The new Schedule 1 sets out the prescribed premises by description and capacity. Schedule 2 sets out the premises which may be subject to registration. Schedule 4 lists the licence fee payable, including both the premises component and the discharge component.

Details of the scheme are contained in "Achieving Best Practice Environmental Management" Department of Environmental Protection, Perth, Western Australia, August 1996.

Allison Clark
Senior Environmental Officer (Legal)
Department of Environmental Protection, Perth WA

National Environment Protection Council (WA) Bill 1996

In late 1995, the Western Australian Government agreed to participate in the National Environment Protection Council, reversing its earlier decision not to participate. The *National Environment Protection Council (Western Australia) Bill* 1996, which is in the same form as the Bill passed by all other Australian jurisdictions, was tabled in the Legislative Council on May 1 this year and passed by that Chamber on August 28 when it was transmitted to the Legislative Assembly. The second reading of the Bill in the Assembly was on August 29.

Since July, the Legislative Assembly Standing Committee on Uniform Legislation and Intergovernmental Agreements has been conducting a review of the Bill and is due to table its report by October 31 this year. The Committee is particularly concerned about the process by which such uniform legislation is brought to State Parliament, though it appears that they recognize that they have a limited opportunity to review in detail the substance of the Bill's provisions. It is possible that the Assembly will pass the Bill in October, and quite likely that it will be passed by November, if the Assembly has not been dissolved by that time for an early State election.

In the meantime, from accounts I have received from the Western Australian Department of Environmental Protection, Western Australia has, through its Minister for the Environment, been an active and effective member of the NEPC; albeit a member with observer status only.

Alex Gardner,
Law School,
The University of Western Australia

NEW ZEALAND

Working Group on CO2 Policy Reports

A joint public/private sector working Group to review aspects of New Zealand's current climate change policy, including the possible introduction of a carbon tax or alternative economic instruments was established in August last year. The keenly awaited report of the Working Group was released on June 20, 1996.

The Group has recommended a mix of tradeable carbon emission certificates (TCC's) and a carbon tax to cap TCC prices. Under the TCC scheme, emitters of CO2 would be able to buy certificates allowing them to emit CO2, while planters of trees, which absorb CO2, are rewarded with certificates which they can sell.

The proposed carbon charge would effectively place an upper limit on certificate prices at a cap determined by the Government. Certificates would be expected to trade below the cap if the costs are lower than payment of the carbon charge. The report recommends these economic instruments should be phased in over time prior to 2000, but broadly in line with the introduction of comparable measures by other developed countries so that New Zealand does not lose its trade competitiveness.

Potentially, TCCs and carbon taxes could have major economic impacts domestically and on New Zealand's trading ability overseas. The full effects of this sort of economic intervention are poorly understood at present. Tradeable certificates may give certainty on the volume of reduction, but not on economic costs, which may be very high. Carbon charges on the other hand, may give certainty about the cost of reducing emissions, but not on the volume of reductions. The challenge in designing a workable and fair allocation and administration system is also formidable.

The Ministry for the Environment will conduct a series of consultation seminars over the next few months to assist the public to understand the issues. Written submissions responding to the discussion document will be received by the Ministry for the Environment until November 1, 1996. These submissions will be reviewed by officials and the Working Group and will provide a key input into a final report on CO2 policy for the Government in February 1997. It is anticipated that report will in turn form the basis of a major review of the Government's climate change policy.

Resource Management Amendment Act 1996

The *Resource Management Amendment Bill* (No 3) was introduced into Parliament in December 1995. It was reported back from the Planning and Development Select Committee on

August 30, 1996 and will receive a final reading once Parliament reconvenes after the October 12 general election. Several urgent or non-controversial provisions of the No 3 Bill were, however, separated from the No 3 Bill and were reported back to the House as the *Resource Management Amendment Bill* (No 4). That Act is now in force. The most important changes introduced by the Amendment Act are:

* Certain transitional regulations which would otherwise have lapsed on September 30 1996 are extended. These regulations are required to exempt controls over activities on rivers and lakes, and minor discharges to air and land, until regional plans are in place.
* The Planning Tribunal is renamed the Environment Court, and Planning Tribunal Judges (whose numbers have been increased from 5-8) are now Environment Judges.
* Any person representing some relevant aspect of the public interest may now appear in Environment Court proceedings, whether they had not lodged a submission or otherwise been involved.
* With the parties consent, Environment Commissioners (who are lay members of the Environment Court) are able to hear and determine proceedings in the absence of an Environment Judge.
* A new category of "infringement offences" has been created. These are minor offences to be prescribed in regulations. The rationale for introducing infringement offences is that the prosecution of minor offences has become cumbersome and costly under the normal enforcement provisions of the *Resource Management Act* ("*RMA*").
* An infringement notice may be served by an enforcement officer for a maximum fine of $1000.
* A defect in the Act is remedied so that if, as a result of submissions on a district plan, rules are changed to permit activities, those rules have effect as if they were in an operative plan.
* Changes are made to the First Schedule of the *Resource Management Act* to clarify the status of proposed plans as they progress through the notification and hearing process. The amendments -
  (i) Enable Council decisions to include consequential alterations arising out of submissions and any other relevant matters relating to matters raised in submissions.
  (ii) Deem the proposed district plan to be amended in accordance with the council decisions.
  (iii) Provide that a variation to a proposed plan becomes merged with a proposed plan from the date of its notification.
  (iv) An unincorporated society may now incorporate curing the course of proceedings and effectively prevent its members from being individually liable for any costs awarded against it.

Crown Minerals Amendment Bill (No 3)

On August 28, 1996 two bills of specific interest to those working in or with the mining quarry and aggregate industries were reported back to Parliament from the Planning and Development Select Committee.

As a result of recommendations of the Select Committee, the *Coromandel Hauraki Gulf (Prohibition on Mining) Bill* has been amalgamated into the *Protected Areas (Prohibition on Mining) Bill* which was introduced into Parliament back in 1990. The Select Committee recommended that the new amalgamated *Protected Areas (Prohibition on Mining) Bill* be called the *Crown Minerals Amendment Bill* (No 3) in recognition of its exclusive application to Crown-owned land and Crown minerals.

It is proposed that both the *Crown Minerals Act* 1991 ("CMA") and the *Resource Management Act* 1991 will be amended by the Bill. Access to conservation land for mining and quarrying activities will be addressed in the *Crown Minerals Act* amendment, while the issue of coastal permits for mining and quarrying operations in particular areas of the coastal marine area will be subject of the amendment to the RMA.

The Bill prevents the Minister of Conservation from entering into any access arrangement under the CMA relating to Crown-owned minerals and any Crown-owned land or internal waters (which will be described in a new Fourth Schedule to the Act). Both mining and quarrying operations fall within the Bill's ambit, although activities such as the collection of geological data, gold fossicking, seismic surveying, and low impact exploration and prospecting of Crown-owned minerals on Crown land are excluded and are therefore not subject to the Bill's general prohibition on access.

The types of Crown land to be closed to access for mining and quarrying activities include national parks, wilderness areas, scientific reserves, nature reserves, wildlife sancturies and forest sanctuaries. The closed land also includes all land administered by the Department of Conservation which is located to the north of State Highway 25A which crosses the southern part of the Coromandel Peninsula.

The Select Committee report concludes with a recommendation to Parliament that an investigation be undertaken into the formal designation of the Coromandel Peninsula as a national park.

The Bill is to be carried over into the next Parliament and is likely to receive a second reading early next year.

Minerals Programmes

Under the *Crown Minerals Act* 1991, the Minister of Energy is required to provide minerals programmes for Crown-owned minerals. The purpose of such programmes is to form the basis for the allocation of rights to prospect for and mine Crown-owned minerals and the basis for the Crown's financial return on its minerals.

The Minister of Energy has released the "Minerals Programme for Coal" and the "Minerals Programme for Minerals (other than coal and petroleum)". These programmes incorporate changes made as a result of the public submissions on the Draft Minerals Programmes for Coal, Metallic and non-Metallic Minerals and industrial Rocks and Building Stones.

Changes to note include:

* The amalgamation of the Draft Minerals Programmes for Metallic and Non-Metallic Minerals and Industrial Rocks and Building Stones as the "Minerals Programme for Minerals (other than coal and petroleum)".
* The exclusion of the prospecting, exploration and mining of primary uranium and thorium minerals.
* The exclusion of large tracts of Maori-owned land and Crown land which is the subject of claims before the Waitangi Tribunal.
* The royalty provisions have been amended so as to be more closely aligned with General Accounting Practice.

Coast Tendering Arrangements - Marine Farming

The *Resource Management Act* provides for a process whereby the Crown, acting through the Minister of Conservation and following the procedures set out in the Act, can sell by public tender or private treaty following a public tender, exclusive rights (called authorisations) to apply for coastal permits for occupation of the coastal marine area for longer than 6 months, for the extraction of sand or shingle, or for other extraction rights.

The Minister of Conservation has given notice of a tendering process for the right to occupy the coastal marine area for marine farming in the Marlborough Sounds. The *Resource Management (Marlborough Sounds Coastal Tendering-Marine Farming) Order* 1996 which came into force on July 12, 1996 provides that no coastal permits authorising occupation of the Sounds may be granted by Marlborough District Council unless the party applying for such a permit already holds an authorisation for occupation under the coastal tendering provisions of the RMA.

The Government intends to introduce the tendering process following consultation with the district council, marine farmers and other interested parties.

Mark Christensen
Partner
Russell McVeagh McKenzie Bartleet & Co
Auckland New Zealand