

QUEENSLAND*Larissa Waters***Land & Resources Tribunal amalgamated with the Land Court**

The *Land Court and Other Legislation Amendment Act 2007* (Qld) was assented to on 29 August 2007. The Act will merge the Land and Resources Tribunal with the Land Court by conferring the Tribunal's jurisdiction upon the Land Court. The Tribunal retains only limited jurisdiction to deal with existing native title proceedings that were commenced before 31 March 2003 under the former 'Alternative State Provisions'. The Explanatory Memorandum states that the reason for the Amending Act is that the Tribunal has not had a sufficient workload to justify the resources allocated to it.

New heritage protection laws for Queensland

The Queensland Parliament has passed the *Queensland Heritage and Other Legislation Amendment Act 2007*, to amend the *Queensland Heritage Act 1992*. This is the first major review of the heritage legislation and it will modify Queensland's heritage framework for the listing of places on the register and the approval of their redevelopment.

Legislation overrules Supreme Court to grant mining company retrospective validation for coal mine expansion

The *Mining and Other Legislation Amendment Bill 2007* (Qld) was passed by the Queensland Parliament on 16 October 2007 to retrospectively validate the expansion of Xstrata's Newlands Wollombi No 2 coal mine, despite successful judicial challenges to the expansion by the Queensland Conservation Council Inc (QCC). *Queensland Conservation Council Inc. v Xstrata Coal Queensland P/L & Ors* [2007] QCA 338

Xstrata had initially applied for additional surface area to their mining lease. The QCC raised its objection and sought the imposition of conditions on the mine 'to avoid, reduce or offset the greenhouse gas emissions that are likely to result from the mining, transport and use of the coal from the mine. However, the recently passed amending legislation makes any court order obsolete, and grants Xstrata the right to proceed with their expansion without any further challenge, despite the Supreme Court of Queensland's Court of Appeal (Court of Appeal) ordering that the matter should be re-heard. The mine will now go ahead without waiting for the Court's decision on whether Xstrata are required to offset some of the greenhouse gas (GHG) emissions the coal mine will generate.

SOUTH AUSTRALIA*Rebecca McAulay***Environment Protection (Site Contamination) Amendment Act 2007**

By Martha Savva – Senior Associate – Norman Waterhouse and Rebecca McAulay – Associate – Norman Waterhouse

After almost 20 years, legislation has been passed to regulate the management of site contamination throughout the State. On 26 September 2007 the Environment Protection (Site Contamination) Amendment Bill 2007 ("the Bill") was passed by the Legislative Council and was then introduced in the House of Assembly on 27 September 2007. The Bill proposed amendments to the Environment Protection Act 1993 and is part of a Site Contamination Package, and amendments to the Development Act and Land and Business Sale and Conveyancing Act are expected to follow. The Environment Protection (Site Contamination) Amendment Act 2007 ("the Act") was assented to on 1 November 2007.

The main features of the Act include:

- Powers to deal with contamination that occurred before 1 May 1995;
- EPA will be able to serve site contamination assessment orders or site remediation orders;
- The owner of land may be liable for clean up notwithstanding that they were not the original polluter; and
- Ability to legally transfer responsibility for site contamination on the transfer of land.

Development (Regulated Trees) Amendment Bill 2007

By Rebecca McAulay – Associate – Norman Waterhouse

The Development (Regulated Trees) Amendment Bill 2007 was withdrawn from debate on 18 October 2007. The amendments to the Development Act 1993 proposed by the Bill, which was introduced into the Legislative Council on 1 May 2007, were largely similar to those from the previous Bill introduced on 7 December 2006.

Development Plan Amendments

By Rebecca McAulay – Associate – Norman Waterhouse

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On 27 September 2007 a number of the suspended provisions of the *Development (Development Plans) Amendment Act 2006* (“the Act”) came into operation in conjunction with the *Development (Development Plans) Variation Regulations 2007* (“the Regulations”).

The most significant amendments relate to Sections 24-27 of the Development Act 1993, and a number of consequential amendments have been made to Regulations 9-13 of the Development Regulations.

The most obvious amendments are in relation to some basic terminology, the most significant being the transition from “Plan Amendment Report (PAR)” to “Development Plan Amendment (DPA)”. DPAs will be processed in accordance with either process A, B or C. A different set of each of these processes exists for DPAs of the council, and DPAs of the Minister. The three processes differ in respect of the order of events such as the referral to relevant departments and agencies, the consideration by the Minister, and the public notification. Changes have also been made to the council’s public notification process.

The amendments to the Development Regulations 1993 principally relate to the matters to be included in a Statement of Intent. The most significant changes being the introduction of matters under the headings: Minister’s Policies, Council Policies, Policy Library and Process, with Region-Wide Policies no longer being a requirement. Further, a council will now be required to provide a statement confirming that no one directly involved with the preparation of a DPA has a conflict of interest, and is required to forward a commitment that it will take steps to update the timetable for each step in the DPA process if it appears that an extension may be required.

WESTERN AUSTRALIA

James Sippe and Clara Bowman

Biosecurity Bill Passed

The *Biosecurity and Agriculture Management Bill 2006* (WA) (BAM Bill) has been passed by the WA Parliament and is awaiting assent. The BAM Bill will consolidate the WA legislation that controls pests and diseases and regulates the use of agricultural and veterinary chemicals.

The consolidation would involve:

- establishing a Biosecurity Council as an advisory body on matters related to biosecurity;
- establishing the Western Australian Agriculture Ministerial Body, which will assist the Minister in the administration of the Act;
- creating a number of offences, including an offence of importing a prescribed declared pest carrying a fine of \$15,000;
- providing for the declaration of pests and diseases as ‘prohibited organisms’ (with associated restrictions relating to importation and control); and
- providing for the management of chemical residues on land and the control of the manufacture and supply of agricultural and veterinary chemicals.

The Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006 (WA), also awaiting assent, will repeal a number of Acts, including the *Aerial Spraying Control Act 1966* (WA); the *Agricultural Produce (Chemical Residues) Act 1983* (WA); the *Agriculture and Related Resources Protection Act 1976* (WA); and *Fertilizers Act 1977* (WA).