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The State of the Environment Reporting Unit
Department of Environmental Protection
141 St. George's Terrace
PERTH WA 6000 Email: <soe@environ.wa.gov.au>.

Proposals for Water Law Reform

In August the Water and Rivers Commission released the first two of a series of papers on the reform of water law in Western Australia: *A Context Paper for Western Australian Reform Proposals and Allocation and Transfer of Rights to Use Water: Proposal for Discussion*. The reform proposals are aimed at implementing the agenda on water law reform of the Council of Australian Governments which has been tied in with the National Competition Policy. A central feature of these reforms is the introduction of tradeable water entitlements. The Discussion Paper invites submissions by 31 October 1997, but this time has been extended until the end of November on the principles underpinning the legislation and until April next year on aspects of the planning processes and administrative procedures. Enquiries should be directed to Brigit Cosgrove, Water & Rivers Commission, PO Box 6740, Hay Street, EAST PERTH, WA 6892; Ph.(08) 9278 0300.

Natural Heritage Trust Partnership Agreement

The *Natural Heritage Trust Partnership Agreement* between the Commonwealth and Western Australia was signed on 29 July and came into effect upon signature. The Agreement sets out the roles and responsibilities of the Commonwealth and Western Australia for the delivery of the objectives of the Natural Heritage Trust established by the *Natural Heritage Trust of Australia Act 1997* (Cth) and associated programs. The Agreement is quite a substantial document, containing the main text of the Agreement and three attachments.

The text of the Agreement sets out the principles underlying the Natural Heritage Trust and a framework under which the State and the Commonwealth can agree upon the terms of Natural Heritage Trust programs and associated programs. Important clauses relate to the financial arrangements (clause 7), delivery arrangements (clause 9) and program management (clause 10). By these provisions,

- * Commonwealth funding is subject to the agreed objectives, outcomes and milestones described in Attachment A,
- * regional / catchment planning will generally form the framework for the integration of the delivery of programs at the community, regional, State and Commonwealth levels, and
- * program management will be determined on the advice of the regional assessment panels constituted in accordance with basic criteria, including a majority community membership.

Attachment A sets out the objectives and implementation arrangements for ten Commonwealth programs, each of which is related to relevant State programs. Attachment B sets out the standard terms and conditions of financial agreements between the Commonwealth and Western Australia for the purposes of financial assistance under the Partnership Agreement. Attachment C outlines Western Australian Government priorities and programs for natural resource and environmental management, including the *State Salinity Action Plan* approved by the State Government in November 1996.

The Agreement represents an interesting step along the road of federal co-operation in environmental management and deserves a more detailed analysis than can be presented here.

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QUEENSLAND

A new regulation is being prepared by the Department of Environment ("DOE") to replace the *Environmental Protection (Interim) Regulation 1995* which will expire on 1 March 1998. Public workshops have been held on the proposed changes.

Probably the most important function of the current regulation is to provide a schedule of Environmentally Relevant Activities ("ERAs"). These are the business activities which require licensing or approvals. A large proportion of the current ERAs are to be changed to clarify their intended meaning and to fine-tune the relevant fees.

Submissions close on 7 November 1997.

Proposed Repeal of Contaminated Land Act 1991

DOE has also prepared a draft *Environmental Protection Amendment Bill (No.2) 1997* to repeal the Contaminated Land Act 1991 and incorporate its provisions in the *Environmental Protection Act 1994*, but with substantial amendments.

DOE has consulted various "stakeholders" in the preparation of the draft Bill. The concept for the Bill has been "in the pipeline for well over a year, but it is understood that there is some prospect of the Bill being introduced to Parliament at its next sittings. Nevertheless, the Act is not expected to commence until at least mid 1998, to allow time for new database to be prepared.

Based on community concerns about the current legislation, the main reforms expected in the draft Bill are:

- * an attempt to reduce the market stigma associated with sites which have been used for prescribed purposes but which are not in fact hazardous to human health or the environment, by abolishing the current system of classification and replacing it with new registers using different nomenclature;

- * provisions to clarify that the polluter is to have primary liability and that innocent landowners can be targeted only where the polluter is not known, the local government was not a fault, and the owner was aware of the situation at the time of acquisition because the land was already registered;
- * special protection for mortgagees (except where the contamination occurred after the mortgagee entered into possession).

Amendments of Environmental Management Programs ("EMPs")

A significant reform this year to the *Environmental Protection Act 1994* has been the inclusion of a new section 94A, allowing for amendments to EMPs (*Act No 7/97*). Essentially an EMP is a document prepared on behalf of the proponent which sets out a timetable for achieving compliance with particular standards. During the period of the EMP, the proponent is given a limited degree of protection from prosecution for non-compliance with the standards that the EMP is designed to achieve. In the past, it was a significant defect in the legislation and a disincentive from taking advantage of the procedure, that an EMP was "set in stone" as soon as it was approved. Nevertheless, it is clear that the reforms still do not go far enough. An amendment can be approved only if (among other things) the administering authority is reasonably satisfied that the amendment will reduce environmental harm: section 94A(3). This does not allow for amendments which do not have any impact on environmental harm, but which are either procedural or propose a more cost-effective method of achieving the same practical result.

Integrated Planning Bill

The *Integrated Planning Bill* (Discussed in the last edition of AELN) was introduced to Parliament on 30 October 1997. However, it is not expected that the Act will be passed immediately, but will remain before Parliament for some months to allow time for debate and public comment. This will be particularly important since the Bill is proposed to replace not only the *Local Government (Planning and Environment) Act 1990*, but also the approvals provisions of various other legislation which fall within the responsibilities of other government departments. An outline of the key features will be included in the next edition of AELN, by which time details of the impact of the Bill on other legislation should be publicly available.

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to send your contributions to the Australian Environmental Law News (AELN) which has a wide circulation (around 800 members). Your views will be read by a multi-disciplinary membership and the journal is well regarded.

Please send a hard-copy and disc (saved in Word 5.1 for McIntosh .txt) format. If sent by email, the same applies.

Please contact Alice Antill Wood, telephone 02 6257 2923 to discuss this further.

The final date for receipt of copy for the final issue for 1997 is
12 DECEMBER.

Sub-Editors are requested for South Australia and Western Australia. Many thanks to Rachael Osman (SA) who has now moved to Sydney and Alex Gardner (WA) - who both provided excellent support over the last year.

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