

section 16 of the CWA should be affirmed. In reaching this conclusion the Court also held that the legislature intended that the term "waters" should include waters found on privately owned or occupied land.

Whilst the Court's finding in respect of Lake Liddell is clear, it is unfortunate that the case does not promote any statements of principle against which the pollution of waters can be generally tested. Especially in regard to bodies of water created artificially for a specific industrial purpose.

Wilful Disposal Of Waste Harming The Environment

In Environment Protection Authority v N (unreported decision of the Court of Criminal Appeal dated 13 April 1992) the Court provided clarification of the state of mind which a defendant must have in order to be found guilty of the offence created by section 5(1) of the Environmental Offences and Penalties Act 1989. Pursuant to section 5(1), it is an offence to wilfully and without lawful authority dispose of waste in a manner likely to harm the environment. The offence carries heavy maximum penalties.

The EPA submitted that to make out the offence it needed only to establish:

- (i) that the defendant had wilfully disposed of waste; and
- (ii) that the manner in which the defendant had disposed of the waste had in fact harmed or was likely to harm the environment.

The Court held that in a prosecution for such an offence, the prosecution must go further than this. It must establish that the defendant wilfully (or deliberately) disposed of waste in such a manner either intending, or with an awareness of, the consequences or likely consequences of his action.

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DEVELOPMENTS IN SOUTH AUSTRALIA

Draft Heritage Bill Released for Public Comment

The SA Government has released a draft Heritage Bill ("the draft Bill") for public comment. The draft Bill will repeal and replace the existing Heritage Act of 1978, and is a part of a package of proposed legislation dealing with the building and development control, coastal management and environmental protection.

The draft Bill is very similar to the existing Heritage Act in the manner in which it deals with places of State Heritage. The draft Bill does not deal with places of local heritage significance which are addressed in the draft Development Bill. Places of local heritage significance will have to be included within Development Plans prepared pursuant to the draft Development Bill. Development controls relating to places of State Heritage are found within the draft Development Bill which must be read in conjunction with the draft Bill.

The draft Bill establishes the State Heritage Authority, an Authority to consist of seven members, created to administer the legislation.

The draft Bill will allow a land owner to appeal to the Environment Resources & Development Court against a decision of the Authority to register a place as a place of State Heritage. The draft Bill also provides for public notice to be given in relation to a proposal to register a place as being of State Heritage. Anyone may make a representation and a person aggrieved by a decision of the Authority has the right to appeal to the Environment Resources & Development Court.

The draft Bill gives a land owner the right to seek a certificate from the Authority guaranteeing that an area of land will not be

entered on the register for a period of five years from the date of issue.

The draft Bill contains many other provisions of which there are too many to deal with here. Copies of the draft Bill and explanatory documents released by the Department can be obtained from 55 Grenfell Street, Adelaide. NELA (SA Division) is in the process of preparing a submission of the draft Bill.

New Ministries

When the Honourable Lyn Arnold became Premier of SA he instigated a significant Cabinet reshuffle. We now no longer have a Minister of Environment & Planning nor a Department of Environment & Planning. We are still busy trying to work out what new departments and offices within departments exist. The two most important new portfolios from NELA's perspective are, Housing, Urban Development & Local Government Relations for which the Honourable Greg Crafter is responsible and Environment & Land Management, for which the Honourable Kym Mayes is responsible. Further details about the Cabinet reshuffle have been provided to NELA (SA Division) members in Information Sheet No. 6, November 1992.

National Parks & Wildlife (Miscellaneous Amendments) Bill 1992

The Minister for Environment & Land Management introduced this Bill into Parliament in the second week of November 1992. The Bill, which includes some 50 clauses and a number of schedules, was introduced into Parliament without any opportunity being given to the community to comment upon it. The Bill was brought to the attention of NELA (SA Division) by the Shadow Minister and the State Co-ordinator of the Australian Conservation Foundation. The Bill introduces significant amendments in relation to mining and development within National Parks that warrant community input and it is inconsistent with the whole thrust of the State Government Planning Review. NELA (SA Division) made an urgent submission to the Minister advising him of its concerns and requesting that the Bills

passage through Parliament be delayed pending an opportunity being given to the community to comment upon it. The request was successful.

Draft Development Bill soon to be tabled

As reported in earlier editions of the AELN the State Government Planning Review released a draft Development Bill for public comment earlier this year. NELA (SA Division) made a substantial submission of around 60 pages on the draft Bill. The submission was well received and delegates of the State Executive met with a representative of the Planning Review to further discuss the submission. A revised draft Bill will be tabled in Parliament on the last day of the current sittings, and it will be debated in the first sittings of Parliament in 1993.

Draft Environment Protection Bill - Contaminated Land

The draft Environment Protection Bill was reported on in the last edition of the AELN. NELA (SA Division) made a substantial submission of around 50 pages to the draft Bill. The draft Bill does not specifically address contaminated land. Amendments to the draft Bill dealing specifically with contaminated land, which was addressed in a discussion paper released last year, is likely to be released for public comment early in 1993.

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