

# ACT

by Camilla Taylor

### Energy Efficiency (Cost of Living) Improvement Act 2012 (ACT)

In May 2012 the ACT Legislative Assembly passed the Energy Efficiency (Cost of Living) Improvement Bill to reduce GHG emissions arising from stationary energy use, and to reduce energy consumption and the cost of energy for households and businesses, with particular assistance directed at low income households. The Act is intended to help the Territory to reduce its energy consumption and to assist low income families to meet the rising costs of energy. The Act:

- establishes a Territory wide energy savings target and individual electricity supplier energy savings obligations in the residential sector
- defines activities that suppliers may undertake to promote energy efficiency to reduce GHG emissions and meet their obligations under the Act
- requires energy suppliers to undertake a specified proportion of energy efficiency activities in priority households
- imposes a penalty on suppliers who fail to meet their obligations under the Act.

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (ACT) requires smaller Tier 2 suppliers to either introduce energy savings measures, or discharge their obligations through the payment of an Energy Savings Contribution fee equal to the estimated cost of participation of a Tier 1<sup>55</sup> supplier. All funds raised as a result of the Scheme (including contribution fees or penalties paid to the Territory) will be appropriated to support initiatives or undertake activities consistent with the objects of the Act. This fund will also be used to pay for the administration of the Scheme.

NSW, Victoria and South Australia have similar supplier obligation energy efficiency schemes, which like the Territory's, was developed through the National Partnership Agreement on Energy Efficiency. The Territory scheme will operate from 1 January 2013 – 31 December 2015. The

Commonwealth's Clean Energy Future package committed to an expedited process to implement a national scheme, but that is not expected to be in place until 2014 or 2015.

The Territory has a primary greenhouse gas reduction target of zero net emissions by 2060, with an interim target of a 40% reduction from 1990 levels by 2020.

### Conservation Council win in the Molonglo Valley

The Conservation Council ACT Region has successfully challenged a development approval concerning the suburb of Coombs before the ACT Civil and Administrative Tribunal (ACAT).<sup>56</sup>

In September 2011, the Land Development Agency applied to develop the suburb of Coombs in the Molonglo Valley and on 1 December 2011 the ACT Planning and Land Authority gave development approval.

The Conservation Council was concerned the development was inconsistent with several land protection plans. In particular, the development posed threats to the vulnerable *Aphrasia parapulchella* (Pink-tailed Worm Lizard) and to the Molonglo River corridor. The Conservation Council also argued the development proposal, as approved, exposed some residential areas to an unacceptable level of bushfire risk. Other objections involved the need to relocate the bushfire buffer zones and remove some of the areas selected for housing.

Conservation Council Executive Director, Clare Henderson said that the Council had taken the unusual step of seeking a merits review of the decision because they thought it very important that the bushfire buffer zones designed to protect houses should not be in conservation areas. Following mediation, an agreement was reached between the parties, and the ACAT issued consent orders on 9 March 2012. Three sections depicted in the Bushfire Risk Assessment and Development Concept Plan were removed. ACTPLA's decision was otherwise affirmed on condition that ACTPLA gave effect to the agreement to remove the three identified sections from all of its plans. The Land Development Agency also undertook to clarify aspects of the development's storm water discharge.

The agreement achieved improved protection for the Pink-Tailed Worm Lizard and its habitat, and more of the Molonglo River Corridor will be protected with the removal of key areas from within the bushfire buffer zone. Further,

55 Tier 1 suppliers have at least 5 000 customers in the ACT and sell at least 500 000MWh of electricity to customers in the ACT annually. Tier 2 electricity suppliers are not a Tier 1 supplier.

56 See also: EDO (ACT) Volunteers, 'Challenge to development approval for suburb of Coombs' National Environmental Law Review (2011) 4 & (2012)1 National Environmental Law Review 11.

all storm water systems within the suburb of Coombs will be subject to a filtering process before there is discharge into the Molonglo River.

The tip of Coombs may be subjected to future residential development. However the agreement now provides that the ACT Government cannot seek further development approval until after a Statutory Plan of Management for the Molonglo River Corridor is completed. This process is expected to take several years.

### ACT Commissioner for the Environment amendments

A Greens' bill, the Commissioner for the Environment Amendment Bill 2012, passed the ACT Legislative Assembly in May 2012, with government amendments. The Act:

- changes the name of the commissioner from the *Commissioner for the Environment* to the *Commissioner for Sustainability and the Environment*, and similarly amends the Commissioner's functions and the name of the Act
- inserts a new objects section which includes several concerned with furthering ecologically sustainable development in the Territory

The Act requires ACT State of the Environment (SoE) reports to be given to Assembly members within 6 sitting days of receipt by the environment minister, rather than the previous 15. [An executive summary of the latest ACT SoE 2011 report can be accessed at [www.envcomm.act.gov.au/actsoe2011/executive\\_summary.html](http://www.envcomm.act.gov.au/actsoe2011/executive_summary.html).]

The Act requires the minister to respond to SoE and special reports within six months of tabling.

The a/g Commissioner for Sustainability and the Environment, Bob Neil, has been appointed to 30 June 2012<sup>57</sup> but his appointment is expected to be extended to November 2012.

### National capital planning and management

The National Capital Authority (NCA) received higher funding in the 2012–13 Commonwealth Budget (\$11.9m over the forward estimates), in part to progress the Government's response to the report of the independent review of the NCA – *Canberra a Capital Place* – completed by Dr Allan Hawke AC in 2011. The NCA advised stakeholders at its annual forum on 31 May 2012 that its

first priority was to progress the report's recommendations about simplifying the planning system to reduce duplication between the National Capital Plan and the Territory Plan, to better recognise matters of national significance, and to better recognise the role of the ACT Government. Estate management, including to address challenges like pest plants in areas having national significance, will be a higher priority in 2013–14.

The Australian Heritage Council has invited public comment till 30 June 2012 on a discussion paper concerning the nomination of the Canberra Central National Area and Inner Hills to the National Heritage List.

## New South Wales by Dr Nicholas Brunton

### Marine reviews

In May 2012 the NSW Government announced, before it released its detailed response to the 22 recommendations of the Independent Report into NSW Commercial Fisheries Policy, Management and Administration, that it would:

- implement a \$16m structural adjustment program to ensure ownership of fishing entitlements more closely matched the level of access to the resource
- reform governance processes
- reform consultation mechanisms

See: [www.dpi.nsw.gov.au/fisheries/commercial/reform/review](http://www.dpi.nsw.gov.au/fisheries/commercial/reform/review)

Submissions on the report of the Independent Scientific Audit of Marine Parks in New South Wales (released in February 2012) closed on 30 June 2012. The panel recommended, amongst other things, that:

- a Coastal and Marine Management Authority (incorporating the NSW Marine Parks Authority, NSW Coastal Panel, NSW Fisheries and any other relevant bodies) be established for the NSW marine estate with governance aligned with the five catchment management authorities covering the NSW coastal drainage systems
- an independent Scientific Committee provides the science for the Authority with priority research in the social and economic sciences and the application of findings to management.

See: [www.marineparksaudit.nsw.gov.au/](http://www.marineparksaudit.nsw.gov.au/).

57 *Commissioner for the Environment (Acting Commissioner) Appointment 2012 (No 1) NI2012-109.*