

# NELR recent developments

canal estates in Tasmania, was passed by the House of Assembly on 14 June 2011, with the support of both Labor and the Greens. However, on 7 July 2011, the Legislative Council (comprised predominantly of independent members) voted 10:4 against the Bill. Opponents argued that the Bill would send a negative message to future investors about development in Tasmania.

## Tasmanian Economic Development Plan released

Economic Development Minister for Tasmania, David O'Byrne, released the Tasmanian Economic Development Plan on 26 August 2011.<sup>11</sup> The plan, which was a commitment under the Intergovernmental Agreement to facilitate regional development, sets out strategies for attracting investment in key sectors, including mining, forestry, agriculture and marine farming. Strategies include streamlining the planning system

<sup>11</sup> [www.development.tas.gov.au/economic/economic\\_development\\_plan](http://www.development.tas.gov.au/economic/economic_development_plan)

## VICTORIA

### NELA hosts EPA statutory policy roundtable discussion<sup>1</sup>

On 16 August 2011 NELA (Victoria) and the Victorian Bar Climate Change and Environmental Law Panel hosted a roundtable discussion with senior practitioners as part of the EPA's Review of Statutory Policy. Attendees discussed their views about the State Environment Protection Policy and other statutory environmental policies, including the role of SEPPs and the role of the EPA as policy maker and regulator. NELA provided the minutes of the meeting to the Statutory Policy Review team. Details of the Statutory Policy Review are available at: [http://www.epa.vic.gov.au/about\\_us/legislation/statutory-policy.asp](http://www.epa.vic.gov.au/about_us/legislation/statutory-policy.asp)

### Victorian Parliamentary Committee report on Environment Effects Act

On 1 September 2011 the Environment and Natural Resources Committee of the Victorian Parliament tabled the report of its inquiry into the Environment Effects Act Statement Process. The report sets out a

<sup>1</sup> [http://www.epa.vic.gov.au/about\\_us/legislation/statutory-policy.asp](http://www.epa.vic.gov.au/about_us/legislation/statutory-policy.asp)

and supporting infrastructure development. The plan identifies as a government priority the development of a Business and Environmental Sustainability programme, including:

- strategic emission reductions partnerships with the state's biggest emitters
- establishment of a carbon price roundtable to assess likely impacts on Tasmanian businesses and identify commercial opportunities arising from the carbon pricing scheme
- a business energy efficiency pilot
- development of environmental indicators to support market branding for Tasmanian products
- an environmental and social labeling feasibility study.

**by Barnaby McIlrath**

number of recommendations which will be of interest to practitioners. Of particular note are the following recommendations:

(3.6) The environmental impact assessment legislation be amended to:

(a) confirm ecologically sustainable development (ESD) principles as the overarching principles underpinning decision-making under the Act

(b) emphasise that environmental matters are to be considered first when making decisions under the Act – decision-making should integrate long-term and short-term environmental, social, economic and equitable considerations effectively.

(3.7) The objects of the Victorian environmental impact assessment legislation be revised to state:

(a) the primary object of the Act is to protect the environment

(b) the primary object is to be achieved by applying the principles of ecologically sustainable development as stated in the Act

(c) the Minister for Planning and all agencies and persons involved in the administration of the Act must have regard to, and seek to further, the primary object of this Act.

(4.2) The environmental impact assessment legislation is amended to enable any person to have the power to refer a project to the Department of Planning and Community Development that may have a significant impact on the environment.

(4.3) Any decision-making authority, proponent or other person that disagrees with a decision that a proposal is not to be assessed under the environmental impact assessment legislation should be entitled to appeal the decision to the Victorian Civil and Administrative Tribunal. The time limit for lodging an appeal, format of appeal, process for investigating an appeal, time to determine the appeal and possible outcomes should be stipulated.

(5.2) The environmental impact assessment legislation be amended to include the following levels of assessment:

(a) Level 1 – Assessment on Preliminary Information

(b) Level 2 – Public Environment Report

(c) Level 3 – Environmental Impact Statement.

(9.2) The environmental impact assessment legislation be amended to require an appropriate independent authority to randomly audit the proponent's monitoring programs and ensure compliance with conditions set by the Minister for Planning, for projects assessed under Levels 1 and 2.

The report was tabled on 1 September 2011 and the government response is due to be tabled within six months of that date.

## **Potentially Contaminated Land Advisory Committee issues and options paper released**

The Minister for Planning has appointed an Advisory Committee to review the management of potentially contaminated land under the planning system.

The Potentially Contaminated Land Advisory Committee has released an Issues and Options paper, accessible at <http://www.dpcd.vic.gov.au/planning/panelsandcommittees/current-planning-panels-and-committees/contaminated-land-advisory-committee>.

Comment is invited on a revised version of the Environmental Audit Overlay (EAO). This includes permit triggers for land which is mapped as potentially contaminated land, the use of phase 1 assessments to inform the need for a statutory audit, and a range of exemptions for routine or minor works or works which do not involve significant exposure of soils.

Submissions in relation to the issues and options paper are open until 1 November 2011.

## **New policy for wind farms introduced**

Amendment VC82 to all Victorian planning schemes was gazetted on 29 August 2011 and prohibits wind farms in specific circumstances and locations, including:

- turbines within 2km of an existing dwelling except where the planning permit application includes evidence of written consent from the owner of the dwelling to the location of the turbine
- areas of high conservation and landscape values including national and state parks described in a schedule to the *National Parks Act 1975* (Vic) and Ramsar wetlands as defined under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)
- locations that feature a high degree of amenity, environmental value, or significant tourist destinations, including the Yarra Valley and Dandenong Ranges, Mornington Peninsula, Bellarine Peninsula, Macedon and McHarg

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Ranges, Bass Coast and the Great Ocean Road region

- locations identified for future urban growth including land in the Urban Growth Zone and designated regional population corridors specified in the Regional Victoria Settlement Framework Plan in the State Planning Policy Framework.

## Statutory update

*The Resources Legislation Amendment Bill 2011*

was passed by the Legislative Assembly on 15 September 2011. The Bill contains a range of miscellaneous amendments to the following Acts: the *Mineral Resources (Sustainable Development) Act 1990*, the *Mineral Resources Amendment (Sustainable Development) Act 2010*, the *Geothermal Energy Resources Act 2005*, the *Greenhouse Gas Geological Sequestration Act 2008*, the *Pipelines Act 2005* and the *Offshore Petroleum and Greenhouse Gas Storage Act 2010*.

## WESTERN AUSTRALIA

**by Joe Freeman and Ainsley Reid**

### Environmental approvals processes streamlined

On 18 August 2011 the WA and federal governments announced a strategic assessment of proposed development across the Perth and Peel regions of Western Australia. Developments in the Perth and Peel regions will be assessed to protect matters of national environmental significance under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act).

The strategic assessment will assess a plan for the protection of matters of national environmental significance (MNES Plan) which will be implemented alongside *Directions 2031 Spatial Framework for Perth and Peel*, which was released by the Western Australian Planning Commission in 2010.

State Planning Minister John Day said the strategic assessment would streamline processes and cut red. It aims to reduce administrative burden for proponents whilst maximising environmental protection and allowing for sustainable development.

### Barrow Group Nature Reserves Draft Management Plan released

On 12 August 2011 the WA Minister for Environment released the Barrow Group Nature Reserves Draft Management Plan for public comment. The Plan covers the existing Barrow Island Nature Reserve and the Boodie, Double and Middle Islands Nature Reserve.

The 10 year Plan aims to fulfil legislative responsibilities to protect key values of the planning area and to assist

with compliance in environmental approvals. The success of the plan will be measured by the Conservation Commission of Western Australia in accordance with guidelines developed under s 19 of the *Conservation and Land Management Act 1984 (WA)*.

Conditional environmental approval has previously been granted for petroleum and gas operations in the management plan area, and the Department of Environment and Conservation does not attempt to impose additional environmental requirements on industry operators which have been present in the area for several decades.

The public comment period for the Draft Management Plan closed on 12 October 2011. A summary of submissions on the Draft Management Plan will be released alongside the final management plan.

### Final environmental approval for Wheatstone project

On 30 August 2011 the WA Minister for Environment announced final environmental approval for the Wheatstone LNG project proposed by Chevron Australia Pty Ltd. The project is a 25m tonne per annum liquefied natural gas (LNG) facility and associated domestic gas facility on the Pilbara coast near the town of Onslow.

Approval for the Wheatstone development was granted with 25 conditions. Some of the environmental conditions require \$13m in environmental offsets including \$3.5m for improved management of critical habitats for humpback whales, dugongs and snubfin dolphins, and \$3.85m for managing impacts and risks of increased visitations to island nature reserves within