

# VICTORIA

## by Damon Jones

### Waste and resource recovery

On 15 April 2013, the Minister for Environment and Climate Change, the Hon Ryan Smith, released the new Victorian waste policy titled *Getting full value: the Victorian Waste and Resource Recovery Policy*. The policy sets out a vision for Victoria's waste management and resource recovery over the next 30 years, and strategic priorities for the next 10 years.

The Policy was developed in response to the Victorian Auditor General's Office audit report in December 2011 which found that 'ineffective planning, leadership and oversight have resulted in inadequate co-ordination of implementation and limited progress' in reducing municipal waste. Victoria's existing waste policy, *Towards Zero Waste* policy, is due to sunset in 2014.

The policy provides that the vision for waste management in Victoria is to protect the environment and public health, maximise the productive value of resources, and minimise long term costs to households, industry and government.

The policy identifies the following four key objectives for the waste management and resource recovery system:

- support Victoria's economic prosperity
- function as one integrated statewide waste system
- protect public health and preserve local amenity
- contribute to environmental protection.

Significantly, the policy:

- provides that the waste levy will continue for another 10 years after July 2014 at the same rate 'allowing only for annual adjustments at the treasurer's rate to maintain the value of the levy in real terms' (with the possible exception of untreated organics)
- is clear in its support for 'market-based actions' and 'waste to energy and other alternative reuse technologies that can convert waste into useful products'
- abandons the existing target-based approach, however, reliable and valid indicators may be developed once the systems are in place
- indicates that the waste hierarchy should not be considered in isolation and should be applied in conjunction with the other principles of environmental protection in order to provide an adequate basis for decision making.

### Annual review of EPA approvals

On 4 April 2013, the Victorian Government released its *Approvals Review Final Report*. The report outlines EPA Victoria's findings from its review of processes and criteria for assessing proposals for four key types of approvals under the *Environment Protection Act 1970* (Vic) – works approvals; licence approvals; research demonstration and development approvals; and emergency or commissioning approvals.

The report sets out the reforms EPA is committed to making in response to the review. One of the key reforms is the introduction of a new risk-based selection tool to determine the level of assessment required for each development proposal. The new tool will enable the EPA to vary the level of assessment required for proposals in proportion to that proposal's level of risk. The following distinct assessment pathways are proposed:

- No risk: If the proposed works will not adversely affect the environment or interests of any person the proposal will be exempt from the approval process entirely. EPA undertakes to provide the applicant with its advice of exemption within 4 weeks of application.
- Low risk: Proposals which have a low risk to the community will be assessed using a new fast track works approval pathway in which EPA undertakes to provide the applicant with its decision within 6 weeks of application.
- Standard risk: Proposals which require a complete assessment based on the likely impact to the environment and/or the community will have reduced pre-application timeframes (including provision of an 'assessment plan' setting out target timeframes) and EPA undertakes to provide the applicant with its decision within 3 months of application.
- High risk: Proposals that are large infrastructure projects or generally considered to be environmentally high risk.

The EPA has undertaken to determine the required assessment pathway for a proposal within two weeks of receiving the approval application.

The EPA also proposes to:

- amend licences relating to sewage treatment and extractive industry and mining to allow for emergency discharges without approval under restricted conditions
- annually review the environmental performance of a proportion of approved work sites approximately one year after they begin operation

- increase the transparency and accountability of EPA by publishing the criteria used in EPA decision-making, all applications, summary reports of assessments, key decisions and outcomes and the average time taken to grant standard approvals.

The reforms are expected to be introduced by early 2014.

### **Biodiversity conservation inside and outside Melbourne's Growth Corridors**

#### **Melbourne's EPBC Act strategic approval**

The urban development of land in Melbourne's growth corridors is covered by a 'strategic approval' under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (Strategic Approval). At present, the development of some 'precincts' within the growth corridors has been finally approved under the Strategic Approval, while some precincts still require final approval.

In May 2013, the Department of Environment and Primary Industries (DEPI, formerly the Department of Sustainability and Environment and the Department of Primary Industries) released 'final' versions of the Biodiversity Conservation Strategy, Growling Grass Frog Sub-Regional Species Strategy, Golden Sun Moth Sub-Regional Species Strategy and supporting documentation (Biodiversity Strategies).

These documents have now been submitted to the federal Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC) for approval under the EPBC Act. DSEWPAC has undertaken some further consultation in relation to the documents.

Once the Biodiversity Strategies are approved and a further 'class of actions' is approved under the Strategic Approval, the development of all precincts within the growth corridors will be deemed to be a controlled action under the EPBC Act, and will be deemed to be approved.

The Biodiversity Strategies will apply to most land within Melbourne's growth corridors.

The Strategic Approval will, once the Biodiversity Strategies are approved and put into effect:

- require the creation of conservation reserves within and outside Melbourne's 'urban growth boundary', including the extensive Western Grassland Reserves, the Grassy Eucalypt Woodlands Reserve north of Melbourne, and Growling Grass Frog corridors along waterways

- allow the clearance of all other native vegetation and non-native habitat subject to the payment of cash offsets, including:
  - » deeming significant areas of land to be secondary Growling Grass Frog habitat, allowing clearance of this habitat, and requiring cash offsets for the clearance
  - » deeming all non-native vegetation in the northern and western growth corridors, other than secondary Growling Grass Frog habitat and conservation areas, to be Golden Sun Moth habitat, allowing clearance of this habitat, and requiring cash offsets for the clearance
- direct offset payments into improvement of conservation areas.

The Strategic Approval is intended to improve certainty, reduce 'red tape' and costs (no further EPBC Act approvals required for development in the growth corridors) and achieve better biodiversity outcomes through earlier and more strategic retention and enhancement of conservation areas. The offset arrangements are intended to result in conservation measures being funded through cost recovery and recouped through the development process.

#### **Native vegetation and biodiversity**

In May 2013, the Department of Environment and Primary Industries (DEPI, formerly the Department of Sustainability and Environment and the Department of Primary Industries) announced reforms to Victoria's native vegetation regulations.

The reforms are comprised of, most importantly, amendments to the State Planning Policy Framework (clause 12.01), clause 52.16 – Native Vegetation Precinct Plans, clause 52.17 – Native Vegetation, clause 66.02 – referrals, and a new incorporated document – *Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines* – to replace *Victoria's Native Vegetation – A Framework for Action*.

The reforms come into effect in September 2013.

The reforms establish different assessment pathways and decision making criteria depending on the risk (low, medium or high) associated with a proposed vegetation removal. Risk is determined by the 'extent risk' (area of vegetation being removed) and 'location risk' (from an online location risk map).

Application for low risk vegetation clearance proposals should, in theory, often be able to be done without any on-ground assessment of the vegetation. There is no need with low risk proposals to show attempts to avoid or minimise

the removal of native vegetation, and the offsets required will be relatively generic.

Medium and high risk proposals are subject to a more rigorous assessment process. The new decision making criteria in relation to these proposals feature tests of whether reasonable steps have been taken to ensure that impacts of the proposed removal of native vegetation have been minimised. In relation to high risk proposals, the key decision making criterion is likely to be 'whether the native vegetation makes a significant contribution to Victoria's biodiversity'.

At this stage, a number of important supporting documents and information are missing and there are issues with the resolution of the online location risk maps.

## WESTERN AUSTRALIA by Anthony Graham

### Western Australia's first uranium mine

Toro Energy Ltd (Toro) has received federal environmental approval to develop its proposed Western Australian uranium mine. The proposal, to develop two open-pits 30km south of Wiluna, received the approval of the Western Australian Government last year. Once developed, the mines would be Western Australia's first uranium mines. The Federal Minister for Environment, the Hon Tony Burke MP, approved the proposal subject to compliance with 36 conditions of approval, which include requirements restricting radiation exposure to humans, plants and animals, and protecting ground and surface water. It has been reported that following the decision, Toro will move toward financing and final project investment determinations, with first production anticipated for late 2015.

### Rosslyn Hill Mining permitted to recommence lead carbonate transport

Following the approval of management and monitoring plans, the Office of the Environmental Protection Authority has allowed Rosslyn Hill Mining, formerly known as Magellan Metals, to recommence its transportation of lead carbonate through Fremantle Port. Magellan Metals stopped transporting and producing the product in April 2011 following contamination concerns. Rosslyn Hill Mining will be able to transport its lead carbonate subject to strict conditions, including the product being moved in sealed, double laminated, water-proof and sieve-proof bags, kept inside sealed containers, the company having

an independent inspector reviewing all bags and shipping containers, ongoing sampling, and the company having an Emergency Response Plan and \$5m bank guarantee for circumstances where the plan was not implemented properly.

### Port Hedland's waste to be turned into energy

Western Australia's first large scale 'waste-to-energy' facility has been approved by the Western Australian Minister for Environment, the Hon Albert Jacob MLA. The facility, which has been proposed by New Energy Corporation Pty Ltd, would take non-hazardous commercial, industrial and domestic waste and convert those products into certain forms of energy such as heat, steam or 'synthetic gas'. At full production, it is estimated that the facility would process 255,000t of waste, and produce 18.5MW of electricity (of which, 15.5MW could be exported into the grid), annually. The facility is to be developed in Port Hedland, in northern Western Australia.

### Woodside's James Price Point liquefied natural gas plant rethought

Woodside Petroleum will no longer pursue the development of its proposed liquefied natural gas plant at James Price Point in northern Western Australia. In April 2013, the company stated that the proposed development did not meet its commercial requirements for final investment decision. The company has stated that it is considering other types of facilities to develop gas from its Browse fields, including floating liquefied natural gas facilities, existing Pilbara based facilities and a smaller onshore development. Western Australian Premier, the Hon Colin Barnett MLA, expressed disappointment at the decision to shelve the development.

Despite Woodside's decision, a challenge against the Western Australian Government's approval of the proposal, lodged by the Wilderness Society in the Supreme Court of Western Australia, remains on foot. The matter was heard on 5 June 2013.

### Western Australian public sector reforms

Reforms to the Western Australian public sector have seen the Department of Environment and Conservation split into two departments. In April 2013, the Government announced that the department was to be replaced with a Department of Parks and Wildlife and a Department of Environmental Regulation. The Minister for Environment said the reforms would provide a clear divide between