

NELR recent developments

performance and broadly focuses on the three issues:

1. Accessibility - whether VCAT is public accessible and what steps could be taken to further improve VCAT access.
2. Operations - whether VCAT is cost-effective, whether there is scope for greater administrative efficiencies and whether VCAT's use of technology could be improved and has been successful.
3. Jurisdiction - whether the additional jurisdiction assignment to VCAT since 1998 has been appropriate, whether the processes by which VCAT acquires jurisdictions could be enhanced and whether the exercise of concurrent jurisdiction with Victorian Courts has enhanced the administration of justice in the State.

Submissions in response to the Consultation Paper were to be submitted to Justice Bell by 8 June 2009 and are to be published on the website: www.vcatreview.com.au. The President's final review report is due to be delivered on or before 30 November 2009.

Planning Legislation Amendment Bill

On 11 June 2009, the *Planning Legislation Amendment Bill 2009*, which was to see the establishment of Development Assessment Committees, was defeated in Parliament.

The passing of this Bill would have seen Victoria continue its progression towards implementing the COAG supported the Development Assessment Forum Leading Practice Development Assessment Model.

WESTERN AUSTRALIA

James Sippe and Clara Bowman

Review of EIA Process released

The EPA has released the *Review of the Environmental Impact Assessment Process in Western Australia* (Review), which proposes reforms to the environmental impact assessment (EIA) process in WA. The overall finding of the Review was that there are many opportunities to deliver better environmental protection and to improve the efficiency, transparency and consistency of the EIA process. Various recommendations of the report are already being implemented and will have a significant effect on the management of the EIA process in Western Australia.

The review aims to, among other things, result in:

- a new risk-based approach to EIA – focus on the environmental risks and impacts that matter, greater consistency, rigour and transparency of decision-making;
- outcome focused environmental conditions – clear, relevant, reasonable and auditable environmental conditions;
- timelines for key steps in the EIA process-transparent reporting on timelines, analysis of delays and recommendations for improvement;
- increased parallel processing with other assessment and approval processes – improved integration and timeliness across Government;

and

- reduced number of levels of assessment from five to two to simplify the process.

In response to the Review, the Environment Minister has created a taskforce to develop a "government-industry-community partnership model for collecting reporting and accessing environmental data". In addition, the Minister has created an Environmental Stakeholder Advisory Committee (Committee) that will comprise representatives from environment and industry groups to assess the outcomes of the Review. The Committee will also consider the outcomes of the current native vegetation clearing review and any future legislative reforms within the environmental portfolio.

The Review is available from the EPA website.

Investigations continue into Varanus incident

The WA Government and the Commonwealth Government are nearing completion of a joint inquiry into the Varanus Island gas pipeline explosion. The inquiry has been conducted by a panel, appointed jointly by the WA Minister for Mines and Petroleum, Mr Norman Moore, and the Federal Resources and Energy Minister, Mr Martin Ferguson.

The terms of reference for the inquiry include:

- a review of the safety management

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documentation that existed in the lead-up to the incident;

- an examination of the effectiveness and operating regimes of the Department of Mines and Petroleum (DMP) and the National Offshore Petroleum Safety Authority;
- an assessment of the adequacy of the responses from the owners/operators of the operations and facilities; and
- a consideration of options and making recommendations, as required, to improve the regulatory regime and the safety and integrity of petroleum operations and facilities, particularly integrated onshore/offshore operations in Commonwealth and Western Australian jurisdiction.

Mr Moore announced in May that the Government had started proceedings to prosecute Apache Energy's wholly owned subsidiary Apache Northwest and its co-licensees in relation to the Varanus Island incident, following a DMP investigation.

The joint report is expected to be released in June.

Environmental Approval of Desalination Plant

Environment Minister Donna Faragher has provided environmental approvals for the Water Corporation to build and operate the Southern Seawater Desalination Project. The *Southern Seawater Desalination Plant: Draft Commonwealth Public Environment Report* (PER) was released by the Water Corporation in February 2009, with public comments closing in March. Construction of the plant, pipelines and other infrastructure for the \$955 million project will not begin until all outstanding local government, Department of Environment and Conservation and federal approvals have been received. Water Minister Dr Graham Jacobs said that he expected the Department of Environment, Water, Heritage and the Arts' assessment to be completed by mid-2009.

James Price Point update

Despite the Western Australian State Government's announcement of an agreement on the LNG precinct at James Price Point on the Kimberly coast, Federal Environment Minister Peter Garrett has advised that a number of significant steps still need to be completed before final approval is given. These steps include an environmental assessment

which is not expected to be completed until 2010. Western Australian Premier Colin Barnett said the precinct would include a facility to process gas from the Browse Basin and could be located on a 1,000ha site, 60 km north of Broome. In addition, Mr Barnett said the State Government would require the highest level of environmental assessment for the approval of the precinct, despite playing down the natural beauty of the proposed site.

Gorgon LNG development EPA Report released

The Environmental Protection Authority (EPA) has made available its *EPA Report 1323: Gorgon Gas Development Revised and Expanded Proposal: Barrow Island Nature Reserve* (30 April 2009), which provides the EPA's advice and recommendations to the Environment Minister in relation to the proposal to revise and expand the Gorgon liquefied natural gas (LNG) development, on the Barrow Island Nature Reserve, by Chevron Australia and its joint venture partners Shell Development Australia and Mobil Resources Company.

According to EPA chairman Dr Paul Vogel, "[g]iven the very high environmental and unique conservation values of Barrow Island, which are reflected in its status as a class A Nature Reserve, it is the view of the EPA that, as a matter of principle, industry should not be located on a nature reserve and specifically not on Barrow Island".

EPA approves change to Gngangara Environmental Conditions

The EPA has released the report *Gngangara Mound Groundwater Resources - Change to Environmental Conditions* (4 May 2009), which provides "advice and recommendations to the Minister for Environment on the Department of Water's proposal to remove some monitoring sites from the current environmental approval for the use of the Gngangara Mound Groundwater Resource and to rationalise other conditions and commitments of the approval". The EPA has agreed that seven of nine monitoring sites can be removed "from the Implementation Statement as the proponent has demonstrated that these sites have either lost their original environmental values or, are predominantly affected by climate variation and land use, rather than abstraction".