



Environmental Defender's Office ACT

# Newsletter

Summer 2009

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The EDO (ACT) newsletter is designed to provide information on what's happening in environmental law in the ACT and throughout Australia.

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## **ACT News**

### **Power Station Relocation**

Following community concern, the gas fired power station and data centre proposal originally proposed for Macquarie has been relocated to Hume. In December 2008 the Government introduced legislation (*Development Application (Block 20 section 23 Hume) Assessment Facilitation Act 2008*) which provides for an expedited assessment of any new development application for the gas fired power station and data centre at Hume. It provides that the application will be assessed in the merit track assessment stream which means that an environmental impact statement is not required.

A new development application has been submitted for a data centre and gas fired cogeneration facility to be developed at Hume. Previous comments provided on the original (as amended) proposal at Macquarie will not be considered as part of this consultation process. Therefore if you wish to have a say in relation to the proposal for Hume it is necessary to lodge a new submission. See below under 'Opportunities for comment' for more information on how and when to lodge a submission.

### **'No Waste by 2010' dumped**

While many Canberrans recovered from the excesses of Christmas and contemplated the mountain of unnecessary packaging and waste accumulated at this time of year, the Chief Minister, Jon Stanhope, announced the abandonment of the 'No Waste by 2010' objective.

The 'No Waste by 2010' strategy was introduced in December 1996 and was designed to set the future directions for waste management in the ACT with the objective of no waste to go to landfill by 2010.

Unfortunately the abandonment of this worthy objective comes at a time when the 2007/08 ACT's State of the Environment Report indicates that Canberrans create more waste than anyone else in Australia.

### **Feed in Laws brought Forward**

The ACT's new solar feed-in tariff is to be brought forward from July to March this year. The ACT feed-in laws passed by the ACT Parliament last year have a default commencement of 1 July 2009. However, as part of its agreement with the ACT Greens, the ACT Government, has agreed to implement the solar feed-in tariff by 1 March 2009 at the latest.

The EDO has previously supported an early introduction of feed in laws as an essential mechanism for encouraging the uptake of renewable energy sources. A copy of the EDO's submissions on the feed in laws are available at our website: <http://www.edo.org.au/edoact/>

## **News From Around Australia**

### **Federal Government CPRS White Paper Released – Low Target adopted**

Despite the recommendation from scientists that greenhouse gas emissions need to be

reduced by 25 to 40 percent by 2020 to avoid catastrophic climate change, the Federal Government's White Paper, outlining the final design of the Carbon Pollution Reduction Scheme (CPRS), has adopted a target reduction of only 5% of 2000 levels by 2020 (or up to 15% if international commitment is made). This target is much lower than what was expected from Prime Minister Kevin Rudd, and conservation groups have expressed strong concerns regarding the urgent need to reduce Australia's greenhouse gas emissions.

The Australian Network of Environmental Defender's Offices' (ANEDO) submission on the earlier *Green Paper*, made various recommendations regarding emissions targets. Notably the EDO submitted that "a 5-10 percent reduction by 2020 is seriously inadequate and inconsistent with the latest scientific projections". Climate Action Network Australia (CANA) recommended that by 2020, emissions should be reduced by 40 percent of 1990 levels.

The EDO is disappointed with the target adopted by the Government and will continue to engage in policy work seeking to secure greater reductions in Australia's greenhouse gas emissions and persuade the Government of the need for stronger action on the climate change front.

ANEDO's submission on the *Green Paper* can be found at <http://www.edo.org.au/edonsw/site/policy.php#1>

To view the *White Paper*, visit <http://climatechange.gov.au/whitepaper/index.html>

The White paper indicates that draft legislation is to be released for public comment in February 2009. The CPRS is to commence on 1 July 2010.

### **Energy Star ratings for new televisions**

The Commonwealth Minister for the Environment, Heritage and the Arts, Peter Garrett, has recently announced a new energy star rating system for new televisions. The labeling will be similar to the energy label used on electrical appliances. This will allow consumers to make an informed choice when purchasing new televisions and is welcome in the light of the great increase in energy consumption caused by large flat screen LCD and plasma screen televisions.

This voluntary scheme will come into effect within the next six months with a mandatory scheme proposed for 2009.

More information can be found on the Commonwealth Department of the Environment, Water, Heritage and the Arts website at:

<http://www.environment.gov.au/settlements/energyefficiency/efficient-appliances.html>

This website also contains a tool which enables you to compare the energy and water ratings of various products. This is at:

<http://www.environment.gov.au/settlements/energyefficiency/index.html>

### **Heritage Listing for the Australian Alps**

The Commonwealth Minister for the Environment, Heritage and the Arts, Peter Garrett,

announced in November 2008 the listing of the Australian Alps on the National Heritage list. This listing covers eleven national parks and nature reserves in Victoria, ACT and NSW.

More information regarding heritage listings is available on the Commonwealth Department of the Environment, Water, Heritage and the Arts website at:

<http://www.environment.gov.au/heritage/about/index.html>

## **Current Inquiries and Opportunities for Comment**

### **ACT**

#### **Power station and Data Centre proposal**

Following community concern, the gas fired power station and data centre proposal originally proposed for Macquarie has been relocated to Hume. A new development application has been submitted for a data centre and gas fired cogeneration facility to be developed at Hume. Previous comments provided on the original (as amended) proposal at Macquarie will not be considered as part of this consultation process. Therefore if you wish to have a say in relation to the proposal for Hume it is necessary to lodge a new submission.

**Submissions due: Tuesday 3 February**

**More information** available at:

<http://apps.actpla.act.gov.au/pubnote/index.asp>

#### **Tidbinbilla Discussion Paper for a New Plan of Management**

The current Tidbinbilla Nature Reserve Plan of Management was prepared in 1999 and is now being reviewed in accordance with the requirements of the Planning and Development Act.

A discussion paper has been released for public comment. The discussion paper is the first step in the process of preparing a new plan of management for Tidbinbilla. Its purpose is to seek community views on the values of Tidbinbilla, the issues and options associated with their conservation and use, and the current and future management policies for the Tidbinbilla precinct.

The discussion paper is available from the Department of Territory and Municipal Services (TAMS) website [www.tams.act.gov.au](http://www.tams.act.gov.au) or printed copies are available from ACT Government Shopfronts, ACT Public Libraries, the Tidbinbilla and Namadgi Visitor Centres or by calling Canberra Connect on 13 22 81.

**Submissions due: COB 26th February 2009**

A series of public workshops are being held on 16, 17 and 18 February 2009 from 5:30 to 7pm (at Corroboree Park Hall, Ainslie, Tuggeranong Community Centre and Tidbinbilla Visitor Centre). Further details will be available from the TAMS website.

When community comment has been considered, a draft plan of management for Tidbinbilla will be prepared and released for public comment.

## **Fish Stocking Plan**

The ACT government has recently released the *Fish Stocking Plan for the ACT 2009–2014* for public comment. The plan sets out future directions of fisheries management in the ACT.

The ACT Government in coordination with NSW Fisheries and the National Capital Authority stocks a number of urban lakes often with assistance from fishing clubs.

The stocking of recreational fish species in Canberra's urban lakes may aid in the conservation of native species by relieving fishing pressure on the more fragile rivers and streams in the Canberra region.

Comment on the plan is invited from all interested parties.

**Submissions due: Monday 2 March 2009**

**Further information** and a copy of the plan is available from the TAMs website

<http://www.tams.act.gov.au/>

## **Inquiry into ACT Greenhouse Gas Reduction Targets**

The ACT Legislative Assembly Standing Committee on Climate Change, Environment and Water is holding an inquiry into targets for greenhouse gas reduction in the ACT. The Committee will consider appropriate targets for the reduction of greenhouse gas emissions for the ACT and appropriate monitoring, reporting and review processes to accompany the target.

**Submissions due: 9 April 2009**

**Further information** available at:

<http://www.parliament.act.gov.au/committees/index1.asp?committee=112&inquiry=753>

## **Inquiry into ACT Government financial and annual reports for 2007–08**

The ACT Legislative Assembly Standing Committee on Climate Change, Environment and Water will hold public hearings for its inquiry into the annual and financial reports of ACT Government departments and agencies with responsibility for the environment, climate change, and water, for 2007–08.

**Hearings to be held on: on 5 and 18 February 2009**

The schedule for public hearings is available from the Committee Office or from the Legislative Assembly website <http://www.parliament.act.gov.au/>

## **Commonwealth**

## **Expanded national Renewable Energy Target scheme**

Exposure draft federal legislation on the design of the expanded national Renewable Energy Target (RET) scheme is open for public comment. The national RET scheme is designed to bring the existing mandatory renewable energy (MRET) and state-based targets into a single national scheme. The legislation will expand the current MRET (with a legislated target of 9 500 gigawatt-hours (GWh) in 2010) to a national RET scheme which includes a 45 000 GWh target by 2020 with at least 20% of Australia's electricity supply to be generated from renewable sources by 2020.

**Submissions due: 13 February 2009**

**Further information** is available at:

[www.climatechange.gov.au/renewabletarget/consultation/index.html#scheme](http://www.climatechange.gov.au/renewabletarget/consultation/index.html#scheme)

## **Assessment of Progress under the National Water Initiative**

The National Water Commission is inviting public submissions for the 2009 Biennial Assessment of progress under the National Water Initiative (NWI).

The purpose of the assessment is to report to the Council of Australian Governments (COAG) on progress in the implementation of the NWI, and to advise it how to better realise the objectives and outcomes of the NWI.

As part of the assessment process, the Commission is inviting public submissions and has released a discussion paper to guide the process. The discussion paper provides a brief background to the NWI and the assessment process, and sets out questions for stakeholders to consider in making their submissions.

Parties are welcome to comment on any aspect of water reform and are not limited to the issues outlined in the discussion paper.

**Submissions due: Friday 20 February**

**Further information** is available at:

<http://www.nwc.gov.au/www/html/981-distilled-35---jan09---call-for-biennial-assessment-submissions.asp?intSiteID=1>

## **National Carbon Offset Discussion Paper**

The National Carbon Offset Standard Discussion Paper has been released by the Federal Department of Climate Change. It aims to provide guidance on what constitutes a genuine, additional voluntary offset credit, set requirements for the verification and retirement of such credits, and provide principles for calculating the emissions of an organisation, product or service which could be offset. The Department is particularly interested in any comments on the design of the standard in the context of the introduction of the Carbon Pollution Reduction Scheme.

**Submissions due: 27 February 2009**

**Further information** can be found on the Department of Climate Change website, at

[http://www.climatechange.gov.au/nav/carbon\\_offset.html](http://www.climatechange.gov.au/nav/carbon_offset.html)

Information sessions are being undertaken around Australia.

## **Mandatory disclosure of commercial office building energy efficiency**

The Australian Government is working with State and Territory Governments through the National Framework for Energy Efficient to develop a new nationally consistent mandatory disclosure scheme for commercial office building energy efficiency. The Department of the Environment, Water, Heritage and the Arts has released a Consultation Regulation Document and Regulation Impact Statement on Mandatory Disclosure of Commercial Office Building Energy Efficiency.

### **Comments due by: 27 February 2009**

Further information is available at the Commonwealth Department of Environment, Water Heritage and the Arts website at

<http://www.environment.gov.au/settlements/energyefficiency/buildings/>

Interested stakeholders in the ACT are invited to take part in a public consultation workshop on the proposed scheme. The workshop will be held at:

Dame Pattie Menzies House  
Ground floor north building conference room  
16 Challis St Dickson, ACT  
Wednesday 18 February 2009  
10am–12pm

Please contact Vanessa Margules on 6207 1814 or [Vanessa.Margules@act.gov.au](mailto:Vanessa.Margules@act.gov.au) to book your place at the workshop by Monday 16 February 2009. This is the only ACT session available.

## **Senate Inquiry into the investment of Commonwealth and State funds in public passenger transport infrastructure and services**

The Senate Rural and Regional Affairs and Transport Committee are inquiring into Commonwealth and State investment in public passenger transport infrastructure. The Senate will inquire into:

- an audit of the state of public passenger transport in Australia;
- current and historical levels of public investment in private vehicle and public passenger transport services and infrastructure;
- an assessment of the benefits of public passenger transport, including integration with bicycle and pedestrian initiatives;
- measures by which the Commonwealth Government could facilitate improvement in public passenger transport services and infrastructure;
- the role of Commonwealth Government legislation, taxation, subsidies, policies and other mechanisms that either discourage or encourage public passenger transport; and
- best practice international examples of public passenger transport services and infrastructure.

**Submissions due: Friday 27 February 2009.**

**Further information** is available at:

[http://www.aph.gov.au/senate/committee/rrat\\_ctte/public\\_transport/tor.htm](http://www.aph.gov.au/senate/committee/rrat_ctte/public_transport/tor.htm)

## **Review of Movable Cultural Heritage Legislation**

The *Protection of Movable Cultural Heritage Act 1986* is being reviewed. This Act protects Australia's heritage of movable cultural objects (for example Indigenous art and artefacts, scientific and archaeological artefacts, fossils, meteorites and minerals, agricultural and industrial heritage, books, stamps and medals and historic materials). It also supports foreign countries' right to protect their heritage of movable cultural objects. The review is looking at the operation of the legislation, and whether it is achieving its objectives. Community participation is encouraged.

**Submissions due: 6 March 2009**

**Further information** is available at: [http://www.arts.gov.au/public\\_consultation/pmch-review](http://www.arts.gov.au/public_consultation/pmch-review)

## **Australia's future tax system – Consultation Paper**

The Australian Government is currently conducting a review of Australia's tax system. The Australia's Future Tax System Review Panel released a consultation paper on 11 December, providing the basis for further community input into 2009. Section 13 of the consultation paper seeks submissions on tax transfer impacts on the environment, the ways that taxes can improve environmental amenity and how the tax system can detract from environmental outcomes.

**Submissions due: Friday 1 May 2009**

**Further information** is available at:

[http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs\\_reports.htm](http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/pubs_reports.htm)

## **Litigation News**

### **Court upholds public nature interest of proceedings in Walker case: *Minister for Planning v Walker (No.2) [2008] NSWCA 334***

The EDO's previous newsletter provided details of the Walker case in which the NSW EDO represented Jill Walker in her challenge to a concept plan approval granted by the Minister for Planning for a development at Sandon Point, north of Wollongong.

This was a judgment on the costs of these proceedings. The Court of Appeal ordered that each party pay their own costs of both the Court of Appeal and Land and Environment Court proceedings. This represents a departure from the usual order as to costs, being that the unsuccessful party pay the costs of the successful party. The Court found that the proceedings brought by the Walker, although ultimately unsuccessful, were properly characterised as 'public interest litigation'. The Court further stated that additional 'special circumstances' were required to warrant the Court departing from the usual order as to costs. The special circumstances in this case were:

- the case raised a novel question of law
- both the Land and Environment Court in the first instance, and the Court of Appeal found

the Minister did not take into account the principles of ecologically sustainable development (ESD), which is contrary to good decision-making

### **Gunns ordered to pay \$91,000 in legal fees to environmentalists**

Tasmanian logging company Gunns has been ordered to pay \$91,000 in legal fees to environmentalists, including Greens leader Bob Brown, former Tasmanian Greens leader Peg Putt and author Helen Gee. These parties were targeted by Gunns in an action for \$6.9 million in damages relating to anti-logging campaigns. The Supreme Court has ordered Gunns to pay legal fees in these three cases, whilst proceedings against remaining environmentalists continue.

## **Community Education and Events**

### **Upcoming EDO Environmental Law Workshops**

**When:** 4, 5, 7, 9, 10, 18 February

The EDO ACT is grateful to the ACT Law Society and the ACT Government for funding to hold a number of community workshops on environmental law in the ACT. Information about the workshops and seminars are available on our website <http://www.edo.org.au/edoact/> or by contacting the office on 6247 9420.

The seminars and workshops are quickly filling so if you are interested in attending please contact us as soon as possible.

### **Friends of Aranda Bushland AGM and Talk**

**Where:** Catchpole Room, Canberra Southern Cross Club Wests

**When:** Wednesday 18 February, Drinks and nibbles from 7.15pm

Dr Graham Turner will speak on sustainability challenges at global, national and local levels preceded by a brief AGM

Further details are available from Friends of Aranda Bushland on [friendsofarandabushland@gmail.com](mailto:friendsofarandabushland@gmail.com) or by calling 0405 357 914

### **Bridging the Gap 09**

**When:** 23-24 July 09

Richard Trudgen (author of 'Why Warriors Lay Down and Die') is holding a 2 day seminar aimed at building capacity with indigenous communities. Richard and Yolngu co-presenters offer strategies for addressing the current crises facing many Aboriginal communities across Australia today

Further information is available at [www.ards.com.au/seminars.htm](http://www.ards.com.au/seminars.htm)

## Other News

### Calling all Photographers

EDO is developing a portfolio of photos for use in various EDO publications (such as our quarterly newsletter, the EDO website and education material). The types of images which we are seeking are images of the local ACT environment (eg photos of the local flora and fauna as well as city scapes, images associated with renewable energy eg solar panels, tanks etc which we could use to illustrate environmental issues).

We would require digital photos to enable us to reproduce the images online.

Please contact the EDO office if you have images which the EDO would be free to use.

### Appeal for one-sided used Paper – we have run out

We at the EDO use paper printed on one side for most of our printing needs. If you know anyone or you are able to supply us with any non-confidential one sided paper we could use to accommodate our printing needs we would love to hear from you on:

[edoact@edo.org.au](mailto:edoact@edo.org.au) or 6247 9420.

### Australian Youth Ambassador for Development Pacific placements

The EDO invites applications from young Australians (aged 18-30) interested in working as youth ambassadors on international climate policy in Pacific Island nations. Ambassadors will be placed in various Pacific nations, such as the Solomon Islands, Vanuatu, Tonga and Fiji. The role involves working closely with the local government department responsible for international climate negotiations, on tasks including:

- Development of policy positions
- Review and response to policy proposals from other countries
- Involvement in bilateral and multilateral meetings, assisting in representing the host country

These countries are extremely vulnerable to climate change, but are under resourced in international climate negotiations compared to the wealthy countries that are primarily responsible for causing climate change. It is critical that they are sufficiently resourced to represent their position clearly at negotiations over the coming year, to ensure the survival of their nations.

Placements are to be for 6 months, July to December 2009. This time period is extremely critical in international climate change negotiations. The post 2012 treaty will be decided at the Copenhagen Conference of the Parties in December 2009. Without a strong agreement in December 2009, the islands will face extreme consequences, with many being forced to leave their native lands.

#### *Essential minimum qualifications*

- Tertiary qualification in Law, International Relations, Policy, Environmental Science or other relevant disciplines

#### *Essential minimum experience*

- Experience in the development of environmental law and/or policy
- Demonstrated interest in Pacific Island climate change issues

For more information and to apply, please contact **Amelia Thorpe** on **(02) 9262 6989** or email [amelia.thorpe@edo.org.au](mailto:amelia.thorpe@edo.org.au)

Applications are due **10 February 2009**.

### **Positions vacant: EDO NSW Solicitors (one permanent; one locum)**

EDO NSW has 2 Solicitor positions available in the EDO's Sydney office, one of which is a locum position. Part-time work will be considered.

See <http://www.edo.org.au/edonsw/site/jobs.php> for the selection criteria and a full position description.

**Salary** \$49,000 - \$61,000 per annum depending on experience plus superannuation.

For further information contact **Kirsty Ruddock** on **02 9262 6989** or via email at [kirsty.ruddock@edo.org.au](mailto:kirsty.ruddock@edo.org.au)

Applications must address the selection criteria and be received by **Friday 6 February 2009**.

### **EDO NSW seeking Indigenous Cadet**

EDO NSW is currently seeking an Indigenous Cadet to assist the work of the EDO's Indigenous Solicitor. The cadet will be a law student looking for part time work for two days per week. The type of work to be undertaken will include environmental policy work and research for litigation. This is a paid position, open to Indigenous applicants only.

For more information, contact **Neva Collings** on **(02) 9262 6989**, or visit <https://www.nicp.dewr.gov.au/Student/VacancyDetails.aspx> for further details.

### **FREE copies of the new edition of the *Rural Landholder's Guide to Environmental Law in NSW***

The new edition of the *Rural Landholder's Guide to Environmental Law in NSW*, a publication last produced by the EDO in 2006, is now available for free, including postage and handling. The guide is a valuable tool in understanding the law in NSW regarding land management and explains legislation dealing with issues such as vegetation management, protected species, fire management, water management, construction and development, pollution, agricultural chemicals, crops and stock, mining and quarrying, heritage protection, conservation on private land and trading and offsetting agreements.

To obtain your FREE copy of the guide please email [education@edo.org.au](mailto:education@edo.org.au) or call **(02) 9262 6989**. Boxes of 160 are also available on request for groups or organisations.

### **EDO NSW Director named in Sydney's top 100 most influential people**

'The Sydney Magazine' Special Issue - the (top 100) 2008 Sydney's most influential people

(Issue 69, January 09) named EDO NSW Director Jeff Smith as one of Sydney's most influential people. Jeff is listed under the category of Science and Knowledge – Environment. The EDO, likened to an SAS platoon, is described as being 'home to a crack team of some of the best environmental lawyers in the country.' In the media item, Jeff draws attention to the need for the law to better address climate change as a major environmental concern.

## **Contact us**

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