

Having regard to current and predicted carbon stocks, the Study outlines potential market opportunities for carbon sequestration and avoided emissions. The report estimates the current value of Tasmania's carbon stocks under voluntary markets as \$3b, but noted that this did not take into account opportunity costs of reduced forestry activities. The report also noted that the estimated value could increase by a factor of 10 if commitments were made under Kyoto Protocol Article 3.4 to recognise carbon credits generated by activities relating to agricultural soil, land use changes and forest practices. The Tasmanian Forest Carbon Study is available at <www.dpac.tas.gov.au>.

Opposition to hazardous waste dump

Community opposition is mounting after Tasmania's first hazardous waste facility received approval in July 2012. Currently, there is no approved facility for hazardous waste in the state, with materials being transported interstate for disposal. The Category C facility, proposed by joint council authority, Southern Waste Solutions, was intended to receive hazardous materials and address legacy waste issues, including lead paint residues, contaminated soil and jarosite (a by-product of zinc production comprising various heavy metals).

The proposal received approval from the Environment Protection Authority and Sorell Council under the statutory approval process, having received only two representations during the public comment period. However, wider awareness of the proposal came when an article appeared in the *Mercury* newspaper after approval was granted. Local community members have since mobilized active opposition to the proposal.

Zinc producer, Nyrstar, has indicated that it no longer intends to dump its jarosite waste at the site, and Southern Waste Solutions has stated that Nyrstar's decision could jeopardise the business case for the proposal.

Southern Waste Solutions has conceded that more public consultation could have been done, and has announced that it will suspend work on the facility for one month to give the community an opportunity to raise concerns regarding the proposal. However, the authority has resisted calls from the community to relinquish the permit, stating that it is hopeful that community concerns can be addressed through amendments to management conditions.

Animal Welfare Act to be reviewed

A discussion paper on the review of the Animal Welfare Act 1993 is available for public comment until 16 November 2012. The discussion paper outlines a range of possible amendments to enhance investigation and enforcement powers of authorised officers and to clarify offence provisions. The discussion paper also proposes imposing significantly higher penalties for cruelty offences as a deterrent measure and to reflect the seriousness of such crimes. The discussion paper is available at <www.dpipwe.tas.gov.au>.

Whale Watching Guidelines to be applied in Tasmania

Earlier in 2012, deficiencies in Tasmania's *Whale Protection Act 1988* were identified when two people who had driven jet skis around a pod of dolphins were unable to be successfully prosecuted. Minor amendments to the legislation passed in August 2012 will allow regulations to be made to manage human interactions with whales and dolphins. The amendments create the legislative capacity needed to implement the National Guidelines on Whale and Dolphin Watching in Tasmania.

VICTORIA

by Barnaby McIlrath and Felicity Millner

Review of Native Vegetation Management Framework

The Department of Sustainability and Environment released a consultation paper in September 2012 entitled *Future directions for native vegetation in Victoria*, proposing reform of Victoria's Native Vegetation Management Framework (NVMF). The NVMF was introduced in 2002 as the principal policy for managing Victoria's native vegetation, including the removal of native vegetation.

In recognition that the NVMF has not led to a 'net gain' in the extent of vegetation, and that losses are still occurring across the landscape, one of the paper's key recommendations is that the state clarify the 'no net loss' objective for permitted clearing.

RECENT DEVELOPMENTS

The paper identifies a number of priority areas for reform of the current system, including that the Victorian Government:

- clarify and amend the objective for permitted clearing in the state
- improve how the biodiversity value of native vegetation is defined and measured
- ensure offsets provide appropriate compensation for the environment.

The paper also proposes a better coordinated approach to state and local government regulatory and planning roles in order to facilitate better regulatory performance in relation to the NVMF.

The consultation paper can be found at <www.dse.vic.gov.au/land-management/land/native-vegetation-home>.

New invasive species laws?

The Department of Primary Industries (DPI) released a discussion paper in late August 2012 regarding the development of a new stand-alone invasive species management Bill to replace the noxious weeds and pest animals provisions of the *Catchment and Land Protection Act 1994* (Vic).

The discussion paper provides a framework for the management of the risks posed by invasive species to Victoria's economy, communities and environment. DPI's stated objective for the project is to develop an effective Invasive Species Management Act that is in accordance with the Biosecurity Strategy for Victoria and the Invasive Plants and Animals Policy Framework.

The paper proposes the creation of a number of legislative instruments, in addition to the Invasive Species Management Act, including:

- 'Management Plans' to be used in relation to established or widespread invasive species or suites of species
- control orders used to declare an area for control and to specify the prohibitions
- industry funding schemes to help industry manage the threat of invasive species

The consultation period for the discussion paper closed on 5 October 2012. It is anticipated that a further round of public consultation will take place before an Invasive Species Management Bill is drafted. The discussion paper can be found at <www.fga.net.au/secure/downloadfile.asp?fileid=108621>

Contaminated Environments Discussion Paper

EPA Victoria released a Contaminated Environments Discussion paper in July 2012. The discussion paper can be found at <www.epa.vic.gov.au/en/our-work/publications/publication/2012/july/1462>.

This paper, along with further submissions relating to the paper received during the consultation process in July/August 2012, will be used to inform EPA's approach to managing contaminated environments over the next four years through EPA's Contaminated Environments Strategy.

'Streamlining' Victorian forestry legislation

The Department of Primary Industries (DPI) has announced a review of the *Sustainable Forests (Timber) Act 2004* (Vic) (the Act). The legislation regulates the way the state logging agency – VicForests – carries out logging in native forests. DPI has released a draft report detailing the proposed changes to the Act, including:

- the amendment of the objects of the Act to add two new objects: to 'enable long term access to timber resources in state forests for timber production' and 'to provide mechanisms that ensure resource security for timber production'
- streamlining the process by which the government allocates forests to VicForests for logging, by making the allocation unlimited in time, and removing any conditions on the allocation
- removing the need for Governmental approval of Timber Release Plans, which set out in detail the areas of forests that VicForest plans to log
- removing the need for logging operators to hold a Timber Harvesting Operators Licence.

DPI expects to present the final report to the Minister for Agriculture and Food Security in late 2012.

The draft report can be found at <www.dpi.vic.gov.au/forestry/about-forestry/projects-and-initiatives/review-of-the-sustainable-forests-timber-act-2004>.

Planning and Environment Amendment (VicSmart Planning Assessment) Act 2012

The *Planning and Environment Amendment (VicSmart Planning Assessment) Act 2012* (the Act) received assent on 18 September 2012. The Act amends the *Planning and Environment Act 1987* to introduce a new assessment process for specified permit applications. As the explanatory

memorandum attached to the original bill explains, '[t]he new assessment process will reduce the time taken to consider and decide straightforward, low impact permit applications'. The Act enables a new assessment process to be set up in planning schemes that will set out the operational aspects of the new process. The Act will come into operation on 20 May 2013 if not earlier proclaimed.

In summary, the Act provides:

- for a different set of procedures for particular classes of applications for planning permits
- exemptions for some applications from Requests for Further Information for specified classes of application
- removes certain 'exempted matters' from the purview of Responsible Authority decisions and Tribunal review for specified classes of application.

Planning zones reform

The Minister for Planning, the Hon Matthew Guy MLC, has announced proposals for sweeping changes to Victoria's planning zones. The changes include creating new residential zones to distinguish between low-density and high-density areas, and allowing more types of development (including agriculture) in Green Wedge zones.

WESTERN AUSTRALIA

by Joe Freeman, Ainsley Reid and Anthony Graham

Browse LNG EPA report –244 appeals lodged

On 16 July 2012, the Environmental Protection Authority (EPA) released its report on the Browse liquefied natural gas (LNG) precinct at James Price Point, recommending that the West Australian Minister for Environment approve the proposal, subject to strict conditions. The EPA Report was finalised by a sole person, after the four of the five EPA board members declared conflicts of interest and abstained from the assessment. During the EPA Report's two week appeals period, 244 appeals were received against the EPA's recommendations. Appeals against EPA Reports generally take six weeks for the Appeals Committee to resolve, although this can take longer in the case of more complex matters. During the process the identities of appellants and their grounds are revealed only to the proponent and relevant agencies. Once finalised, a report outlining the details of each appeal, including the names of the appellants and a summary of the nature and grounds of the appeals, is made available.

An unsuccessful challenge to a Shire of Broome Local Interim Development Order, related to the Browse LNG development: *Hunter v The Minister for Planning* [2012] WASC 247, is discussed in the casenotes section.

Outcome of appeals lodged against the EPA report on Toro Energy's Wiluna uranium project

The Minister for Environment has finalised his determination in respect of the nine appeals that were lodged against the EPA's recommendation that he approve Toro Energy's Wiluna uranium project, subject to certain conditions. The appeal determination, released on 19 September 2012, states that the appeals were allowed in part, but only to the extent the conditions originally recommended by the EPA were amended as recommended by the Appeals Committee. The determination stated that the Minister was satisfied that the regulation of uranium mining in Western Australia could be adequately managed by the Department of Mines and Petroleum (DMP), the Department of Environment and Conservation (DEC) and the Radiological Council of WA, subject to improved coordination and understanding between agencies. The Minister is still required to make a final determination on the project and, if this is granted, the proposal will also require federal environmental approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) before it can proceed.

Margaret River coal exploration banned

The West Australian Minister for Mines has effectively prevented all future coal mining in the Margaret River region. In July 2012 the Minister made the decision to cancel all pending applications for coal exploration activities within a zone of 230km² around the Margaret River township. Pursuant to the *Mining Act 1978* (WA), the Minister is able to terminate or refuse applications where he is satisfied that it is in the public interest to do so. The Minister's decision was made based on advice that had previously been received from WA's EPA that coal mining in the region presented an 'unacceptable environmental risk'. That EPA advice had been the basis for the government's rejection earlier in the year of a Vasse Coal Management Pty Ltd proposal to mine in the area.