

## **Fisheries Management and Environmental Assessment Legislation Amendment Act 2000**

Certain provisions of this Act commenced on 22 December 2000 and 23 March 2001 while other provisions, namely schedule 6.2, have not commenced operation.

The Act amends the *Environmental Planning and Assessment Act 1979* (EPA Act) by inserting Division 5 into Part 5 provisions relating to the environmental assessment of fishing activities. The Act follows a decision in the Land and Environment Court which held that granting a licence or permit under the *Fisheries Management Act 1994* (FMA) falls within Part 5 of the EPA Act.

The new provisions apply to designated fishing activities which are listed in Schedule 1A to the FMA, however, the provisions will not apply to aquaculture within the meaning of the FMA.

Designated fishing activities must be assessed in accordance with the Division. This includes preparing a draft fishery management strategy and an environmental impact statement (EIS) prepared in accordance with the requirements of Part 5. The EIS and the draft fishery management strategy must be advertised and made available for public inspection. The Minister for Urban Affairs and Planning may direct an inquiry under section 119 of the EPA Act with respect to all or any of the environmental aspects of a designated fishing activity the subject of an EIS. Among the range of matters which must be included in the EIS is an assessment of the effect or likely effect on critical habitat, threatened species, populations and ecological communities and their habitats.

The Fisheries Minister is to make a determination with respect to the designated fishing activity the subject of an EIS and the Minister must take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the designated fishing activities. The provisions also set out further matters which the Fisheries Minister must consider.

Where the Fisheries Minister is declared to be the proponent of the designated fishing activity, the approval of the Minister for Urban Affairs and Planning is required.

## **Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Act 2000**

This Act commenced on 12 February 2001. The amendments amplify the existing provisions in the *Protection of the Environment Operations Act 1997* (POEO Act). The provisions:

- clarify the ability of the EPA to alter, suspend or terminate a tradeable emission scheme referred to in section 293 of the Act;
- require the EPA to publish in the Gazette and newspapers a notice of its intention to alter, suspend or terminate a tradeable emission scheme and allow the public to make submissions within a 21 day period;
- make clear that the Crown does not incur any liability (including liability for compensation) for any loss incurred as a result of the implementation, alteration, suspension or termination of a tradeable emission scheme or the alteration, suspension, cancellation or forfeiture of any rights or entitlements under such a scheme;
- expand and clarify the nature and form of tradeable emission schemes and provide that regulations may be made in relation to the details of tradeable emission schemes.

- enable regulations to impose certain licence conditions on existing licensees (without any right of appeal), and allows for the making of penalties by way of regulation where a participant in a tradeable emission scheme has caused pollutant to be emitted in contravention of the scheme on one or more occasions;
- allow the EPA to take other action against participants in schemes including the cancellation or suspension of any permits or credits or entitlements conferred on that person or order the forfeiture of tradeable emission permits or credits to the EPA, or the cancellation or suspension of a person's right to participate in a scheme;
- allow the EPA to participate in a tradeable emission scheme and recover the costs from participants for managing and administering the scheme and ensuring compliance with the scheme.

### **Protection of the Environment Operations Amendment (Littering) Act 2000**

The main provisions of this Act commenced operation on 28 March 2001 and inserted sections 146A-146C (dealing with offences relating to the deposit of advertising material) into the *Protection of the Environment Operations Act 1997* and make consequential amendments to the *Protection of the Environment Operations (Penalty Notices) Regulation 1999*.

### **Protection of the Environment Operations (General) Amendment (Miscellaneous) Regulation 2001**

This regulation was made on 1 April 2001. The object of the regulation is to amend the *Protection of the Environment Operations (General) Regulation 1998*:

- to declare that the Environment Protection Authority is the appropriate regulatory authority in relation to:
  - non-scheduled activities on the route of the Inner West Light Rail System, and
  - certain outdoor entertainment activities (such as concerts and outdoor cinemas) involving the use of sound amplification equipment at specified venues; and
- to exempt the deposit of the following material from the prohibition against the deposit of advertising material on motor vehicles contained in section 146B of the *Protection of the Environment Operations Act 1997*:
  - police, community, safety and crime prevention brochures; and
  - brochures relating to the Roads and Traffic Authority's mobility parking scheme.

### **Protection of the Environment Operations Amendment (Premises-Based Activities) Regulation 2001**

This Regulation was made on 1 April 2001. The objects of the regulation are:

- to change the licensing threshold for wood or timber milling or processing works from one based on amount of timber products produced to one based on timber processing capacity; and
- to clarify the descriptions of certain activities; and
- to update certain references and to make various other minor amendments to Part 1 of Schedule 1.

### **Sydney Water Catchment Management (Environment Protection) Regulation 2001**

This Regulation commenced on 1 March 2001 and confers on the Sydney Catchment Authority (SCA) various functions under the *Protection of the Environment Operations Act 1997* (POEO ACT).

The Regulation gives the SCA the same powers as the Environment Protection Authority under certain provisions of the *POEO Act*. These powers apply only in relation to non-scheduled activities carried out within a catchment area or carried out outside a catchment area but being of such a nature as to affect the catchment area. The powers may be exercised for the purposes of protecting catchment areas or protecting and enhancing the quality of water in catchment areas. The regulation also gives the SCA the power to institute proceedings for littering offences.

### **Environmental Planning and Assessment (SEPP 59) Amendment Regulation 2001**

The object of the Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* so as to facilitate interim development on land within the "Employment" zone under State Environmental Planning Policy No. 59 by allowing development (including alterations and additions to buildings and works and rebuilding) on land so that land uses that are being lawfully carried out on land immediately before the commencement of this Regulation may be expanded; *and* allowing limited subdivision of that land; even though the land has not been included in a release area declared under that Policy and no precinct plan or section 94B contributions plan has been prepared for the land.

### **State Environmental Planning Policy No. 63 - Major Transport Projects**

This Policy was gazetted on 2 February 2001 and aims to facilitate the approval of the following projects:

- Parramatta rail link;
- Liverpool-Parramatta transit way;
- cross city tunnel; and
- Bondi Beach rail link.

The Policy provides that each of these projects may be carried out without development consent and consequently will be assessed under Part 5 of the *Environmental Planning and Assessment Act 1979*.

### **State Environmental Planning Policy No. 64 - Advertising and Signage**

This Policy commenced operation on 16 March 2001 and imposes a much more stricter regime for general advertising signs. The policy aims:

- to ensure that signage (including advertising):
  - (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in suitable locations, and
  - (iii) is of high quality design and finish;
- to regulate signage (but not content) under Part 4 of the Act; and
- to provide time limited consents for the display of certain advertisements.

The general effect of the Policy is to impose a range of restrictions on general advertising signs. All signs must be consistent with the objectives of the Policy and satisfy the assessment criteria set out in Schedule 1.

General advertising signs are prohibited in sensitive zones or areas such as environmentally sensitive areas, heritage areas, open space, national parks, nature reserves and residential areas (but not including a mixed residential and business zone, or similar zones).

All advertisements require development consent and certain development consents must be advertised. Consents granted under the Policy cease to be in force 15 years after the date on which the consent becomes effective or a lesser period if a consent authority has a policy in relation to granting consents for advertising for a lesser period.

### **Review of Part 3 of Environmental Planning and Assessment Act 1979**

The Department of Urban Affairs and Planning released in February 2001 a document entitled "Review of Plan Making in New South Wales White Paper". The white paper presents the Government's position on the review of plan making under that *EPA Act*. The key proposals of the white paper are outlined below.

The framework will contain three levels of planning documents: local plans, regional strategies and state planning policies. A single document will be prepared at each level.

Local plans will be a single plan for a local area and it will coordinate actions and contain all the land use controls for a particular site. Local plans will:

- provide a context for local actions and development assessment;
- provide a whole of council, place-based plan;
- guide the future for a local area linking social, economic and environmental issues relevant to planning;
- contain a vision, policies and action plan and regulatory provisions;
- be drawn up by the council in consultation with the community;
- be approved by the council with the concurrence of the Minister for Urban Affairs and Planning; and
- can be amended by the council or the Minister.

The regional strategy will provide a single strategy for coordinating regional policies and actions. It will be drafted by regional forum in consultation with the community and approved by the Minister. Amendments will be made by the Minister.

State planning policies will consolidate planning on a statewide level. They will be compiled by cross agency coordinating committee.

It is anticipated that the above changes will be contained in a draft bill that will be introduced into Parliament later this year.