

NELR recent developments

through the planning system. A three person committee has been appointed which will report to the Minister later in the year. The terms of reference do not extend to any legislative review of Part IXD of the *Environment Protection Act 1970* (Vic), or EPA processes relating to the oversight of environmental auditors.

An issues paper is to be prepared and released for comment between May and June 2011 with submissions open until August 2011. The Committee is expected to report by October 2011.

Review of planning system

The Minister for Planning has appointed an advisory committee to engage in a broad ranging review of Victoria's planning system. The Committee will:

- advise ways to improve the planning system, including the legislative base, the structure of planning schemes and state and regional policy provisions, as well as regulations under the *Planning and Environment Act 1987* (Vic) and other relevant legislation
- advise on the perceived efficiency of the planning system from the perspectives of its users.

A preliminary report is to be delivered to the Minister for Planning by 30 November 2011.

Legislation update

The *Environment Protection Amendment (Landfill Levies) Act 2011* (Vic), assented to on 21 June 2011, amends the *Environment Protection Act 1970* (Vic) to

provide for the current year increase in the landfill levy for municipal waste and industrial wastes.

The Planning and Environment (Growth Areas Infrastructure contribution) Amendment Bill 2011 passed the lower house on 16 June 2011 and second reading was moved in the Legislative Council that day. The Bill proposes to establish a system under which persons may be allowed to meet growth areas infrastructure contribution (GAIC) liabilities by in kind contributions, such as provision of land or carrying out works, instead of paying in cash. The bill, which proposes to amend Part 9B of the *Planning and Environment Act 1987* (Vic), provides for the Minister to enter into work-in-kind agreements. It also allows a person liable to pay GAIC as a result of a dutiable transaction relating to land to defer the whole of the required payment in specified cases.

The Victorian Greens' private member's Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011 (Vic) was introduced on 1 May 2011 by Ms Colleen Hartland MP. The Bill aims to establish a beverage container deposit and recovery scheme. Importers and producers of beverage containers would be liable to pay a levy unless granted an exemption. The levy would be 10c or such higher amount as prescribed. The Bill includes machinery for authorisation of collection depots. Second reading debate was moved on 15 June 2011.

WESTERN AUSTRALIA

Kimberley Science and Conservation Strategy launched

The WA Government launched the Kimberley Science and Conservation Strategy on 17 June 2011 as part of a broader plan to conserve the environmental and cultural heritage values of the vast Kimberley region.¹ The strategy is underpinned by the Kimberley Wilderness Parks which creates an interconnected system of marine and terrestrial parks covering over 3.5m ha of

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the Kimberley region. The four primary marine parks which, in total, almost triple the area of coastal water parks and reserves in Western Australia are:

- North Kimberley Marine Park
- Camden Sound Marine Park
- Roebuck Bay Marine Park
- Eighty Mile Beach Marine Park.

The strategy also upgrades the Prince Regent Nature Reserve to National Park status and creates conservation

¹ <http://www.dec.wa.gov.au/content/view/6558/1/>

NELR recent developments

corridors to link the newly formed Prince Regent National Park to the existing Drysdale River National Park.

The strategy has been developed over a period of 2 years that included a public consultation process that commenced in March 2009. Further initiatives are set to be announced under the strategy following consultation with Traditional Owners and landowners in the region.

Margaret River coal mine proposal – EPA report 1395 released

The Office of the Environmental Protection Authority (EPA) released its advice to the Minister for Environment, Bill Marmion, on Vasse Coal Management's coal mining proposal in Western Australia's Margaret River region on 2 May 2011. The EPA found that the coal mining proposal was environmentally unacceptable.²

The proposed coal mine was expected to produce approximately 1.2m tonnes of coal per annum over a 15-20 year period. The project was to consist of an underground coal mine, a coal handling and preparation plant, transportation and associated mine infrastructure.

EPA Report 1395 explains the rationale for the recommendation. The EPA concluded that there were likely to be significant impacts, or risks, from the proposal on the Leederville and Sue Aquifers. The report concluded that the serious risks to important environmental values in the Margaret River region, especially surface and groundwater and the consequential impacts on the social surroundings, rendered the proposal environmentally unacceptable.

The environmental impact assessment process may include consideration of the biophysical changes that a proposal may have on the 'social surroundings'. This is covered in the definition of 'environment' under the *Environmental Protection Act 1986 (WA)*.

The initial assessment decision had been criticised in some quarters on the basis that the EPA made its decision notwithstanding advice from other government agencies that more information was needed. This criticism was rejected by EPA chairman Paul Vogel, who

said the EPA's decision was based on the proponent's referral information, specialist advice sought by the EPA, the EPA's own knowledge and experience in dealing with similar environmental risks and impacts, and the application of the precautionary principle. The EPA report concluded that a more comprehensive environmental impact assessment would be unlikely to provide an adequate level of confidence.

State Government tightens licence for Cockburn Cement

On 17 May 2011 the WA Minister for Environment, the Hon Bill Marmion MP, announced amendments to licence conditions for Cockburn Cement's cement production plant in Perth's southern suburbs. The announcement comes after years of complaints, government reports and a parliamentary inquiry. The issues have centred on the environmental and health impact of the plant which has a history of odorous and white powder dust emissions.

The new conditions were imposed following the Minister's determination of two appeals against Cockburn Cement's amended licence issued by the Department of Environment and Conservation (DEC) on 20 December 2010. Those conditions required new equipment on one of the plant's kilns to reduce dust emissions, which led to Cockburn Cement announcing a \$23m investment to install a baghouse filter by March 2012.

The new environmental condition imposed on the company's operating license includes an obligation to ensure both its lime kilns have pollution-controlled equipment fitted. This condition was introduced after monitoring results from the Department of Health showed that dust emissions from the second kiln were also a problem.

While the new equipment is being commissioned, the company will be required to stop the feed of any raw materials to any kiln that exceeds dust limits until they have rectified the problem.

In relation to odour, Cockburn Cement will become responsible for monitoring and reporting odour emissions. The Minister has also asked the DEC to consider an independent odour assessment in the community, which would be funded by Cockburn

² http://www.epa.wa.gov.au/EPADocLib/Final_VCP_EPA_Report_20-04-11.pdf

NELR recent developments

Cement, to help determine the nature of the odour and provide a basis for action.³

Water Services Bill 2011

The Water Services Bill 2011 was introduced into Parliament and had its Second Reading in the Legislative Assembly on 26 May 2011.

The purpose of the Bill is to consolidate and modernise existing water services legislation, streamline regulatory processes and improve the protection of users of water services.

If enacted, the Bill will enable the Minister for Water to make water industry codes. The Western Australian Economic Regulation Authority retains the sole jurisdiction to set water conditions, but the Minister will be able to set codes of practice that are a condition of every licence. The matters that the conditions and the codes may deal with are set out in s12 of the Bill and include 'planning for the future provision of water services [and] the development of future water sources'. They may also set conditions on 'the licensee developing and implementing programmes for the conservation and efficient use of water, including in relation to the use of water by customers of the licensee'.⁴

WA Greens have criticized the Bill for lacking mandatory water conservation measures and considers such measures should be introduced and backed by incentives to alter domestic water use. The Greens WA introduced the Water Services Licensing (Water Conservation Target) Amendment Bill into Parliament three years ago to establish water conservation targets for water suppliers such as the Water Corporation. The Greens Private Member's Bill was recently reintroduced into Parliament and was shortly followed by the Water Services Bill 2011.

The Water Services Bill also confers the same powers on all water service providers as those of the Water Corporation, replacing the *Water Services Licensing Act 1995* (WA). Part 5 of the Bill consolidates and replaces provisions dealing with the delivery of water services contained in several other acts. Part 6 deals with powers

in relation to the construction of water service works, part 7 relates to interests in land and Part 8 will deal with powers to enter land for regulatory purposes and for the provision of services. The Bill will also introduce new customer protection mechanisms and a water services ombudsman scheme.

Magellan mine closes

Magellan Metals commenced the process of placing the Magellan's Wiluna lead mine on care and maintenance on 6 April 2011 after suspending its operations following its third breach of strict lead transport conditions in four months.

Announcement of the mine's closure came a day after Environment Bill Marmion ordered a full investigation into lead found in mud caked onto the outside of five shipping containers which reached the container terminal at Fremantle. In December 2010, the WA government suspended Magellan's transport of lead after traces of airborne lead were found in containers carrying sealed bags of lead carbonate railed to Fremantle. The export ban was lifted on 23 February 2011 following a seven week investigation by the EPA that concluded that there was no lead leakage outside of the containers and no threat to public health. However, just after lead shipments resumed, they were halted again after it was found that the company had transported lead along rail lines that were not part of the route specified in the strict environmental conditions imposed on the project.

The company was set to lay off about 200 employees and put the mine into care and maintenance by 15 April 2011.

³ Cockburn Cement's operating licence is available from the DEC website: <http://www.dec.wa.gov.au/content/view/5834/2314/>

⁴ Water Services Bill 2011 cls 12, 26