In late February 2007, the Premier also announced a new Future Strategies Division in the Department of the Premier and Cabinet to drive innovative responses to climate change and other big challenges facing Queensland. The first tasks set for the new unit are to coordinate Queensland's response to climate change, spearhead its drive to develop clean coal technology and develop an effective emission trading scheme.

(iii) Coalition introduces carbon trading Bill

Liberal leader Dr Bruce Flegg introduced a private members Bill to Queensland Parliament on 21 February 2007 to establish a voluntary carbon credit trading exchange. Exchange members could buy and sell credits based on the amount of greenhouse gases they release or reduce, and voluntary carbon credits could be purchased by consumers from power companies and the transport department. The *Carbon Credit Trading Bill 2007* cannot be passed without government support.

Protected Areas

December 2006 amendments to the *Great Barrier Reef Marine Park Regulations* make it an offence to fish in a Marine National Park Area without the permission of the GBRMP Authority except in accordance with the Zoning Plan. This offence is included in the list of minor offences for which a penalty infringement notice (PIN, an on-the-spot-fine) can be issued instead of a prosecution, along with fishing in a conservation zone, littering and not displaying correct mooring information. Payment of the PIN protects the offender from prosecution and no conviction is recorded. However, prosecution can still be sought instead of a PIN (or if the PIN is not complied with) if the Authority chooses.

SOUTH AUSTRALIA

Rebecca McAulay

Breakdown Of Case Statistics For 2006

Stuart Henry – Barrister – Carrington Chambers (Excerpts from paper presented to Planning Institute of Australia (SA) Conference - 8 February 2007)

According to the website of the Environment Resources and Development Court, the Court handed down something in the order of 105 decisions during the course of 2006. Of these decisions, 34 were concerned with residential design, 10 with land division, 6 with various forms of garages, sheds and carports, 10 cases were concerned with various aspects of procedure of the Court and jurisdictional question. 6 cases were about water resources, 2 cases about building rules, 12 cases about fines and penalties imposed on criminal prosecution, 2 cases about mining. In addition, there was a case about a winery, a case about horticulture, a case about the application of the Environment Protection Act, a case about a caravan park, a case about native vegetation protection, 2 cases about significant tree removal, cases about a farm dam, the church hall, a motel, a flower farm boiler and 4 cases about telecommunication towers. 10 cases were concerned with various forms of land division.

It is a little more difficult to track down all the cases heard by the Supreme Court which touch on planning law. However, it seems that there were 11 such cases handed down in 2006, either by way of Judicial Review proceedings or on appeal from decisions handed down by the Environment Court. In addition, the High Court handed down one decision on South Australian Planning Law concerning telecommunications infrastructure.

Significant Tree Amendments

David Billington – Associate – Norman Waterhouse

The Government recently introduced the Development (Regulated Trees) Amendment Bill 2006 ("the Bill") which proposes three key changes to the *Development Act 1993* ("the Act"). Minor changes are also proposed which are not explored in this article.

First, the existing notion of "significant trees" is replaced with a two-tier system of "regulated trees" and "significant trees" ("regulated trees" includes all "significant trees" by definition). Regulated trees will be trees which meet the existing quantitative requirements in respect of significant trees, whereas significant trees will be those trees which are listed in a Council's Development Plan *or* are regulated trees which *also* meet certain qualitative criteria specified by regulation. (The Government proposes that the *Development Regulations 1993* will be amended to set out criteria similar to those in Section 23(4a) of the Act.)

Development Applications for tree-damaging activities will be processed in the same manner in respect of both types of tree, except that the Council is directed that it should not (except in special circumstances) require an expert report in respect of any tree where it is merely a regulated tree and not a significant tree.

Second, the Bill introduces the concept of an Urban Tree Fund, the provisions of which are modelled after the provisions in Section 50A concerning Carparking Funds. Urban Tree Funds may (much like a Carparking Fund) be utilised so as to allow a developer who proposes to kill, destroy or remove a significant tree (or a regulated tree prescribed by regulation) to make a contribution to the Fund in lieu of planting a replacement tree or trees.

Third, the Bill expands the scope of orders which might be made by the ERD Court when it finds that a person has undertaken a tree-damaging activity without approval. Orders may be made requiring: that trees specified by the Court be planted by the person; that buildings and works erected, and vegetation planted, at or near the place of the damaged tree(s) be removed; and that the person nurture and maintain any trees ordered to be planted for a specified period (or make a payment towards such nurturing and maintenance). Contravention of such orders is, in addition to being a contempt of Court, a separate offence in its own right.

Development (Major Developments Or Projects) Variation Regulations 2006

Lisa Goodchild and Rebecca McAulay - Associate – Norman Waterhouse

These regulations were assented to on 14 December 2006. The Development Assessment Commission will now take the place of the Major Developments Panel in regard to major developments or projects. Primarily, Regulation 63A of the *Development Regulations 1993* is amended to require that the Development Assessment Commission immediately furnish a copy of the draft guidelines under Section 46 of the *Development Act 1993* to the Environmental Protection Authority ("the EPA"). The consultation period with the EPA is now fifteen business days.

Development (Assessment Procedures) Amendment Bill

Lisa Goodchild and Rebecca McAulay - Associate – Norman Waterhouse

This Bill was introduced into the Legislative Council on 23 November 2006 by the Honourable Paul Holloway, Minister for Urban and Development Planning. The Bill proposes a number of amendments to the *Development Act 1993* and would amongst other things allow a person to seek the opinion of a prescribed body under Section 37 of the Act in relation to a proposed development application before actually submitting the application for assessment. If the body is then of the opinion that the application should be approved the application does not have to be referred to the prescribed body under Section 37. A new category "2A" development will be introduced for developments adjoining or very close to a neighbouring boundary and in other prescribed circumstances. The Bill also seeks to alter the power of the Environment, Development and Resources Court as set out in Section 88 of the Act.

TASMANIA

Tom Baxter

The history of the Weilangta Forest case has been mentioned in earlier issues. On 19 December 2006, Marshall J delivered his judgment in *Brown v Forestry Tasmania* (No 4) [2006] FCA 1729 (hereafter referred to as *Wielangta*). A detailed article on this decision by Vanessa Bleyer appears later in this issue. However some particular aspects of the decision are also highlighted here.

In accordance with Federal Court practice in some cases of public interest, importance or complexity, His Honour also provided a summary of the Court's reasons for judgment (*Wielangta* summary). The applicant, Senator Brown, sought an injunction under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ('EPBC Act'), s 475 to restrain Forestry Tasmania from undertaking any forestry operations, or any activities in connection with forestry operations, in the Wielangta forest. This area of dry and wet sclerophyll forest lies about 50 kilometres north-east of Hobart, between Copping and Orford. It is habitat for a variety of wildlife, including the three listed threatened species named in this action: the swift parrot; the broad-toothed stag beetle; and the Tasmanian wedge-tailed eagle (*Wielangta* at para 2).

Senator Brown also sought various declarations, including (*Wielangta* at para 3) that Forestry Tasmania's forestry operations in the Wielangta forest: