

# NELR recent developments

section 13A of EMPCA).

- The functions of the Board (specified in section 14 of EMPCA) are to administer and enforce the provisions of EMPCA, and in particular, to use its best endeavours:
  - to further the objectives of EMPCA; and
  - to ensure the prevention or control of any act or omission which causes or is capable of causing pollution; and
  - to advise the Minister on any matter that may significantly affect the achievement of the objectives of EMPCA; and
  - to ensure that valuation, pricing and incentive mechanisms are considered in policy making and programme implementation in environmental issues.
- A requirement for the Minister to prepare a public statement of expectation (section 15A of EMPCA) and for the Board to prepare a public statement of intent addressing matters raised in the ministerial statement of expectation (section 15B of EMPCA).
- A requirement that the Board conduct its business and affairs in a manner that is consistent with the ministerial statement of expectation and the statement of intent (section 15C of EMPCA).
- The repeal of ministerial powers to 'call-in' a decision that would have otherwise been made by the Board (section 15 of the previous Act).
- The authorisation of officers by the Director, EPA (section 20 of EMPCA).
- A requirement for the EPA to prepare an annual

report on its operations for tabling in Parliament each year (section 21A of EMPCA).

The EPA Board replaces the former Board of Environmental Management and Pollution Control. The Director, EPA has the same functions and powers as the previous Director of Environmental Management. *The Environmental Management and Pollution Control (Environment Protection Authority) (Consequential Amendments) Act 2007* (Tas) provides for consequential amendments to other Tasmanian legislation that referred to the Board of Environmental Management and Pollution Control or the Director of Environmental Management.

The Board of the EPA has a number of statutory responsibilities, including environmental impact assessment of 'level 2' activities and other activities where they have been 'called in' for assessment by the EPA Director. The assessment process is described at <<http://www.epa.tas.gov.au/index.aspx?base=178>>.

Other statutory functions of the EPA include the assessment of:

- Environmental Agreements
- Mandatory Environmental Audits
- Environmental Improvement Programs.

Under section 13A of EMPCA, Board membership consists of an independent chairperson, deputy chairperson, two other independent members and the Director. EPA Board members are profiled at <<http://www.epa.tas.gov.au/index.aspx?base=95>>.

Further details regarding the EPA are available at <<http://www.epa.tas.gov.au>> from which the above summary is taken.

## VICTORIA

*Elisa de Wit*

### ***The Victorian Coastal Strategy 2008***

The Victorian Coastal Strategy 2008 (Strategy) was released in December 2008 and contains the State Government's policies dealing with the management of the Victorian Coast over the next 5 years. The Strategy was created pursuant to the *Coastal Management Act 1995* and applies

to all Victorian coastal waters to the state limit (three nautical miles off shore) and all private and coastal Crown land directly influenced by the sea or directly influencing the coastline. The Strategy is to be coordinated and implemented by the Victorian Coastal Council who report annually to the Minister for Environment and Climate Change. The Strategy outlines a detailed management framework and

deals in particular with the following key issues:

1. Climate change, including rising sea levels
2. Growing populations in coastal areas
3. Marine ecological integrity.

The purpose of the Strategy is to provide a framework upon which decisions concerning the management of the Victorian coast over the next 5 years can be made. The Strategy doesn't seek to prevent coastal development, but aims to ensure that the issues created by climate change, such as sea level rise, are addressed when development proposals are considered. Through the Strategy the Government has sought to manage the risk associated with climate change and create mechanisms for dealing with its impact on Victoria's coastline. The Strategy recognizes that climate change could over time create significant problems for the Victorian coast through rising sea levels and increased storm activity which could lead to increased incidences of things like coastal inundation, landslides and erosion. Climate change could increase the frequency and degree of these coastal hazards. The potential exists for significant damage to the coastal environment as well as infrastructure and property, this potential made all the more serious by the rapidly expanding coastal population.

## Sea Level Rise

The Strategy has a strong emphasis on sea level rise and recognizes that the Victorian coastline may be significantly impacted. Increased coastal inundation and erosion are the two major concerns caused by sea level rise, both having the potential to cause damage to infrastructure, property and the environment.

The document notes that sea level rise will create a additional risk, with the impact of current coastal hazards being increased, particularly in the lowest lying areas of the coast.

Through the Strategy, the Victorian Coastal Council have adopted a policy of planning for sea level rise of not less than 0.8 metres by 2100. The Strategy refers to the need to:

*Plan for sea-level rise of not less than 0.8 metres*

*by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and impacts associated with climate change.*

## Planning Scheme Amendments

The Strategy has been given effect to in Planning Schemes by clause 15.08 'Coastal Areas' of the State Planning Policy Framework. The policy adopted may be reassessed when national benchmarks for coastal vulnerability are established or as other relevant scientific data becomes available. The Department of Sustainability and Environment is running a program called "Future Coasts" which seeks to provide by the end of 2010 a comprehensive vulnerability assessment of the risks created by climate change on the Victorian coastline.

Essentially this amendment should not result in a halt to coastal development, rather it will lead to councils and other decision makers calling for a specific standard of certainty concerning sea level rise and may require the submission of erosion analysis or other similar investigations such as coastal hazard vulnerability assessments. These investigations can be undertaken by a coastal engineer or coastal processes specialist and should consider the matters referred to in the strategy, including sea level rise, storm surges, the effects of tides, river inundation, topography and geology. Furthermore, Planning Scheme Amendments which concern the rezoning of land from non urban to urban will be impacted by the policy and may need certain studies or investigations to be completed. The Minister for Planning's Direction No 13 applies to any planning scheme amendment that provides for the rezoning of non urban land for urban use and development of all land:

- abutting the coastline or a coastal reserve, which is
- less than 5 metres Australian Height Datum within one kilometer of the coastline, including the Gippsland Lakes.

The direction makes clear that in preparing such an amendment, a planning authority is required to include in the explanatory report how the proposed amendment:

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- is consistent with the policies and strategies for coastal Victoria as outlined in clause 15.08 of the State Planning Policy Framework
- addresses the risks associated with sea level rise and other coastal hazards (tides, river flooding, storm surges, erosion etc)
- is based on an evaluation of possible risks and presents an outcome that seeks to avoid or minimize exposing future development to projected coastal hazards
- to the extent practicable, ensures the development will be protected in both the short term and long term from coastal hazards
- considers the views of the relevant floodplain manager and the department of sustainability and environment.

The policy also deals with particular areas of the coast within which development should be avoided. Part 2 of the Strategy refers to the importance of identifying and avoiding development in areas susceptible to flooding, landslip, erosion, bush fire or geotechnical risk and avoiding disturbing coastal acid sulfate soils. Part 2 also deals with canal estates and makes clear that in order to protect coastal and estuarine environments, it is policy to prohibit the development of new residential canal estates as such estates can have a severely damaging impact on the host estuary, leading to loss of habitat, pollution of estuarine waters by urban runoff and boating activities and disturbing coastal acid sulfate soils.

## Population Growth

The Strategy also discusses the rapid population growth relevant to the Victorian coast. The State Governments aim is sustainable growth and the strategy emphasizes the goal of sustainable development on the Victorian coast. The Strategy deals with this issue in the following manner:

- it adopts the policy of directing development away from sensitive coastal areas
- by discouraging long term occupancy (more than 12 months) of caravan and camping sites on the coast
- development of a register of all public assets,

buildings and spaces on the coast

- creation of a bathing box and boatshed policy and management guideline to provide clear direction to licensees
- funding for the continued upkeep of jetties, piers, seawalls, groynes and other infrastructure
- application of Port Safety and Environmental Management Plans to control environmental impacts caused by commercial ports to the coast and bay.

## Marine ecological integrity

The Strategy outlines the Victorian Governments commitment to develop a Land and Biodiversity White Paper, due for release in 2009 which is to:

- set the policy direction and investment priorities in natural resource management, land health and biodiversity for the next 20-50 years
- consider how environment and natural resource management activity at the regional, catchment, local and farm scale is contributing to Victoria's overall environmental position
- ensure Victorian Government Policy and investment is responsive to new threats and opportunities

## *Changes to prescribed industrial waste regulation*

The Environmental Protection Authority of Victoria (EPA) has released for public comment Draft Regulations dealing with the safe and efficient management of hazardous waste materials, the Environment Protection (Industrial Waste Resource) Regulations 2009 (the draft Regulations). The draft Regulations are set to replace the current Environment Protection (Prescribed Waste) Regulations 1998 and the Industrial Waste Management Policy (Prescribed Industrial Waste) 2000 which both expire in July 2009, after which time the draft Regulations will commence operation. Hazardous wastes ('Prescribed Wastes' in Victorian legislation) can come about as a result of the production of common goods and services, generally as a by-product of this production.

A significant change proposed by the draft Regulations is the management of industrial resources through a risk based regulatory system with the primary aim being to increase recycling and the reuse of waste resources.

In addition the EPA recognized the fact that the previous industrial waste management regime was overly complicated and so have endeavored to ensure the new system is as simple as possible having sought to replace the current Regulations and Policy with one set of Regulations.

Some of the more significant changes to be made by the draft Regulations include:

- The definition of prescribed industrial waste has been changed to reduce confusion. The draft Regulations propose to provide a list of non-prescribed industrial wastes that are exempt from regulation with all other industrial waste remaining subject to assessment, unless the material has a direct beneficial reuse. A resource has a direct beneficial reuse where it has an intrinsic resource value meaning the material does not require any treatment or reprocessing to allow its reuse as a feedstock in another industrial process. The definition will separate industrial waste in to 'prescribed industrial waste' and 'general industrial waste'.
- Under the draft Regulations, there may be a requirement that permitted prescribed industrial waste carriers have to submit a signed declaration when they renew their permit. The declaration will relate to their vehicle and will provide their assurance that it satisfies the design and management requirements highlighted in the draft Regulations. Whilst this means that there would no longer be a need to present vehicles for inspection, in order to ensure compliance with permits, there will be additional on site EPA inspections. The paper permit which is issued under the current framework will be replaced by an EPA issued sticker.

The EPA believe that the draft Regulations foster innovation in waste resource management and will result in more recycling and reuse, new methods of doing so and as a consequence less industrial

waste going to landfill. The Government's longer term goal is to achieve zero high hazard waste (Category B) to landfill by the year 2020.

The draft Regulations specifically deal with waste that simply cannot be reused or recycled and place a 'base threshold' on Category C manufacturing prescribed industrial waste. The idea behind this is that in giving producers the power to treat their own industrial waste, it may be possible for them to decrease the hazard thereby reducing the waste to general industrial waste as opposed to prescribed industrial waste.

## ***Victoria's new Red Gum National Parks***

The Department of Sustainability and Environment announced in December 2008, that four new national parks will be created:

- The Barmah National Park
- The Gunbower National Park
- The Lower Goulburn River National Park
- The Warby Range-Ovens River National Park

The existing Murray-Sunset, Hattah-Kulkyne, Terrick Terrick and Mount Buffalo national parks will also be expanded.

Several important decisions have been made regarding the future management of the new national parks. Cattle grazing will not be permitted on public land. For remaining water frontages areas, grazing exclusion will be voluntary and encouraged cooperatively. Commercial timber harvesting licences will cease in the new national parks, with timber harvesting to continue in the Gunbower, Benwell and Guttram State forests.

Through its *Our Water Our Future* program, the Victorian Government will endeavour to provide long-term protection for all floodplains within the new national parks. However, this will depend on water availability across the entire Northern Victorian water system, as detailed in the Draft Northern Region Sustainable Water Strategy.