state of the law please refer to our Defamation fact sheet which can be found on our website in the community legal education section.

Wellington Weir Proposal

In November 2006 South Australian Premier Mike Rann announced that the State Government was considering the building of a temporary weir at Wellington as one of a number of responses to the drought. At that time the Premier argued that the weir might be necessary in an emergency situation to sure up drinking water for Adelaide and country towns , and maximise the available water for irrigation.

It appears that the Government will decide in mid February if they are going ahead with the proposal.

The EDO has been contacted by a number of concerned members of the community who are appalled by the proposal, primarily due to per-

ceived disastrous effects on the ecology of the vulnerable River Murray Mouth, surrounding lakes and Coorong. The lakes are protected under the Ramsar Convention as a Wetland of International Importance.

The EDO is currently advising the newly formed River, Lakes and Coorong Action Group as to what they can do to oppose the project including advice on how they can have input into the referral and possible approval of such a weir under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The EPBC Act protects seven matters of national environmental significance, including Ramsar wetlands.

A rally to be held in the City of Adelaide is proposed for the 15 February. Further details can be found at www.stoptheweir.com

Maslin Beach Frank Hilton Reserve

The EDO has been advising a concerned resident whose property is located just 25m from the reserve. The reserve is built over an abandoned dumpsite. The type of materials and chemicals that have been dumped at the site are not known but are thought to include pesticides, herbicides, poisons and other dangerous and flammable goods.

Recent action by the Onkaparinga Council (with allegedly the approval of the EPA) to install a pond on the Reserve has raised many concerns including the proximity of this water feature to the dumpsite

Our client has grave concerns regarding the processes followed by Council and the EPA and has sought assistance from the EDO to have these processes reviewed.



Have you heard about - - -

A number of laws affecting the environment are currently under review;

Natural Resources Management Act 2004 Review

The Natural Resources Management Act is undergoing a review. The scope of the review is to seek minor improvements in the existing legislation and outline opportunities to better integrate the sections on soils, water and the management of plants and animals. The review will only consider issues that may require legislative amendment, not issues with how the legislation has been implemented. To have a say go to www.dwlbc.sa.gov.au/nrm/actreview/index.html for a copy of the discussion paper. Comments are due by the 28 February 2007.

Petroleum Act 2000 Amendments

Proposed amendments to the Petroleum Act have been released for public consultation. The amendments address both administrative matters and evolutionary change in the upstream petroleum and geothermal sectors.

The various documents explaining the proposed amendments can be downloaded from www.pir.sa.gov.au/petrol/petact Comments are due by the 29 June 2007

Contact Us

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Environmental Defenders Office (SA) Inc.

NEW NEW



PUBLIC SEMINAR

**THURSDAY 1st February
7.00 to 9.00 PM**

**Strathalbyn Town Hall
High Street, Strathalbyn**

**South Australia's Defamation Laws and Protest Laws—
what do they say and how could they be changed**

Important information for environmental advocates

Speakers:

**Melissa Ballantyne
Staff Solicitor EDO**

**Mark Parnell Greens Member
SA Legislative Council**

Conflict is part of life and for many of us advocacy is our work. Effective management and long-term resolutions are based on practical and informed process. Understanding laws related to communication in conflict and advocacy is a necessary and responsible investment in our work. Join this important discussion on the legal implications of communication in conflict and advocacy.

Bookings are necessary-insufficient numbers may lead to cancellation of the seminar;

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