



Environmental Defender's Office ACT

Newsletter

Summer 2011

No 1 of 2011

EDO (ACT)

First floor

14 Childers Street

Canberra

GPO Box 574

Canberra City

ACT 2601

Phone: (02) 6243 3460

Fax: (02) 6243 3461

Email:

edoact@edo.org.au

Webpage:

www.edo.org.au/edoact

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

Contents

ACT News

p. 2

Hawke Review of ACT Public service

Feed in tariff scheme expanded

Changes to community consultation requirements on certain developments

Report on Canberra's ecological footprint

Licensing of energy assessors

Time to Talk

News from around Australia

p. 4

Current Inquiries and Opportunities to Comment

p. 5

ACT

Commonwealth

Litigation news

p. 8

Community Education and Events

p. 9

Other News

p. 12

Contact us

ACT News

Hawke Review of ACT Public Service

The recently released Hawke review of the ACT's public service looks at the changes to governance needed to support the ACT government's delivery of its priorities including sustainability.

The review highlighted that consultations brought out that 'while the Government has made various statements of its intent to embed sustainability into ACT government agency operations and decision making, this broad commitment isn't being translated into action in a coherent or strategic whole of government manner and consequently its performance is uneven.'

The report highlighted that 'whole of government engagement and adoption of sustainability principles and practices is required' and it needed 'genuine engagement with the citizenry in program and policy design and implementation'.

The report highlighted that the integration of sustainability policy needs to go beyond the simple production of frameworks and strategies.

The need for a centralised and coordinated approach to sustainability has been highlighted by the EDO in the past. See in particular our 'Sustainability workshop submission' and 'Submission to the Legislative Assembly Inquiry into the ecological carrying capacity of the ACT and region' at <http://www.edo.org.au/edoact/submissions.html>.

A copy of the Hawke report is at <http://www.actpsreview.act.gov.au/home>

Feed-in-Tariff Scheme expanded

The ACT Parliament recently passed legislation which expands the feed-in-tariff scheme to include large scale electricity generators. Prior to the Bill's passage feed in laws only applied to small scale generators up to 30kW. The new Bill which passed through the Assembly on 17 February introduces a new class of 'medium renewable energy generator' which is one greater than 30kW but no more than 200 kW.

The amendments included in the Bill also provide for a cap on the total capacity of installations that could benefit from the feed-in scheme.

A copy of the Bill (the Electricity Feed-in (Renewable Energy) Amendment Premium Bill 2010) and explanatory statement is at http://www.legislation.act.gov.au/es/db_40360/default.asp

Changes to community consultation requirements on certain developments

Development applications (DAs) for certain large development proposals in some areas, including residential areas, will now be required to include information about any community consultation undertaken prior to the lodgment of the development application.

Where a development application is lodged for a residential building intended to be higher than three storeys and consisting of more than 50 units, a building where the total floor space is intended to be more than 7000m², or a building or structure intended to be higher than 25m, information regarding the details of any community consultation undertaken prior to a development application being lodged for approval must be provided with the development application.

This does not apply to developments proposed in the City, the Town Centres or Industrial Zones as defined by Schedule 3 Planning and Development Regulations 2008.

The pre DA community consultation summary form notes that a failure to undertake community consultation prior to lodgment may result in delays in processing the development application.

A copy of the pre DA community consultation summary form is available at

<http://www.legislation.act.gov.au/af/2011-6/current/pdf/2011-6.pdf>

It is also noted on ACTPLA's website that the public notification period for applicable DAs has been extended from 15 business days to 20 business days.

Report on Canberra's ecological footprint

A study commissioned by the ACT Office of the Commissioner for Sustainability and the Environment on the ACT's ecological footprint and released in December 2010 has shown that the ACT's footprint is above the national average, over three times the global average and has increased eight percent in the last five years. According to the study, an average Canberra resident requires more than nine hectares of land to supply enough land and water to support their lifestyle. Research seems to suggest it is the city's wealth, overconsumption of goods and lack of service consumption that are responsible for the high footprint. More information, including a copy of the report is at

[http://www.envcomm.act.gov.au/_data/assets/pdf_file/0015/211182/ACT Ecological Footprint 08-09 final report.pdf](http://www.envcomm.act.gov.au/_data/assets/pdf_file/0015/211182/ACT_Ecological_Footprint_08-09_final_report.pdf)

Licensing of Energy Assessors

Last year legislation was passed that regulates energy assessors and requires energy assessors for residential schemes to be licensed. Since 1994 the ACT has had an energy rating assessment scheme for residential buildings but energy assessors have not been required to be licensed.

The legislation provides for certain disciplinary action and a complaints mechanism for consumers. The new licence, registration, and lodgement fees for assessors are available in ACTPLA's fees and charges booklet which is available at

http://www.actpla.act.gov.au/_data/assets/pdf_file/0004/18148/Fees_Charges_2010_2011_web.pdf.

Amendments are included in the *Construction Occupations (Licensing) Act 2004* and the *Building Act 2004* which are available at <http://www.legislation.act.gov.au/a/default.asp>.

Time to Talk

The final outcomes report from the ACT Government's Time To Talk consultation has been released. The report analyses all input into the Time to Talk Canberra 2030 which sought input into how Canberra should look in 2030.

Many issues were identified and the analysis shows some key emerging themes focused on the environment. These include a desire to see Canberra taking steps to lower Canberra's carbon emissions, reduce consumption and generally being more environmentally responsible, to integrate transport and land use, and adopt an open government approach in the future planning of the city.

The outcomes report is available at

<http://www.canberra2030.org.au/outcomesreport/>

News From Around Australia

Update on the Hawke Review of the Environment Protection Biodiversity Conservation Act 1999 ('EPBC Act')

The Environment Minister has deferred the Government's response to the EPBC Act review. The response was delayed by Tony Burke replacing Peter Garrett as Minister, and Minister Bourke is now re-evaluating the Government response. The Minister will be holding meetings with various sectors, including environment groups, to assist his development of a response.

ANEDO submissions on the review are available at
<http://www.edo.org.au/edonsw/site/policy.php#2>.

Queensland Underground Coal Gasification Site closed

The Queensland Government has closed down Cougar Energy's Kingaroy underground coal gasification (UCG) site on environmental grounds, after finding traces of banned chemicals in water bores last year.

The company plans to appeal against the decision.

The Garnaut Climate Change Review: 2011 Update

The Commonwealth Government has commissioned Professor Ross Garnaut AO to produce a series of eight reports laying out the developments that have occurred, both nationally and internationally, since his 2008 Garnaut Climate Change Review.

The first report introduces the Update and addresses some of the structural criticisms of the 2008 Review. The second report reviews global progress and concludes that Australia has hindered international efforts. The third discusses Global Emissions Trends and the final report is due to be provided to the government on 31 May 2011.

For further information, see the [Garnaut Review website](#).

Current Inquiries and Opportunities for Comment

Commonwealth

Montara Report

The Federal Government is calling interested parties to comment on the Montara Report, which investigated the likely causes of the uncontrolled release of oil and gas into the Timor Sea from the Montara Wellhead Platform in August 2009 and make recommendations to the Government on how to prevent future incidents.

Submissions should be lodged no later than **5pm Friday 25 February 2011**.

For further information, including how to make a submission, see:
www.ret.gov.au/montarainquiryresponse

Sustainable Population Strategy

The Federal Government has opened the issues paper *A Sustainable Population Strategy for Australia* to public comment. The issues paper is intended to express community views about the challenges and opportunities created by Australia's changing population.

Submissions close **1 March 2011**.

For more information, including where to send submissions, see
<http://www.environment.gov.au/sustainability/population/consultation/index.html>.

Urban Sustainability Discussion Paper

The Federal Government has released a discussion paper on options for management of growth and sustainability in Australia's biggest urban centres.

The discussion paper, *Our Cities – building a productive, sustainable and liveable future* is open for public comment and feedback.

Submissions can be made by preparing a written submission or completing a feedback survey.

Submissions close **1 March 2011**.

For further information, including details on how to make a submission, see:
<http://www.infrastructure.gov.au/infrastructure/mcu/urbanpolicy/index.aspx>

Inquiry into the Australian Forestry Industry

The House of Representatives Standing Committee on Agriculture, Resources, Fisheries and Forestry has begun an inquiry into the current and future prospects of the Australian

forestry industry, and is seeking submissions from interested parties and organisations. The inquiry seeks to identify, amongst other matters environmental impacts of forestry, including impacts of plantations upon land and water availability for agriculture; and the development of win-win outcomes in balancing environmental costs with economic opportunities.

Submissions are due by **25 March 2011**.

More information is available at

<http://www.aph.gov.au/house/committee/arff/forestry/index.htm>

Murray-Darling Basin—Senate inquiry into the Federal Water Act

Senator Barnaby Joyce has initiated a Senate inquiry into the Water Act to consider amendments to the Act that will give an 'equal weighting' to social, economic and environmental factors. The EDO will be making a submission.

For more information and how to make a submission, see the [Committee website](#). Submissions are due **18 March 2011**.

The EDO's recent submission to the Murray Darling-Basin Authority (December 2010) can be viewed on the [ANEDO website](#).

ACT

Draft ACT Sustainable Waste Strategy 2010-2025

The ACT Government is seeking comments from the community on its draft *ACT Sustainable Waste Strategy 2010–2025* (draft strategy). The draft strategy aims to achieve full resource recovery and a carbon neutral waste sector through waste management. The draft strategy emphasizes waste's ability to reduce the need for raw materials and to help address climate change.

Submissions close on the **28 February 2011**.

For further information, see <http://www.environment.act.gov.au/waste>

Plan for Gungahlin Town Centre - Draft Variation No 300

The public has been invited to comment on future planning for Gungahlin Town Centre.

Comments close on **28 February 2011**.

For further information, see the [planning report](#) or the factsheet at

http://www.actpla.act.gov.au/_data/assets/pdf_file/0019/20845/GTC_FactSheet_A4.pdf.

Brumbies Plan – Draft Variation Number 307

The public has been invited to comment on a draft variation to change the zoning of Griffith section 42 block 15 (on the corner of Austin and La Perouse Streets in Griffith and owned by Brumbies Rugby) from commercial CZ6 leisure and accommodation zone to RZ4 medium density residential zone to allow for medium density housing up to 3 storeys in height.

Written comments are invited until **COB Tuesday 15 March 2011**.

Further details are available at:

http://www.actpla.act.gov.au/tools_resources/legislation_plans_registers/plans/territory_plan/current_territory_plan_variations

Molonglo Valley Stage 2

In March 2011 ACTPLA will commence consultation on the draft planning and development framework for stage 2 of the Molonglo Valley Development, seeking the community's views on matters including housing, community open spaces, transport, protecting the natural **environment** and supporting sustainable energy, water and waste management.

What: Community display and forum

When: 24 March 2011

Where: St Peters Anglican Church Hall, Parkinson Street, Weston (next to Cooleman Court)

Display: 3.00pm – 6.00pm

Drop in any time to view displays and talk with ACTPLA staff and planning consultants.

Forum: 6.30pm – 8.30pm

More information is available at

http://www.actpla.act.gov.au/topics/significant_projects/planning_studies/molonglo_valley

East Timor draft Environmental Laws

In late January, Timor-Leste's Secretary of State for Environment circulated a Portuguese-language draft of a basic Environmental Law for limited public consultation. The Secretary accepted La'o Hamutuk's (The Timor-Leste Institute for Development Monitoring and Analysis) request to extend the comment period until the end of February.

La'o Hamutuk has done a preliminary computer-assisted [translation of the draft law into English](#). The organisation is asking people and organisations to make their own submissions or to [email them](#) with ideas, suggested changes or other analysis which will help them write theirs.

The organisation has noted that the draft law has many good aspects, including recognition of the precautionary principle, "polluter pays," the importance of greenhouse gas emissions, public consultation, *tara bandu*, and community involvement. But it also contains significant loopholes and gaps -- and leaves most specifics for subsequent decree-laws.

Draft law in Portuguese:

<http://www.laohamutuk.org/Agri/EnvLaw/LeiAmbientalEsboso27Jan2011Pt.doc>

Rough English translation:

<http://www.laohamutuk.org/Agri/EnvLaw/LeiAmbientalEsboso27Jan2011En.doc>

LH web page which to track this legislative process:

<http://www.laohamutuk.org/Agri/EnvLaw/11EnvBasicLaw.htm>

Litigation News

ACAT reconfirms Heritage Council decision not to provisionally register Flynn Primary School

On 18 February the ACT Civil and Administrative Tribunal reconfirmed the ACT Heritage Council's decision not to provisionally register in the ACT Heritage Register the Flynn primary school, pre-school and health centre and certain parts of George Simpson Park. The decision was challenged by the original school architect a community group and the Parents and Citizen's Association. The applicants nominated the places on the basis of their school's local heritage significance and cultural significance in the ACT.

The Tribunal decision discusses the threshold tests required to have a place provisionally registered on the ACT Heritage Register. In considering whether the place was highly valued by 'the community' or 'a cultural group' (one of the criteria for registration) the Tribunal found that 'the community' is something wider than a community limited by a geographical area, such as the Flynn community. That is, it had to be valued by the wider ACT community. The applicants, nor the Royal Australian Institute of Architects or the National Trust were found to come with the meaning of 'the community' or 'a cultural group'.

The Tribunal also considered standing of the P&C and found that they were not entitled to be an applicant as it is not a current occupier of the nominated place.

The decision is available at

<http://www.acat.act.gov.au/decisions.php?action=decision&id=169>

ACAT considers when plan changes require a new development application

In two recent cases, the ACT Civil and Administrative Tribunal has considered when a change in plans to an original development application amounts to an amended application and when a new development application is required.

In its decision ACAT noted that 'the lack of clarity as to what constitutes an application for amendment to a DA under s 144 and what can be reasonably regarded as amendments to plans that satisfy imposed conditions or meet objectors concerns is a matter of continuing uncertainty and could useful to be addressed when amendments to the Act are next considered'.

The decisions are available at

<http://www.acat.act.gov.au/decisions.php?action=decision&id=151>

<http://www.acat.act.gov.au/decisions.php?action=decision&id=140>

EDO Vic win in VCAT: Eastern Golf Course permit refused

Friends of the Earth (FOE), represented by the EDO Vic and barrister Andrew Walker, objected to the grant of a permit for a new golf course in the Victorian Civil and Administrative Tribunal. The proposed golf course was to be located on a flood plain next to

the Yarra River, about 1 kilometre upstream of a major storage for Melbourne's drinking water. Relying on the precautionary principle, FOE argued that the golf course should not be approved because the risks to the river and human health caused by chemical and sediment runoff were too unknown and that many aspects of the proposal had not yet been finalised.

On 17 December 2010, VCAT handed down its decision and decided to reject the permit on the basis that too many aspects of the proposal had not yet been resolved. In its decision, VCAT stated that it accepted the objectors' evidence that more stringent conditions to protect water quality would have been needed, had they decided to grant the permit.

For the full decision, see [AustLII](#).

EDO NSW successful in allowing climate case to proceed

As discussed in previous EDO newsletters the EDO NSW has commenced proceedings in the NSW Land and Environment Court on behalf of Peter Gray and Naomi Hodgson (the applicant) against Macquarie Generation. The case is based on whether or not emission of CO2 requires a licence under the NSW environment protection legislation (see previous EDO newsletter).

Last year Justice Pain dismissed Macquarie Generation's motion to have the matter dismissed. Justice Pain found that the applicants' argument that Macquarie Generation is not authorised to emit any carbon dioxide at all is unlikely to succeed and dismissed that part of their case, but did not dismiss the applicants' secondary argument. This was that even if Macquarie Generation has an implied authority to emit some amount of carbon dioxide in generating electricity, that authority is limited to an amount which has reasonable regard and care for people and the environment.

Following this judgment the applicants sought to amend their pleadings and this motion to amend the pleadings was successful meaning that the case can now proceed to a final hearing. A copy of the judgment is at:

http://www.edo.org.au/edonsw/site/pdf/casesum/110201gray_judgment_amendedpoc.pdf

Community Education and Events

Public showing of Gasland

When: February 23rd, 7.30pm

Where: CSIRO discovery centre.

The Nature and Society forum is presenting a film about “fracking” is the controversial technology used by the oil and gas industry to access “unconventional” natural gas deposits trapped in shale, coalbed, and tight-sand formations – potentially at the expense of underground water supplies.

Donations will be invited on the evening to cover venue hire and the cost of hiring the film.

More info at:

<http://video.pbs.org/video/1452296560/>

Celebrate Sustainability Day at the ANU

When: Thursday, 24 February 2011, 8:00 AM - 2:00 PM

Where: ANU Union Court

From 8am start the day with a free Sustainable Transport pancake breakfast for all who arrive on campus via active transport (walk, bus, bike, carpooling), then from 10am to 2pm learn about the sustainability initiatives on campus including the work of ANUgreen, the Sustainability Learning Community, the Organic Garden, and the ANU Food Co-op.

More information at: <http://www.anu.edu.au/anugreen>

Enquiries: [Melati](#) on 61250763, [Jennifer McMillin](#) on 6125 2311

Governance for Green Growth Workshop

When: Friday, 25 February 2011, 9:00 AM - 4:00 PM

Where: Coombs Extension Lecture Theatre 1.04, ANU

Climate & Environmental Governance Network are hosting a workshop. A move towards Green Growth will not be achieved without reforms and innovations in governance at the local, national and global level. This workshop aims to explore the institutions and regulatory strategies that have been proposed or have emerged in recent years to facilitate the transition to a green economy.

More information at: <http://cegnet.anu.edu.au/...wards/index.php>

Enquiries: [Kyla Tienhaara](#) on 6125 3813, [Christian Downie](#) on 6125 6569

Politics in the Pub - *Climate change policies in Australia: complementary or contradictory?*

When: Wednesday 2 March, 6 – 7pm (doors open at 5.30pm)

Where: The Lounge Bar at The Uni Pub, 17 London Circuit, Canberra

The Australia Institute will host Politics in the Pub. Richard Denniss from The Australia Institute and Andrew Macintosh from the ANU Centre for Climate Law and Policy will discuss the topic 'Climate change policies in Australia: complementary or contradictory?'

The Gillard Government recently axed or wound back a number of green programs to help return the Budget to surplus. Yet, over the next four years the government will spend \$39 billion on subsidising fossil-fuel use.

With the government now pledging to introduce a price on carbon, this talk will examine the role of complementary measures under such a scheme, as well as the contradictions in the government's policies.

FREE: no RSVP required

For more information contact Serena Rogers on 0421 759 262.

Canberra Environment Centre Gardening Workshops

The Canberra Environment Centre have organised a series of one hour workshops to get you gardening.

Tuesday 1st March: Planning your Garden

Tuesday 8th March: Setting up a no dig garden

Tuesday 15th March: Extending the growing season

We'll show you how to grow an organic food garden based on permaculture principles.

6.30-7.30pm

\$15 a workshop, or \$40 if you enroll in all 3. Concessions available.

Places are strictly limited.

Contact Cath at the Environment Centre for payment options: info@ecoation.com.au

SEE-Change Events

SEE-Change Tuggeranong will host its first ever get together! Come along to discuss common interests and possibilities for southern Canberra. Thursday 24th, 7pm, venue TBA. Please RSVP to office@see-change.org.au. [More info here.](#)

SEE-Change Inner North's monthly get to together. March 3rd, 7.30pm. [Click here](#) for details.

SEE-Change Belconnen's monthly gathering. March 8th, 7pm. [Click here](#) for details.

SEE-Change Inner South's sustainable house visit. Come and inspect an amorphous PV system and discuss one of our member's plans for passive, energy-saving measures. March 10th, 6pm. [Click here](#) for RSVP details.

Seminar: Cities sustainability and health

Professor Tony Capon will talk on cities, sustainability and health

When: 2-3pm on Wednesday 9 March

Where: Ann Harding Conference Centre, University of Canberra. For catering purposes, please [register your attendance](#).

Slow Food Canberra, Community Banquet and Screening of 'Dirt'.

When: Friday 11th March, 6.30pm.

Where: Garema Place, Civic

Slow Food Canberra is hosting an outdoor banquet, bringing people together in appreciation of food and community and promoting the social and health benefits of exploring different

ways to integrate sustainability into their life through their choices in food.

[Click here](#) for the flyer.

O'Connor community garden open days.

When: March 26th-27th.

Where: Corner of Brigalow and Jarrah Sts, behind the Uniting Church, O'Connor

The O'Connor Community Garden will be open to the public as part of the Australian Open Garden Scheme. Buy organic vegetables and seedlings grown in the garden, enjoy cakes, refreshments and acoustic music as you wander around the garden.

More information [here](#).

Other News

EDO NSW Position Vacant: Acting Policy & Law Reform Director, Sydney Office

The EDO NSW is seeking an *Acting Policy & Law Reform Director* to lead the Office's high profile and successful policy and law reform activities. The *Acting Policy & Law Reform Director* will oversee the policy program, participate in the management team, research and write submissions on high profile government proposals, develop discussion papers and other active policy initiatives, play a key stakeholder role in issues relating to environmental law and policy and provide legal policy advice to environmental groups.

This is a maternity leave position and is expected to be for 12 months, commencing in May 2011.

Salary range \$71,366 - \$77,854 plus superannuation.

Please visit http://www.edo.org.au/edonsw/site/jobs_policydirector110112.php for application details and a full position description.

Applications close **1 March 2011, 5pm.**

EDO NSW Position Vacant: International Programs Officer

The EDO NSW is seeking to employ an International Programs Officer to coordinate the delivery of its International Programs. These programs provide assistance to lawyers and community groups working in public interest environmental law in the Pacific and South-East Asia. Currently, EDO works in Papua New Guinea, the Solomon Islands, Fiji, Vanuatu and Samoa.

The EDO provides assistance across a broad range of issues, with a focus at present on climate change, forestry, marine environments and Indigenous rights. The type of assistance provided depends on the requirements of partner organisations in the region.

The position is part-time, 30 hours per week. Salary range \$41,522 to \$51,902 plus superannuation and leave loading.

See <http://www.edo.org.au/edonsw/site/jobs.php> for a full position description and further information about applying.

Applications close **7 March 2011, 5pm.**

EDO NSW Position Vacant: Education Officer

The EDO NSW is seeking to recruit a dynamic, self-motivated lawyer to assist with the Education Program generally and to deliver an education project on mining and the law which has been funded by the NSW Environmental Trust through a community education grant.

Salary is \$51,903 - \$64,878 depending on experience, plus superannuation.

For more information on the EDO, please see the EDO NSW website:

www.edo.org.au/edonsw . For further information on the position, contact Jemilah Hallinan, EDO Education Director, on 02 9262 6989.

Applications close **18 March 2011.**

Position Vacant: AYAD – Biodiversity Officer Fiji

Would you like to use your skills and experience to volunteer in a developing country?

The Australian Youth Ambassadors for Development Program (AYAD) sends young Australians aged 18-30 on short term volunteer assignments (3-12 months) throughout Asia, the Pacific and Africa. These assignments are fully-funded by the Australian Government through AusAID.

EDO NSW will be supporting a Biodiversity Officer assignment in Fiji. To apply for this assignment please go to:

www.ayad.com.au/assignments?AyaCode=31FJEN-A08

Applications close Friday **18 February 2011.**

Electric Bike Bulk Buy

Switched on Cycles are importing good quality, mid-priced electric bikes to Canberra, to get more people out and riding, helping their own fitness and leaving the car at home.

Switched on Cycles are offering SEE-Change a 20% discount for bulk buys of 10 bikes or more. SEE-Change only need a few more people to make up the required 10 to take advantage of this offer. If you are interested in being involved in a bulk buy please contact Anne at the See Change office, admin@see-change.org.au. Members and non members welcome!

Click [here](#) for more information about other SEE-Change discounts.

Contact us

Environmental Defenders Office (ACT) Inc.

Level 1, 14 Childers Street, Canberra City ACT 2601

Ph: (02) 6243 3460

Fax: (02) 6243 3461

e: edoact@edo.org.au

If you no longer wish to receive our Newsletter by email, please email us at edoact@edo.org.au with “unsubscribe Newsletter” in the subject line. Your email address will be removed from our newsletter database and we will not send you these newsletters.

This newsletter is meant for your general information. Where possible, references are given so that readers can access original sources or find more information. Any information contained in this bulletin does not represent legal advice.

The EDO does not endorse and is not affiliated with events advertised in the Community Education and Events section.



