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In this edition of GREENLAW we hear from some of our clients on public interest matters

EDO's upcoming seminar:

Land Biodiversity and the Law

Friday 12 August 2.00-4.30pm

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GREENLAW

JULY 2011

ENVIRONMENTAL DEFENDERS OFFICE (SA)

BHP Billiton uranium impacts: To drive down standards?

The debate over BHP Billiton's proposed new Olympic Dam open pit mine is entering a new phase as the Minister for Environment assesses and makes a decision on the company's Final Environmental Impact Statement (EIS) in response to over 4000 public submissions.

The Federal government should require BHP to address key public interests in order to avoid nuclear risks, to prevent environmental impacts and to commit to on-site copper processing.

- prevent leakage of tailings and isolate radioactive waste for at least 10 000 years;
- extend the use of renewable energy from the desalination plant to all new operations;
- re-locate the proposed desalination plant to prevent ecological impact from brine waste.

Copper not Uranium

Australia should learn from the Fukushima nuclear disaster and stop fuelling nuclear risks, instability and unresolved nuclear waste problems across the world. The public interest in phasing out uranium sales should be paramount, particularly given that BHP's interest in uranium represents less than one per cent of its profits.

Olympic Dam could trade profitably as one of the world's largest copper ventures, avoid nuclear risks, and leave the uranium on site.

The Federal government should require BHP to leave all the uranium at the Olympic Dam mine site and to only proceed with this new open pit mine if strict environmental preconditions are met, including processing copper on site to boost local jobs.



Olympic Dam main shafts 2009

Source: Wikipedia images http://en.wikipedia.org/wiki/Olympic_Dam,_South_Australia

Australia should call a halt to new uranium sales deals and not proceed with BHP's proposed new nuclear treaty with China for sale of uranium-infused copper concentrates.

In particular, the Federal government should:

- assess the option of copper mining and processing on-site, without uranium sales;

Waste

BHP Chairman Jac Nasser AO has stated in a letter to the Australian Conservation Foundation (ACF) (22nd Feb 2011) that:

"The Olympic Dam Project uses 'world's best practice' and many areas of the project will establish world's leading practice and set a new benchmark for others to follow."

BHP made record Australian half year profits of over \$10 billion but their proposed new open pit mine project may only be economic by failing to manage their impacts and wastes.

However, there is concern that Olympic Dam may leak large amounts of liquid radioactive waste each day and that only a few per cent of the world's largest radioactive tailings piles will be lined. These are expected to eventually cover some 44 kilometres square and be up to a height of 65 metres¹.

In addition, there is concern that BHP propose to deposit radioactive mine tailings out on the surface. Given that, there is concern that BHP may not rehabilitate their impacts on our environment. The

Federal government has given election policy commitments that:

"Labor will only allow the mining and export of uranium under the most stringent conditions"; and "Labor will ensure that Australian uranium mining, milling and rehabilitation is based on world best practice standards." (ALP National Platform "Building a 21st Century Economy" Aug 2009).

At Olympic Dam BHP should be required to prevent leakage of liquid radioactive wastes and to comply with the same regulatory standard required by the Federal government at the Ranger open pit uranium mine; that is, to isolate tailings from the environment for at least 10 000 years and to dispose of tailings into the void of the proposed new open pit.

Renewable energy for electricity

The mine, if approved, would lock in long term fossil fuel use for this project and propose an untenable 12 per cent increase in SA's total greenhouse pollution. Use of renewable energy to provide the full electricity supply to this project would halve this increase in pollution.

The public expectation that energy intensive desalination plants be powered by renewable energy should be extended to the full electricity supply for this major new mining project.

Mine water supply: Protect fragile ecological systems

Brine discharge from BHP's proposed desalination plant in the Upper Spencer Gulf is likely to threaten the unique breeding ground of the Giant Australian Cuttlefish, which recently featured on David Attenborough's "Life on Earth." The ecology and the fishing industry of this shallow gulf are particularly susceptible to damage as it has a low level of flush from ocean waters.

Broad fishing industry, scientists and community alliances seek to "keep the gulf clean" and to relocate this proposed large scale desalination plant to a site with ocean flushing characteristics that could effectively disperse the brine waste discharge.

Require pre-conditions on mining plans

ACF has called on the Federal government to formally assess a number of key feasible alternatives to the company's mining plans and to require these alternatives as pre-conditions on any potential decision of approval to the proposed new Olympic Dam open pit mine.

The public has a right to expect the Federal government to deliver on their policy commitments to conditions and standards to protect the environment in order to avoid nuclear risks, and pay to prevent environmental impacts in any new mining project.

David Noonan

Anti Nuclear Campaigner,
Australian Conservation Foundation

For more information see:

http://www.acfonline.org.au/default.asp?section_id=25

¹<http://www.bhpbilliton.com/home/aboutus/ourcompany/regulatory/Documents/odxEisAppendixF1TailingsStorageFacility-DesignReport.pdf>

WILD LAW EARTH JURISPRUDENCE CONFERENCE

Earth Jurisprudence: Building Theory and Practice

From the 16th to the 18th September 2011, Griffith University in Brisbane will host Australia's 3rd Wild Law Conference:

"Earth Jurisprudence 2011: Building Theory and Practice".



Earth Jurisprudence is an emerging theory of law, which proposes that we rethink our legal and political systems to make sure they support, rather than undermine, the integrity and health of the earth. This Conference aims to create a space for the rigorous development of international and Australian doctrine in this new field of law and should not be missed by anyone interested in the future of environmental governance.

For more information and bookings visit:

www.griffith.edu.au/conference/wild-law-2011

Campaign by Campbelltown Landcare Group against the Wadmore Park/Pulyonna Wirra Draft Fire Management Plan

Marc Ó Conaill, Secretary, Campbelltown Landcare Group

Wadmore Park/Pulyonna Wirra is situated in the Campbelltown area at the foot of the Black Hill Conservation park. A reserve of 30 hectares, it is considered the last intact example of Adelaide Plains remnant vegetation. It contains in excess of 186 plant species, a number of which are federally listed and endangered under State legislation.

In 2009, a deliberately lit fire in the Black Hill Conservation Park triggered some residents, who had heard of the issue in the media, to clear vegetation adjoining the properties. Council then decided to contract out the creation of a fire management plan for Wadmore Park/Pulyonna Wirra.

Unfortunately, the plan recommended 22 metres of clearance on the eastern side of the park, which would have resulted in the removal well over 100 rare Pink Gums, and a large number of rare Quandong, as well as some Blue Gums. Other recommendations included the widening of fire tracks. This plan was put directly out to public consultation without significantly involving stakeholders such as the Department of Environment and Natural Resources (DENR), Adelaide and Mount Lofty Ranges Natural Resources Management Board (AMLRNRM), and ourselves Campbelltown Landcare Group.

We have worked in the park since 1994 and have contributed on average a 1000 hours a year to the park. In addition, we have attracted \$15,000 to \$20,000 in grant funding a year, which goes directly into the park. Campbelltown Landcare Group is against any change in the park that will affect biodiversity.

Like many concerned residents our view was that the plan had excessive requirements for a park this size and would have resulted in a significant loss of biodiversity;

did not reflect the risk on the ground; would have been very expensive (\$1,000,000) and would have damaged community cohesion through the destruction of community work.

Campbelltown Landcare Group were asked to present a deputation to Council, at which we explained our view. Importantly, these views were backed up by experts such as expert contractors who work in Wadmore Park, ALMRNRM, and DENR. Thankfully, we were told that the deputation was considered one of the most passionate, clear, and best backed up deputations seen in Council to date.

While we did not get the plan withdrawn, Council decided to only maintain an existing minor fire track (4-5 metres) where 22 metres would have otherwise been cleared; to consult with DENR about their fire access to the park in the result of a fire, and to drop every other recommendation.

Whilst the Council did leave the door open to using some aspects of the plan in the overall Wadmore Park Management Plan it acknowledged that it should have contacted Campbelltown Landcare Group and that the public consultation was not conducted correctly. The Council promised to more closely work with the group on any future works and also said that visibility of the group was greatly raised in the community.

Pointers for community groups:

- Get together as a group and be very clear about what you want. We decided that we did not want the plan to negatively impact the park. Any compromise would have hurt us later on other issues. It also meant the group clearly knew what they wanted and that this was also clear to Council.
- Be organised and keep excellent notes and documentation.
- Identify people in the group who can assist.
- Get experts involved. We spoke to the EDO about minimum legal requirements for tracks and clearance. We

New Laws to Stop Illegal Logging

The Federal Minister for Agriculture, Fisheries and Forestry recently referred the 'Illegal Logging Prohibition Bill' to the Senate Standing Committee on Rural Affairs and Transport for public enquiry. Under this new legislation the Government will make it an offence to import timber products into Australia that have been sourced from illegally harvested timber.

This is likely to ensure that unfair competition on the Australian timber market is removed. Timber suppliers will be required to undertake a process of 'due diligence' and will be forced to disclose additional information about the source of their products. This legislation is reinforced by bilateral cooperation with Asia-Pacific countries and multilateral forums on forestry.

Minister Ludwig commented¹ that this legislation was timely, 2011 being the 'International Year of Forests', a United Nations initiative to promote the sustainable management, conservation and development of forests worldwide.

Caroline Manser, EDO volunteer

¹http://www.daff.gov.au/ludwig/media_office/media_releases/media_releases/2011/march/draft_illegal_logging_legislation_referred_to_committee

regularly contacted the AMLRNRM and DENR. We consulted expert contractors on the ground as to how a plan is really written.

- In the deputation we targeted biodiversity loss (backed up by expert submissions), we gave a summary of the cost, and the impact on the community. We also highlighted the benefits the group has brought to the community.
- Finally, remember, it is never really over ... such is politics. That said, if you win, strike while the iron is hot and try and get a better status for the park, for example, heritage listing.

Arkaroola is still under threat from mining

Arkaroola Wilderness Sanctuary is an extraordinary part of South Australia and it is under real and direct threat from mining activity. Unfortunately, the declaration of Arkaroola as a Sanctuary under the National Parks and Wildlife Act does not protect it from mining. In 2008, mining company Marathon Resources was suspended¹ from exploration for a number of reasons including the dumping of 22,800 exploration drill cuttings and assay samples contained in plastic and calico bags together with general waste in the Sanctuary. Surprisingly, following an investigation and changes to the Mining Act, Marathon Resources has been given permission by the government to restart exploration activities in Arkaroola.

In February the government announced a stakeholder consultation to determine how to best protect Arkaroola. Mineral Resources Development Minister, Tom Koutsantonis, and Environment Minister, Paul Caica, are currently overseeing this.

Minister Tom Koutsantonis recently sent a letter to his West Torrens electorate seeking their views on the future of Arkaroola. The letter states that voters had the choice of three options:

1. A complete ban on exploration and mining in the environmentally sensitive areas of the Arkaroola Wilderness Sanctuary;
2. The area should remain available for exploration and mining in the future, but only when appropriate and environmentally sensitive methods of mining are developed; and
3. Exploration and mining should be permitted now, with appropriate and stringent environmental controls in place.

The letter appears to favour mining in Arkaroola in that two out of the three options are in favour of mining and it could be argued the option that is in support of protection only indicates a mining ban in the environmentally sensitive areas of Arkaroola, not a complete ban on mining activities in the entire Arkaroola Wilderness Sanctuary.

Contrast Minister Koutsantonis' options to those Premier Rann outlined in his Parliamentary speech on 22nd February 2011:

1. The exclusion or limiting of future mining in the environmentally sensitive areas of Arkaroola, including areas that are subject to current exploration leases,
2. The designation of Arkaroola as a national park, and
3. Nominating it on the National Heritage List and afterwards seeking World Heritage listing in conjunction with a complete ban on mining.

On 8th June, the South Australian Legislative Council passed an historic motion in support of permanently protecting the mountainous area of Arkaroola. This is an important step towards an outcome that the South Australian community expects will ban mining, protecting the iconic area of Arkaroola forever...

The real question now is: "How will the Rann government enable permanent protection of Arkaroola?"

¹www.pir.sa.gov.au/.../0007/78505/Back-ground_Statement_to_PIRSA_release_of_Re-ctification_Plan_140808.doc - 2010-04-07

Tammy-Jo Sutton,
Community Campaigner,
The Wilderness Society

ENVIRONMENTAL LAW VOLUNTEER ADVISORY SERVICE

The Environmental Defenders Office invites lawyers with environmental law experience and who have an unrestricted practicing certificate to offer their services, free of charge, at the EDO Advisory Service on a Thursday evening.

Rostered environmental lawyers generally attend the EDO 3-4 times per year to advise clients face to face on their legal rights regarding a range of environmental and planning issues.

Please contact the EDO if you are able to assist by phoning 8410 3833 or emailing edosa@edo.org.au



Brief introduction to Arkaroola

Located 600km north of Adelaide, in the rugged and spectacular northern Flinders Ranges, Arkaroola is a multi award-winning Wilderness Sanctuary. Being the traditional lands of the Adnyamathanha, Arkaroola has a rich cultural history. Featuring rugged mountains, towering granite peaks and magnificent gorges and waterholes.

The area was also recognised by Sir Douglas Mawson for its geological significance who described it as "one great open-air museum of geological history". The Sprigg family now look after the area and have declared it a Wilderness Sanctuary.

Widely recognised as an iconic and unique part of the Flinders Ranges, the Arkaroola Wilderness Sanctuary is:

- on the Register of the National Estate,
- a recognised geological monument,
- a Sanctuary under the National Parks and Wildlife Act,
- In the Environmental Class A Zone under the Development Act

For more information go to:
www.wilderness.org.au/sa



LAND BIODIVERSITY & THE LAW: THE CASE FOR REFORM

Friday 12 August 2011
2.00-4.30pm

Flinders University City Campus
Level 2, 182 Victoria Square,
Adelaide

Register online
at www.edo.org.au
or call 8410 3833



Supported by a grant from the Adelaide and Mount Lofty Ranges
Natural Resources Management Board

The Environmental Defenders Office (SA) Inc Presents:

LAND BIODIVERSITY & THE LAW: THE CASE FOR REFORM

Biodiversity has been recognised at an international level with the 2010-2020 Decade of Biodiversity & now in 2011 the Human Rights International Year of Forests.

In South Australia, key legislation concerning biodiversity on land is outdated, shrouded in exemptions or focused on the natural resources produced. It is in this context that there is a strong case for reform. This seminar considers the Acts & reforms necessary to better enhance & protect biodiversity in this State including improving the links with development.

2.00pm: Registration

2.20pm: Welcome - *Felicity Newman, Chairperson, Environmental Defenders Office*

2.30pm: Can the Native Vegetation Act be amended to better enhance and conserve biodiversity? - *Ruth Beach, Solicitor, Environmental Defenders Office*

3.00pm: Do natural resources management and the conservation of biodiversity work together: A consideration of biodiversity protection in the Natural Resources Management Act (SA) 2004? - *Brendan O'ryg, Lecturer, Flinders University*

3.30pm: The National Parks and Wildlife Act: The case for reform. - *Melissa Ballantyne, Solicitor, Environmental Defenders Office*

4.00pm: Panel discussion

4.30pm: Light refreshments

REGISTRATION

First Name: Surname:
 Organisation:
 Address:
 Postcode:
 Phone (Daytime): Fax:
 Mobile:
 Email:

PAYMENT DETAILS

Full: \$99 Conc: Stud / Pens / Unemp: \$45

First 30 Environmental NGO representatives pay concession (conditions apply)

I enclose \$..... Cheque / Money Order

Made out to: Environmental Defenders Office (SA) Inc.

Or; Please debit my Mastercard / Visa

Card Number: / /

Cardholder's Name: Dr Ms Mrs Miss Mr

Expiry Date: /

Signature:

Registration is GST free. No GST has been charged. Registration includes light refreshments & afternoon tea on arrival.

Open Submissions

Protected Areas on Private Lands

The Department of Environment and Natural Resources has released a discussion paper which outlines options for supporting landowners to establish core areas for nature conservation. The Department has been developing a framework that will provide a range of mechanisms for establishing and managing protected areas on private land. The main objective is to make it easier for private landholders and conservation organisations to achieve their own conservation goals and at the same time make an effective contribution to the formal, long term protection of the State's biodiversity. The paper can be downloaded from:

http://www.environment.sa.gov.au/Conservation/Land/Protected_areas_on_private_lands

Submissions close Friday 15 July at 5.00pm.

New Inquiry into Australia's Biodiversity in a Changing Climate

The Australian Government House of Representatives Standing Committee on Climate Change, Environment and the Arts is conducting an inquiry into Australia's biodiversity in a changing climate, in relation to nationally important ecosystems. The terms of reference can be downloaded from:

<http://www.aph.gov.au/house/committee/ccea/ccbio/index.htm>

Submissions should be emailed to ccea.reps@aph.gov.au before Friday 29 July.

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2011/12 EDO Management Committee

Chairperson:	Felicity Niemann	
	Sarah Avey	Peter Burdon
	Suzanne Dickey	Angela Duffy
	Duncan Hartshorne	Paul Leadbeter
		Richard Cook
		Brendan Grigg
		Tiana Nairn

EDO solicitors run an Outreach Program with visits to regional centres within South Australia. There are up to four outreach visits each year, where EDO solicitors provide free legal advice to community groups and individuals on all aspects of environmental law. For information on future outreach sessions, please contact the Environmental Defenders Office.

EDO SUBSCRIPTION

TAX INVOICE ABN: 76 179 048 350

ENVIRONMENTAL DEFENDERS OFFICE (SA) INC MEMBERSHIP FORM

I wish to join the Environmental Defenders Office (SA)

First name..... Last name.....

Address.....

..... Postcode.....

E-mail.....

Telephone: (work)..... (home).....

I enclose my annual fee of \$44.00

\$22.00 – concession

\$99.00 – corporate (includes law firms)

\$44.00 – corporate concession (not for profits)

(all GST inclusive)

Donation \$..... (pay no GST on this)

Total \$.....

Payment (CHEQUE, MONEY ORDER, CASH) enclosed or

Credit card (circle one) Visa Mastercard Bankcard

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All memberships expire on 30th June 2012

The information contained in this newsletter is not a substitute for proper legal advice. Contact the EDO or your solicitor for more detailed legal advice if you have a specific problem on an environ-