

NELR recent developments

QUEENSLAND

by Patrick Vuleta

North Stradbroke Island Protection and Sustainability Act 2011 (Qld)

On 14 April 2011 the *North Stradbroke Island Protection and Sustainability Act 2011* received royal assent. The Act aims to end mining interests over land in the North Stradbroke Island Region by 2019, and end mining activities in the region by 2025. Holders of mining interests in the North Stradbroke Island Region will not be able to renew them after the Act's commencement.

Any mining interest applied for, but not decided, by the Act's commencement, will be taken to have been withdrawn.

The Act also allows for areas to be jointly managed by the State and the traditional indigenous owners. Certain lots on North Stradbroke Island will be transferrable to indigenous management under the *Aboriginal Land Act 1991* (Qld).

See also High Court casenote below.

TASMANIA

by Jess Feehely and Tom Baxter

Tasmanian forests agreement

An in-principle agreement has finally been reached to resolve the decades-long conflict between Tasmania's logging industry and environmentalists. The agreement will provide a substantial increase in the forest reserve while maintaining existing forestry contracts for the Southwood, Somerset and Ta Ann facilities. The agreement outlines a three-stage process which will involve:

Significantly, the agreement does not provide explicit endorsement for the Gunns Pulp Mill, instead noting that:

- immediate protection of 430 000 ha of native forest identified by environmental groups as having high conservation value as interim National Park, with a further 140 000 ha designated as an Interim Forest reserve to be protected, unless there is clear evidence demonstrating that the area is needed to satisfy existing wood supply contracts
- establishment of a regional development strategy, transition plan and voluntary exit programme, and verification of the boundaries of protected areas
- implementation of the transition plans, including securing appropriate funding, legislative amendments to provide for a sustainable wood supply and ongoing reform of forest planning and landscape management.

- it 'has generated considerable community concern'
- it 'will be subject to normal considerations including funding'
- a number of parties support the mill while the environmental NGOs do not support the mill.

Negotiations have been fraught since the signing of the Statement of Principles by Tasmanian forestry industry and environmental non government organisations in October 2010. The Australian and Tasmanian governments appointed Mr Bill Kelty AC as an independent facilitator to assist the signatories to progress the Statement of Principles and his interim report, *Tasmanian Forests – Interim Report for Consideration*, was delivered to the Australian and Tasmanian governments on 31 March 2011. Both governments are still considering the recommendations in that report.¹ Several environmental organisations withdrew from the process when an agreed interim moratorium was not adequately delivered. On 18 May 2011, the Wilderness Society also announced it was suspending its participation in the forestry negotiations, due to the failure of the state and federal governments to take action to secure the interim outcomes of the Statement of Principles.

¹ www.environment.gov.au/land/publications/forestpolicy/tasmanian-forests-interim-report.html; www.dier.tas.gov.au/forests/home

NELR recent developments

Signatories are now urging the state and federal government to fund the implementation of the landmark agreement, which is available at www.et.org.au.

Forest carbon units registered on US market

In April 2011, Redd Forests Pty Ltd became the first Australian firm to successfully register carbon units under the Verified Carbon Standard in Washington. The Tasmanian Improved Forestry Management project, which protects over 7 000 ha of privately-owned native Tasmanian forests from logging, will generate 40 000 voluntary carbon units annually for the next 25 years.² Credit from the carbon units has already been purchased by organisations such as Climate Friendly.

Redd Forests has a number of other projects under development in Tasmania. On 10 June 2011, Redd Forests wrote to Forestry Tasmania seeking a 25 year lease on up to 500 000 ha of native forests marked for harvesting on the government business enterprise's ten year plan. Forestry Tasmania has not made any official response to this offer.

Energy efficiency for Tasmanian households

On 1 April 2011 the Parliamentary Secretary for Climate Change and Energy Efficiency, Mark Dreyfus QC MP, began a series of meetings with state and territory governments to discuss initiatives to improve energy efficiency in Australia. The first meeting with the Tasmanian Climate Change Minister Cassy O'Connor MP and Greens Leader Nick McKim MP, discussed help for households to save money on their energy bills and, at the same time, reduce the 3.6T of greenhouse gasses emitted by each Tasmanian household annually through electricity consumption.³ The meetings will inform the development of legislation for nationally-consistent energy labelling and national minimum standards for appliances, expected to be in place by the end of this year.

Interim greenhouse gas emissions targets

Under the *Climate Change (State Action) Act 2008* (Tas) the Tasmanian Government's target is to reduce its

² www.reddforests.com.au

³ www.climatechange.gov.au/minister/mark-dreyfus/2011/media-release/April/mr20110401.aspx

greenhouse gas emissions to at least 60% below 1990 levels for 2050. The Minister for Climate Change, the Hon Cassy O'Connor MP, has asked the Climate Action Council to review this target, and to consider introducing interim targets for 2020.

Challenge to Minister's pulp mill approvals

In March 2011, Federal Environment Minister, Tony Burke MP, approved changes to permit conditions to allow a new route for the pipeline supplying water to the Tamar Valley pulp mill and for the environment management plan (EMP) to be amended without public consultation. The route change became necessary when several landowners refused to have the pipeline run across their land.

On 6 June 2011, the Tasmanian Conservation Trust began legal action in the Federal Court seeking judicial review of the Minister's decision. The application alleges that the Minister failed to consider the impact of the revised pipeline route on listed threatened species and took into account irrelevant considerations regarding landowner consent to the new route. The application also alleges that the condition allowing amendment of the EMP without public consultation is unlawful.⁴

If successful, the previous pipeline route will apply, requiring the consent of affected landowners. Pursuant to the conditions of the current permit, Gunns Ltd must substantially commence the pulp mill by August 2011. The first directions hearing for the matter will be held in Canberra on 1 July 2011.

A Bill seeking to repeal the *Pulp Mill Assessment Act 2007* (Tas) and revoke the pulp mill permit⁵ was defeated in the House of Assembly in May 2011.

Bilateral agreement on environmental assessment

The 2005 bilateral agreement between the Commonwealth and the State of Tasmania relating to environmental impact assessment has been amended and renewed with the following changes:

- the agreement will no longer expire after 5 years, but will continue unless cancelled or suspended after a 5-year review

⁴ www.tct.org.au/media/media_11.htm

⁵ *Pulp Mill Assessment Repeal Bill 2011*, available at www.parliament.tas.gov.au/bills/6_of_2011.htm

NELR recent developments

- the agreement accredits the assessment process for projects of regional significance under the *Land Use Planning and Approvals Act 1993*
- the federal minister may now elect to not apply the agreement in relation to a particular action. This power is consistent with bilateral agreements in other jurisdictions, and is expected to be exercised only in cases where, due to its complexity, an action requires particular attention
- the clause requiring the state government to ensure that environmental impacts are assessed 'to the greatest possible extent' has been amended. This obligation will be satisfied where an assessment is undertaken in accordance with one of the accredited assessment processes.

Back to the drawing board for State Coastal Policy

The Tasmanian Planning Commission finalised its review of the draft *State Coastal Policy 2008* in May 2011. The Commission recommended that the draft Policy not be adopted, noting 'the deficiencies were such that the Draft Policy would not be able to be satisfactorily altered without major modification'. The Commission recommended that any revised draft follow the approach of coastal strategies in states such as Queensland and Victoria, adopt a precautionary approach, reflect current scientific information, adequately map the coastal zone and settlement nodes within the zone and be supported by detailed implementation guidelines.⁶

The Premier accepted the recommendation of the Commission to reject the draft Policy and has directed the Minister for Planning to 'present recommendations

6 www.planning.tas.gov.au/__data/assets/pdf_file/0019/170263/State_Coastal_Policy_2008_Report_on_the_Draft.pdf

VICTORIA

Syngas demonstration plant

On 20 May 2011, EPA Victoria gave part approval for Dual Gas Pty Ltd's demonstration power station in the Latrobe Valley.¹

Dual Gas proposes to build a 600MW plant

1 <http://www.epa.vic.gov.au/compliance-enforcement/comments/dual-gas.asp>

to Cabinet in the near future on the priorities and scope of a comprehensive coastal planning framework.⁷

The new policy was intended to replace the *State Coastal Policy 1996*, but that policy will remain in force until a new coastal framework is developed.

Progress for irrigation schemes

On 20 May 2011 the Whitemore Irrigation Scheme became the first of 13 projects to be completed under the Tasmanian Water Development Strategy. The Scheme will supply 5 500ML of water annually with over 40 water entitlements already purchased by farmers in the region.

The biggest of the projects, the \$88m Midlands Water Scheme, had been subject to a strategic assessment under the *Environment Protection and Biodiversity Conservation Act 1999*.⁸ In April 2011 Federal Environment Minister Burke endorsed the Scheme's Program Report, outlining a range of measures to minimise or offset impacts on matters of national environmental significance and committing to zero clearance and conversion of Lowland Native Grasslands. The Scheme is expected to be completed within two years.

The Tasmanian Government has also passed the *Irrigation Company Act 2011*, consolidating the Rivers and Water Supply Commission and its subsidiaries into one organisation, Tasmanian Irrigation Pty Ltd, which will be responsible for managing irrigation development in Tasmania.

7 <http://www.media.tas.gov.au/release.php?id=32366>

8 www.environment.gov.au/minister/burke/2011/mr20110417.html

by Barnaby McIlrath

demonstration project using coal to produce syngas to generate electricity through two gasifiers and two turbines. Syngas or synthetic gas is a gaseous fuel created from coal. It primarily consists of hydrogen.

EPA has approved a 300MW demonstration plant, which includes one gasifier powered by coal and one turbine. The demonstration project will produce electricity with around a 30% improvement on current greenhouse gas