

Local Government law amendments

A Bill to amend the *Local Government Act 1993* requiring local governments to develop a code of conduct for Councillors and to establish a general complaints process was passed by Queensland Parliament on 31 May 2005 and commenced operation that day. The *Local Government Legislation Amendment Bill 2005 (Qld)* provides a framework for local governments to develop an enforceable code of conduct and sets out penalties for non-compliance. Under the Amending Act, draft codes must be submitted for public comment and Councils will have until 1 March 2006 to adopt a code of conduct and complaints procedure. Given frequent accusations of bias against Councillors who decide important development issues in Queensland, binding Codes of Conduct with penalties for breach are a welcome initiative. For a copy of the Amending Act see: www.legislation.qld.gov.au/LEGISLTN/ACTS/2005/05AC026.pdf.

Wet Tropics Regional Agreement and Management Plan

On 29 April 2005 the State and Federal Governments and the 18 Rainforest Aboriginal tribal groups of the Queensland Wet Tropics World Heritage Area (WTWHA) endorsed the *Wet Tropics Regional Agreement* and the *Aboriginal Cultural and Natural Resource Management Plan*. The Agreement provides the foundation for government agencies to involve Aboriginal people in decision-making and on-ground management activities in the WTWHA. The Management Plan supports the Agreement through investment strategies and actions directed towards meeting the aspirations of Traditional Owners in caring for their country and culture.

WESTERN AUSTRALIA

Editor: Merinda Logie

Greenhouse Gas Taskforce

In August, the Minister for the Environment announced the establishment of a Greenhouse and Energy Taskforce. The Taskforce's purpose is to advise the Minister on greenhouse gas policy. In particular, the Taskforce will advise the Minister on practical and economically feasible ways of managing greenhouse gas emissions from the stationary energy sector.

The key terms of reference for the Taskforce to advise on include long-term policies the State should consider to assist efforts to reduce greenhouse gas emissions, the feasibility and implications of reducing greenhouse gas emissions by 50 per cent by 2050, preparation for a national emissions trading scheme and integration with international schemes, and a proposed greenhouse gas offsets policy. The basis for the taskforce's work is the Western Australian Greenhouse Strategy and the work of the Sustainable Energy Development Office.

The members of the Taskforce include the chair Dr Roy Green (former Environmental Protection Authority Chairman), Dr John Zillman (head of the Australian Bureau of Meteorology and past president of the World Meteorological Organisation), Ms Cathy Zoi (group executive director of Bayard Capital and former Chief of Staff of Environmental Policy in the USA Clinton Administration), Mr John Akehurst (CEO of Biostarch Pty Ltd and former CEO of Woodside Petroleum Ltd) and Mr Richard Begley (senior manager with Allen Consulting Group).

The taskforce will report to Dr Judy Edwards, the Minister for Environment, and Minister for Science, Alan Carpenter the Minister for State Development.

Environmental Guidance for Planning and Developments

The Environmental Protection Authority has recently released a draft policy on Environmental Guidance for Planning and Developments for public comment. This document updates the current Draft Guidelines for Environment and Planning (1997). The purpose of the draft policy is to provide advice on environmental

protection processes to assist developers to protect the environment during planning. In particular it provides information and guidance on environmental impact assessment processes under Part IV *Environmental Protection Act 1986 (WA)*.

To assist land use planning, the Environmental Guidance for Planning and Developments provides advice on environmental impact assessment procedures, managing potential pollutants, waste and water, protection of biophysical factors and protecting social surroundings factors.

The Environmental Guidance for Planning and Developments policy is intended as a significant resource documents for bodies with an interest in planning and development including local government, State government agencies, consultants, proponents and the public.

The closing date for submissions is 1 May 2006.

Irrigation Review released

On 1 September the State Government released and tabled in Parliament the Irrigation Review Final Report, authored by the Irrigation Review Steering Committee. The Irrigation Review Steering Committee was set up following the recommendation of the 2003 State Water Strategy. The purpose of the Irrigation Review was to undertake an extensive review of water use in Western Australia's \$900 million irrigated agricultural industry and to find a balance between conservation of Western Australia's water resources without adversely impacting the irrigated agricultural industry. The State Government has published its formal response to the Irrigation Review Final Report, which although supportive of the Report, considers the ramifications of the reforms.

The Irrigation Review Final Report identifies a number of areas that require reform in order to maximise Western Australia's Water Resources. A major initiative of the reforms is the implementation of a State Water Plan and subsequent regional based management strategies for water use. The first regional plan will be the South West region plan and will be released for public comment by August 2006.

An Irrigation Implementation Committee will be established to oversee a detailed examination of how best to implement the reforms. A Water Users' Forum will also be established so the Irrigation Implementation Committee can seek feedback and advice on irrigation matters from water users, irrigators and other parties affected by development. The State Government's aim is to have the Water Users' Forum up and running by November 2005. The recommendations of the Irrigation Review Final Report also propose the establishment of a new Ministry of Water Resources and a Department of Water Resources, changing the water entitlement system, integrating land and water planning, increasing self-management, investing in water use efficiency, implementing metering, facilitating water trading and introducing water management charges.

State Administrative Tribunal Draft Conditions for Planning and other matters

In July 2005 the State Administrative Tribunal distributed a circular on draft conditions for planning and other review. A trial practice of drafting 'without prejudice' conditions had been operating since shortly after the Tribunal began in January 2005. In the case of a refusal or deemed refusal the Tribunal will require the decision-maker to draft conditions that they consider are required if the Tribunal were to grant approval. These conditions are filed 'without prejudice' i.e. without prejudicing the Tribunal's decision to uphold the refusal or deemed refusal or the decision-maker's decision to contend that the application should be refused. The 'without prejudice' conditions will generally be filed with the Tribunal and a copy given to the applicant at least 14 days before the final hearing. The applicant will generally be required to file objections to the draft conditions and any additional or alternative conditions at least 7 days before the final hearing.

The Tribunal's reasons for implementing the draft conditions practice are to deal with matter efficiently and cost effectively and because the Tribunal needs to make a proper decision through having a full appreciation

of all the conditions relevant to the application: *State Administrative Tribunal Circular: Draft Conditions for Planning and Other Review Matter*. It also gives the applicant the opportunity to respond to the conditions. *The State Administrative Tribunal Circular: Draft Conditions for Planning and Other Review Matters* gives the example of a case where the Town Planning Appeal Tribunal had granted approval in November 2004, but by July 2005 the applicant had not yet received the conditions from the local government, despite 'actively seeking' them.

The Tribunal will seek public comment on the draft conditions practice in early 2006.

New whale watching rules

Recently, a Southern Right Whale and her calf travelled close to Perth's beaches. Many spectators, swimmers, surfers and boat owners turned out to view the spectacle. A number of these spectators came too close to the whale and her calf, with the mother whale noticeably harassed. In response, the Minister for Environment announced new distance limits set for spectators watching female whales with calves.

A legislative notice under the *Wildlife Conservation Act 1950* (WA) prohibits swimmers from being within 30 metres of a female whale and calf, and boats, kayaks and canoes from being 100 metres away. The Department of Conservation and Land Management is currently preparing amendments to the legislative notice. The new measures propose that if a mother whale and calf are within 100 metres of the shore, then swimmers must stay at least 100 metres away and kayaks, surfboard, canoes, boats or any other type of craft must be at least 200 metres away. The measures are designed to protect spectators from potential harm from a mother whale, the calf from potential abandonment by its mother, and to give the mother enough protection and comfort while feeding the calf.

Interim Report into Rock Art on Burrup Peninsula

The Burrup Rock Art Monitoring Management Committee was established to carry out a monitoring program on priceless Aboriginal rock art on the Burrup Peninsula to gauge the effects of industrial facilities in the area. Experts on the Committee include in atmospheric science, archaeology, chemistry, land conservation and rock science as well as State government, indigenous and local government representative. The Committee recently released an interim report into the impacts of emissions in the rock. The study was undertaken by the CSIRO. The emissions measured included nitrogen dioxide, sulphur dioxide, ammonia, nitric acid and hydrocarbons. The study was undertaken in two parts and included the monitoring of air pollutants, microclimate and deposition, and their potential to cause changes in rock art.

The interim report found that emissions in the Burrup Peninsula industrial area were much lower than in Australian cities. The levels of particulates were above the level in Australian cities, but not above average levels for the Pilbara region. Once the interim report has been assessed overseas to verify the validity of the results, the Committee will produce a final report for public release.

TASMANIA

Editor: Tom Baxter

Environmentally Relevant Acts

Tasmanian Acts relevant to environmental law that have commenced since the last edition of *NELR* include the following (in chronological order).

State Policies and Projects Amendment Act 2005 (No. 3 of 2005)

This Act received Royal Assent on 12 April 2005 and commenced that day.

Forest Practices Amendment (Administrative Reform) Act 2004 (No. 55 of 2004)

This Act received Royal Assent on 17 December 2004 commenced 1 July 2005.

Forest Practices Amendment Act 2005 (No. 16 of 2005)

This Act received Royal Assent on 10 June 2005 and commenced 1 July 2005.