

Decision

The President made a recommendation that the application for additional surface area be granted in whole without conditions and that the accompanying environmental authority also be granted.

Pursuant to s 67 of the *Land and Resources Tribunal Act 1999* the objectors may appeal the decision on a question of law to the Queensland Court of Appeal.

VICTORIA

NUCLEAR ACTIVITIES (PROHIBITIONS) AMENDMENT (PLEBISCITE) BILL*

The Victorian Government has introduced a Bill to facilitate the holding of a plebiscite, in the event that the Commonwealth Government takes action to support or allow the construction of a nuclear facility in Victoria.

The *Nuclear Activities (Prohibitions) Amendment (Plebiscite) Bill* (the Bill) seeks to amend the *Nuclear Activities (Prohibitions) Act 1983* (Vic) (the Act). In summary, the Act prohibits:

- exploration, mining or quarrying for uranium or thorium;
- construction and operation of nuclear facilities (including uranium or thorium mills, nuclear conversion and enrichment facilities, reprocessing plants, nuclear reactors and nuclear power reactors, and nuclear waste storage or disposal facilities); and
- possession, use, sale, transport, storage or disposal of nuclear material except in limited circumstances.

The Bill will insert a new Part into the Act, which will apply if the Victorian Minister for Energy and Resources is satisfied that the Commonwealth Government has taken, or is likely to take, any steps to support or allow the construction of a nuclear facility in Victoria. According to the Bill, such steps might include:

- making or amending a Commonwealth law or exercising a power under a Commonwealth law to facilitate the construction of a nuclear facility in Victoria; or
- adopting a policy position of supporting or allowing the construction of a nuclear facility in Victoria.

If the Part applies, the Minister must arrange for a plebiscite to be conducted to obtain the views of the people of Victoria about the construction or operation of a nuclear facility in Victoria. The Minister must also determine the timing of the plebiscite and formulate the question to be put to voters. Provision is made in the Bill for the Victorian Electoral Commission to distribute pamphlets containing “for” and “against” arguments in relation to the question put forward, with the content of the “against” arguments being approved by the Minister, and the Commonwealth Minister being given an opportunity to be consulted on any “for” arguments.

It would appear to be the hope of the Victorian Government that an overwhelming vote against the construction or operation of a nuclear facility would apply pressure on the Commonwealth

* Igor Bogdanich, Allens Arthur Robinson.

Government to refrain from passing Commonwealth legislation or taking other action that might seek to override the Act and facilitate the development of a nuclear facility in Victoria.

It is worth noting that legislation has been introduced or enacted in other states seeking to, amongst other things, prohibit the construction or operation of nuclear facilities. Please see the *Nuclear Facilities Prohibition Act 2007* (Qld), the *Uranium Mining and Nuclear Facilities (Prohibitions) Bill 2006* (Tas) and the *Nuclear Facility (Prohibition) Bill 2007* (SA).

UPDATES IN WATER LEGISLATION *

Critical Water Infrastructure Projects Bill

The *Water Amendment (Critical Water Infrastructure Projects) Bill 2006* was introduced to the Legislative Assembly on 19 December 2006. The Bill proposes to amend the *Water Act 1989* to facilitate critical water infrastructure projects.

The Bill confers power on the Premier to make a “critical water infrastructure project” order on the recommendation of the Water Minister, after the Minister has consulted with the Treasurer and the Planning Minister.

Once a project is declared to be a critical project, the Planning Minister becomes the responsible authority, rather than the Local Council, under the *Planning and Environment Act 1987* for any planning scheme relating to a project area. The Bill also provides that, where a facilitating authority exercises the power for the purposes of a critical water infrastructure project, s 3(3) of the *Land Acquisition and Compensation Act* would not apply where there is any inconsistency with Part 7B of the *Water Act*. This means that water authorities can compulsorily acquire land without having to first amend the relevant planning scheme.

The Bill ensures that a “facilitating authority” specified in an order would be able to carry out construction of works for a critical water infrastructure project, to operate these works, and to enter into any relevant agreements. The power granted to a facilitating authority is not restricted, and extends to any function outside its district for the purposes of a critical water infrastructure project without the approval of the Minister. Unless otherwise stated, a facilitating authority is the owner of the works relating to the project.

While arguably the same result could have been achieved through the existing provisions in the *Planning and Environment Act 1987*, the Bill streamlines the processes and seeks to ensure that critical water projects, such as the “goldfields super pipe” that brings Bendigo and Ballarat into the Goulburn catchment can be facilitated without administrative delay.

DISCUSSION PAPER ON PROPOSED REGULATORY CHANGES TO PROMOTE INDUSTRIAL WATER RE-USE *

Under the Victorian Government White Paper *Our Water Our Future* Actions 5.42 and 5.43, the Environment Protection Authority (EPA) and the Department of Human Services (DHS) were

* Meg Lee, Senior Associate, Allens Arthur Robinson.

* Meg Lee, Senior Associate, Allens Arthur Robinson.