

It is intended that EISs will still be needed for some particular applications but these statements will only be required to demonstrate how specific environmental standards or values can be met as part of the development, rather than to determine whether the project should proceed.

## Building Work

The current procedures under the **Building Act** for dealing with approvals, delegation of powers and regulatory control will continue under the proposed Act. The technical components of building work will become the Building Rules (matters now covered by the Standard Building By-Laws). The Building Rules will not be incorporated into planning schemes but will apply state-wide. The Discussion Paper includes a proposal that local governments be given a power to accept a private certification of subdivision engineering, drawing and works and building plans and works.

## Appeals and Enforcement

### Green Paper on Appeals and Enforcement Option 1

The Discussion Paper deals with appeals and enforcement based upon option 1 described in the 1990 Green Paper on Appeals and Enforcement and the EARC Review of Appeals from Administrative Decisions. This option contemplates a single forum to incorporate the Planning and Environment Court, Land Court and Building Tribunal. The forum will be constituted as a court comprising judges and non-judicial assessors. The assessors would possess appropriate qualifications in planning and environment matters, valuation or building. Judges and assessors would be able to hear appeals together or individually. If a matter was dealt with only by an assessor an appeal would apply to a judge on a point of law.

### Method of Operation of Court

The provision under current legislation for applicant and third party appeals will continue under the proposed Act, but it is envisaged that to avoid unnecessary costs and delays some aspects of the court procedures will require reform. Reforms discussed include:

- use of pre-hearing conferences and mediation to resolve issues and to narrow appeal issues
- limits on expert witnesses giving evidence
- wider power to award costs
- appeal to Court of Appeal.

Submissions can be made on the discussion paper until March 1994.

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## SOUTH AUSTRALIA

### ENVIRONMENT PROTECTION ACT 1993

The Environment Protection Act 1993 was passed by Parliament in October and replaces the following statutes:

- **Clean Air Act 1984**
- **Environment Protection Council Act 1972**
- **Marine Environment Protection Act 1990**
- **Noise Control Act 1977**
- **Waste Management Act 1987**
- **Beverage Container Act 1975**
- **Water quality protection provisions of the Water Resources Act 1990**

The Act establishes the Environment Protection Authority and vests it with a broad range of powers for the licensing and approval of activities of environmental significance. There are penalties of up to \$1 million for the most serious offences of pollution and potential liability of directors and officers of the company for offences committed by the company.

Activities of environmental significance require a license. Activities associated with petroleum and chemical industries, manufacturing and mineral processing, waste treatment and disposal, piggeries, animal husbandry, aquaculture, food protection and animal and plant product processing, materials handling and transportation and a range of other activities.

The Act authorises the Environment Resources and Development Court to enforce the provisions of the Act including orders to clean up land and/or water that has been polluted. The Environment Protection Authority may register clean-up orders on the certificate of title to land owned by the person responsible for the pollution. It is also possible for a third party, that is "any person", to seek an order of the Court to enforce the provisions of the Act.

# RECENT DEVELOPMENTS

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## LOCAL GOVERNMENT CONSTITUTION BILL

The Minister of Housing and Urban Development and Local government Relations released the Local government Constitution Bill for public comment on 2 November 1993. The stated purpose of the Bill is to set out the nature and general powers of councils and to clarify the legal capacity of councils. It provides objectives for community accountability of local government and sets out categories of local government and terms of office. The Bill establishes by-law making powers relating to the management of council owned, occupied, managed or maintained property and the provision of any services by the council.

Public comment is invited until 1 March 1994.

## DEVELOPMENT ACT 1993

The **Development Act 1993** was proclaimed to come into operation on 15 January 1994. The **Statutes Repeal and Amendment (Development) Act 1993** was proclaimed to come into operation on 15 January 1994.

The date of commencement of the **Heritage Act 1993** has also been proclaimed to be 15 January 1994.

## CONSEQUENTIAL AMENDMENTS TO REGULATIONS

Regulations made on 27 October 1993 make amendments to the following Regulations:

- Real Property Act (Land Division) Regulations
- Strata Titles Regulations
- Native Vegetation Regulations
- Heritage Regulations.

All amendments consequent to the passage of the **Development Act 1993**. The regulations are expressed to come into operation on 15 January 1994.

## ENVIRONMENT RESOURCES AND DEVELOPMENT COURT ACT 1993

The Court came into operation on 6 December 1993. Regulations under the **Environment Resources and Development Court Act 1993** (No 245 of 1993) were made on the 27 October 1993. The regulations set out the fees in the general jurisdiction of the Court.

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## NEW ZEALAND

### HAZARDOUS SUBSTANCES AND NEW ORGANISMS LEGISLATION - UPDATE

In June, 1993, the Government announced that a Bill to reform the management of hazardous substances and new organisms would be introduced into Parliament before the end of the year. The proposed reform was first mooted in 1988 and is necessary because the present legislation is recognised as being outdated, complex or, in some cases, non-existent.

Among the key principles of the reform is the assessment of benefits and risks designed to ensure a preventative approach to the management of hazards. The agency that has been proposed to administer the new legislation is the Environmental Risk Management Authority (ERMA). Its major focus will be on managing the risks from hazardous substances and new organisms, while retaining the benefits flowing from their use. In keeping with the spirit of the **Resource Management Act**, there is an emphasis on *effects* rather than assessment and control simply on the basis of use.

The reform is also designed to achieve a common and consistent approach for the assessment and licensing of all types of hazardous substances, consistent with the principles of sustainable management.

Given the political situation in New Zealand following the November 6 election, it is unclear precisely when this legislation will now be introduced. There is substantial interest in the proposed Bill and it is likely that there will be numerous submissions on it, particularly from industry.

### INTERNATIONAL CONVENTIONS RATIFIED

New Zealand has now ratified the Biological Diversity Convention and the Framework Climate Change Convention.

New Zealand will also contribute to the Global Environment Facility which funds the two conventions. The Fund is used in four priority areas - global warming, biological diversity, ozone depletion and international waters. New Zealand's share in the 1994-1996 funding has not