

Sustainable Planning Bill introduced into Parliament

The *Sustainable Planning Bill* 2009, to replace the *Integrated Planning Act* 1997, was tabled in Queensland Parliament on 19 June 2009. In short, the Bill

- retains key features, concepts and processes of the *Integrated Planning Act*;
- gives express recognition, in advancing ESD, to ensuring that decision making processes take into account the effects of development on climate change;
- introduces standard planning scheme provisions;
- revives limited scope for prohibited development (subject to State regulation);
- introduces a regime for dealing with missed referrals;
- introduces deemed approvals, where the assessment manager has not decided the application within time, for certain code assessable applications;
- modifies the regimes associated with changing development applications, development approvals and conditions;
- introduces a compliance stage;
- replaces the Building and Development Tribunal with the Building and Development dispute resolution committee (and expands its jurisdiction);
- revises the powers of the Court to deal with non-compliances (these now concern non-compliances with a provision of the Bill – rather than a requirement), and includes the ability for the Court to deal with applications that have lapsed, or are not properly made); and
- relocates the bulk of schedule provisions to the regulations or guidelines.

For a detailed overview of the Bill, please see http://www.deacons.com.au/UploadedContent/NewsPDFs/EP_article_0609.pdf

New Reef Protection Laws introduced into Parliament

On 4 June 2009 the Queensland Parliament introduced the *Great Barrier Reef Protection Amendment Act Bill* 2009. This Bill amends Chapter 4 of the *Environmental Protection Act* 1994 to

include a new class of environmentally relevant activity (ERA) for agricultural practices that impact on the Reef.

The purpose of the amendment is to improve the water quality of the Great Barrier Reef, with a key focus on reducing the run-off from cane farms and cattle properties. Commercial sugar cane growing and cattle grazing within Wet-Tropics, Mackay-Whitsunday and Burdekin Dry Tropics catchments will be affected by the new laws.

The amendments place limits on fertiliser and pesticide use, and create an offence for fertilizing over and above a predetermined 'optimum amount'. New reporting requirements are also introduced, requiring farmers in the target catchments to keep and report records of their agricultural chemical use, soil testing results, 'optimum fertilizer amounts', and, if cattle properties, stocking rates.

Further, the amendments introduce mandatory accredited Environmental Risk Management Plans (ERMP) for:

- cane farms on more than 70ha in Wet Tropics catchment; and
- cattle grazing on more than 2000 ha in the Burdekin Dry Tropics catchment.

Details of the content of ERMPs, annual reporting requirements, and enforcement mechanisms for breaches of an ERMP are contained in the Bill.

Moratorium declared on clearing endangered regrowth

On 8 April 2009 the Queensland Government placed a three month ban on clearing of key regrowth vegetation. The *Vegetation Management (Regrowth Clearing Moratorium) Act* 2009 applies to two types of regrowth: regrowth within 50 metres of a watercourse in the Great Barrier Reef catchments of Mackay/Whitsunday, Burdekin and the Wet tropics; and, certain mapped areas of endangered regrowth vegetation on freehold and leasehold land. A moratorium map, of the areas of regrowth subject to the ban, is available from the Department of Environment & Resource Management (incorporating former Department of Natural Resources & Mines) website www.nrw.qld.gov.au/vegetation/regrowth_moratorium.html

NELR recent developments

In early June, the moratorium was extended until 7 October to allow additional time for the Government and key stakeholder groups to consider the terms of new vegetation clearing regulations.

Final SEQ Regional Plan to be released in July

Over 3000 public submissions on the draft revised South-East Queensland regional plan were received by the Queensland Planning Department by 1 May 2009, the closing date for consultation.

The Regional Plan was reviewed early; in part a response to issues of housing affordability, traffic congestion and climate change; but, it would seem, also in response to the very serious findings of social and environmental decline contained in the State of the Region Report 2008. Produced by the State Government in collaboration with independent experts the Report is, simply, a scorecard of how the region is performing, measured against 13 social, environmental and economic indicators. Worryingly the 2008 report showed serious declines in environmental, social and indigenous health indicators.

On consideration of the submissions made during the consultation period, the Department of Planning and Infrastructure is expected to release the final SEQ Regional Plan in July.

State Environment department refuses Port Hinchinbrook sea-dumping application

The Queensland Government recently relied on the *Cardwell Hinchinbrook Regional Coastal Management Plan* to refuse an application by Port Hinchinbrook Services Pty Ltd for permission to dump sea dredge spoil from the Port Hinchinbrook marina development into the World Heritage listed Hinchinbrook Channel. The refusal decision was made by the Queensland Government's newly formed Department of Environment and Resource Management ("DERM"), following consultation between the previous Environment Protection Agency and Department of Natural Resources and Water.

Three new 'wild rivers' declared

On 3 April 2009, the Queensland government declared 19,000 square kilometres of land in the Archer, Stewart and Lockhart River basins of Cape York as 'wild rivers'. The *Wild Rivers Act* protects

these areas from developments that will degrade the natural values of these river ecosystems.

School developments exempt

Development on school campuses, funded as part of the Federal Government's "Building the Education Revolution", are, following amendments to the *Integrated Planning Regulation*, exempt from assessment against local planning schemes. The amendments which came into effect on 24 April, place restrictions on the size and placement of proposed buildings, particularly in schools in residential areas, within coastal management districts, on local heritage places or places of cultural significance, or where there is protected vegetation.

A new Local Government Act for Queensland

The *Local Government Act* 2009 was passed by Queensland Parliament on 12 June 2009. The Act is a radical shift away the prescriptive framework of the previous 1993 Act. Under the new Act the focus is on giving local governments flexibility to determine policies and processes that fit their size, location and administrative circumstances. The Act is expected to come into force in December.

For more information on the new Act see:

<http://www.corrs.com.au/corrs/website/web.nsf/Content/PlanningEnvironmentLocalGovernment>

Further Machinery of Government Changes

Following the post-election revamp of the Queensland Government, Premier Anna Bligh has restructured the Government's Parliamentary committee system. The shake-up will establish four new super committees, including an Environmental and Resources Committee. This committee will address issues such as environmental protection, mining, water security and energy

Caselaw update

For updates on recent Planning and Environment Court and relevant Court of Appeal cases, see Deacons Lawyers' website www.deacons.com.au and follow links to updates by the Environment and Planning section, or Corrs Chambers Westgarth's website www.corrs.com.au and follow links to case notes in the Planning Environment and Local Government Practice Area.