

New Legislation

The Western Australian parliament has recently passed the *Contaminated Sites Act 2003*, the *Environmental Protection Amendment Act 2003*, the *Acts Amendment (Carbon Rights and Tree Plantations Agreements) Act 2003* and the *Barrow Island Act 2003*. New bills have been introduced to Parliament to amalgamate the Waters and Rivers Commission with the Department of Environment and a discussion paper has been released which contemplates regulations requiring licence holders to prepare compliance statements.

Contaminated Sites Act 2003

The *Contaminated Sites Act 2003* has passed both houses of parliament and is awaiting proclamation, which is expected to be received in mid 2004 once regulations are drafted.

Amendments to the Environmental Protection Act 1986

Most provisions of the *Environmental Protection Amendment Act 2003* came into operation on 19 November 2003. The amendments which insert the new offences of causing serious and material environmental harm, requiring advertisement of works approval and licence applications and the new clearing provisions have not come into operation. They will not come into operation until the regulations are drafted (expected to be in mid 2004).

Registration of Carbon Rights

The *Acts Amendment (Carbon Rights and Tree Plantation Agreements) Act 2003* received assent on 29 October 2003. This Act, along with the *Carbon Rights Act 2003* and the *Tree Plantation Agreements Act 2003* enable carbon rights to be registered on land titles and enable parties to enter into carbon covenants and tree plantation agreements. These mechanisms will enable Western Australia to participate in national or international carbon trading schemes. The value of a carbon right is presently speculative as it depends on the implementation of greenhouse gas emission restrictions and trading schemes.

Barrow Island Act 2003 Commences

Completing another step in the Gorgon economic, social and environmental assessment process, the *Barrow Island Act 2003* has come into force. The Act ratifies the State Agreement between the State of Western Australia and the Gorgon Joint Venturers (consisting of Chevron Texaco, ExxonMobil and Shell) which enables the development of the Gorgon Gas Project on Barrow Island, an A class nature reserve. The Act enables the Minister to grant land tenure (leases, licences and easements) to the joint venturers over a maximum of 300 hectares and provides that a person may inject carbon dioxide gas underground with the Minister's approval.

Significantly, the agreement provides that the joint venturers will pay \$40 million to the State for ongoing projects that will provide net conservation benefits. Net conservation benefits are defined as "demonstrable and sustainable additions to or improvements in biodiversity conservation values of Western Australia targeting, where possible, the biodiversity conservation values affected or occurring in similar bioregions to Barrow Island." Whilst the Act provides the joint venturers with access to Barrow Island, they must still obtain all necessary environmental, planning and other approvals before commencing construction.

Bill to transfer powers of Water and Rivers Commission to CEO of Dept of Environment and Minister for Environment

The *Machinery of Government (Water Resources) Amendment Bill 2003* and the *Water Resources Management (Administration) Bill 2003* were introduced to the Western Australian Parliament on 29 October 2003. The effect of these bills is that the Water and Rivers Commission will no longer exist and its powers will be transferred to the Minister for Environment and the Chief Executive Officer of the Department of Environment (CEO). The Bills also substantially amend legislation relating to the protection and management of waterways.

Discussion Paper on Regulations Concerning Annual Statements of Compliance

The Department of Environment has prepared a discussion paper concerning possible new regulations that will require those who hold a licence under Part V of the *Environmental Protection Act* 1986 to submit an annual statement of compliance with that licence.

The concept will require licensees to demonstrate compliance but the statements are not intended to replace the Department's inspection and audit functions. Instead, the statements will support those functions. The Department envisages that the compliance statements will be publicly available and integrated with existing reporting requirements