

## New Ministerial Arrangements

The Prime Minister announced his new Ministry on 23 November 2001. The Hon David Kemp MP is the new Minister for the Environment and Heritage and the Hon Sharman Stone MP remains as Parliamentary Secretary in the portfolio. The former Minister, the Hon Robert Hill MP, is the new Minister for Defence.

## Environmental Legislation Amendments Passed

The *Environmental Legislation Amendment Act 2001* was passed by the House of Representatives and the Senate in August 2001 and received Assent on 18 September 2001. The Act amends the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* to close off a loophole in the Act, identified in 1997 when an Australian company sold computer scrap to a foreign company. The company exported the scrap to Hong Kong in breach of the Act and in contravention of the Basel Convention. Under the Convention, the Commonwealth was obliged to bring the waste back and to dispose of it in Australia.

The Act also made technical and administrative amendments to the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, the *Fuel Quality Standards Act 2000*, the *Environment Protection (Sea Dumping) Act 1982* and the *Ozone Protection Act 1989*.

## Environment Protection and Biodiversity Conservation Act Update

Environment Australia has released two supplements to the *EPBC Administrative Guidelines on Significance*, July 2000. They are:

- *Supplement for the Nationally Endangered Bluegrass Ecological Community* (August 2001); and
- *Guidelines on the Application of the EPBC Act to Interactions Between Offshore Seismic Operations and Larger Cetaceans* (October 2001).

The Guidelines and Supplements are available through the Environment Australia web site: [www.ea.gov.au](http://www.ea.gov.au).

## Access to Biological Resources—Draft Regulations Released

On 7 September 2001, the Federal Environment Minister Robert Hill released for public comment draft regulations to regulate access to biological resources in Commonwealth areas. The draft regulations, under section 301 of the *Environment Protection and Biodiversity Conservation Act 1999*, provide for the management of access to genetic and biochemical material in native plants and animals in Commonwealth areas, such as Commonwealth national parks.

The proposed regulatory scheme builds on the recommendations of the inquiry by Mr John Voumard in 2000 on *Access to Biological Resources in Commonwealth Areas* (see *Australian Environmental Law News* No 3/2000).

Under the proposed scheme:

- Access to biological resources in Commonwealth areas will require a permit issued by the Federal Environment Minister.
- Environment Australia will assess permit applications and make recommendations to the Minister to grant or refuse applications.
- Before issuing a permit the Minister must be satisfied that the applicant has negotiated a benefit-sharing contract covering commercial and other aspects with the provider of the biological resources.

Senator Hill said that 'the benefit-sharing agreement is to ensure an equitable sharing of the benefits arising from bioprospecting.' 'There is,' he said, 'a particular focus on ensuring that any commercial benefits arising from the use of indigenous knowledge about plants and animals is shared with the relevant indigenous communities'.

The draft regulations are intended to ensure streamlined access arrangements and certainty for the biotechnology industry while safeguarding Australia's biodiversity. The needs of scientists conducting non-commercial biological research are also recognised.

The draft regulations are available at: [www.ea.gov.au/epbc/about/amendments/biological.html](http://www.ea.gov.au/epbc/about/amendments/biological.html)

## Public Good Conservation—Report by Parliamentary Committee

The House of Representatives Standing Committee on Environment and Heritage has found that current Federal and State policy settings are failing farmers and other landholders interested in undertaking conservation measures for the public good.

The Committee's interim report, *Public good conservation: Our challenge for the 21st century*, released in September 2001, makes twenty recommendations for policy initiatives to redress the situation and help achieve long-term land-use sustainability.

According to the Committee Chair, Ian Causley, 'landholders want to do the right thing by their land, but there are two major issues which require resolution: financial incentives and property rights'. 'Current taxation and financial arrangements do not effectively promote the development of public good conservation activities,' Mr Causley said. Also, 'some landholders are angry at the erosion of what they believed to be their property rights and the imposition of land management controls in the absence of financial assistance'.

The Committee found that there was a need for:

- transition assistance for adoption of ecologically sustainable land management practices;
- financial assistance for the management of protected habitat and compensation where a property is no longer viable due to changes in land management laws;
- clarification of a landholder's 'duty of care' and assistance in meeting it where it is beyond a landholder's capacity to do so;
- creating a linkage between access to taxation concessions and ecologically sustainable use of Australia's land;
- increased taxation incentives and deductions for ecologically sustainable use of Australia's land, including incentives for non-landholders; and
- creation of various funding, research and development agencies and a revolving fund to promote public good conservation and the development of ecologically sustainable industries.

## Creating Markets for Biodiversity

In October 2001, the Productivity Commission released a staff research paper, *Creating Markets for Biodiversity: A Case Study of Earth Sanctuaries Ltd*. The paper examines the activities and operations of the first publicly listed company in Australia with wildlife conservation as its primary goal.

The study found that the private sector can complement conservation activities by the public sector, both by adding to the resources for biodiversity, and by freeing up government resources for other purposes. However, arrangements such as wildlife legislation, land tenure and the limited application of the competitive neutrality framework to wildlife sanctuaries can restrict the scope for private firms to conserve biodiversity.

The study was carried out at the invitation of Environment Australia and the OECD, and is part of a stream of work by the Commission on private incentives for biodiversity conservation. The paper will be included in a forthcoming international report by the OECD and the World Bank on creating markets for biodiversity.

## **Gene Technology Developments**

In September 2001, the Acting Gene Technology Regulator reported that only one appeal has been lodged with the Administrative Appeals Tribunal against her decision, in August 2001, not to approve any applications for confidential commercial information status for the location of field trial sites of genetically modified (GM) crops. The University of Western Australia has lodged the appeal in relation to two of its trial sites. Information on trial sites of GM crops is provided under the public reporting provisions of the *Gene Technology Act 2001*.

The Federal Health Minister, Dr Michael Wooldridge, announced in September 2001 the appointment of Dr Sue Meek as the Gene Technology Regulator. Dr Meek is the Executive Director of the Science and Technology Division of the West Australian Department of Commerce and Trade, and will take up her appointment in December 2001.

The Commonwealth Department of Agriculture, Fisheries and Forestry (AFFA) is undertaking a three-year project to examine the feasibility of segregating genetically modified products across the entire production chain. A scoping study for the project is available by contacting AFFA on (02) 6272 5787.

## **Replacement Research Reactor at Lucas Heights—Second Round of Public Submissions**

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has called for a second round of public submissions on the proposal by the Australian Nuclear Science and Technology Organisation (ANSTO) to construct a replacement research reactor at Lucas Heights in Sydney. The first round of public submission closed on 5 September 2001.

ARPANSA has invited the public to make submissions on issues raised in a paper: *ANSTO's Application for a Facility Licence to Construct the Replacement Research Reactor—ARPANSA's Issues Paper for Second Round Public Submissions October 2001*.

The key issues discussed are:

- analysis of potential accidents;
- seismic analysis and design of the reactor; and
- the management of radioactive waste and spent nuclear fuel.

The issues paper is available through the ARPANSA web-site: [www.arpansa.gov.au](http://www.arpansa.gov.au) or by phone: (02) 9545 8333. The closing date for submissions is 21 December 2001.

## **Australia's Environment: Issue and Trends**

A new publication by the Australian Bureau of Statistics reveals that Australians are consuming more energy, products and services per person than ever before; we are among the largest producers of waste on earth; and our land, air, forests and rivers are suffering. However, while most Australians are concerned about the environment, in 1999 only 9 per cent ranked environmental problems as their most important social issue.

These are some of the findings in the first edition of *Australia's Environment: Issues and Trends*. The new publication will be issued annually, and will present environmental statistics and information which illustrate topical issues that affect the future of Australia as a nation. The subject matter will vary from year to year as new environmental issues emerge or more current data sources become available. The publication aims to meet the needs of a wide audience, and statistical information and supporting text will be presented with the non-specialist audience in mind.

Copies are available from ABS bookshops.

## **New Federal Investment Disclosure Requirements**

Amendments to the Financial Services Reform Bill 2001 initiated by the Australian Democrats require disclosure of the extent to which ethical, environmental or social considerations are taken into account in investment fund decision-making. The requirement applies to product disclosure statements for superannuation funds, managed investment schemes and life insurance policies that have an investment component. The amendments also allow the Australian Securities and Investment Commission to develop guidelines for compliance with this requirement.

Australian Democrats spokesperson, Senator Andrew Bartlett, said that the amendments were aimed at encouraging a market for ethical investments, providing consumers with accurate information about their investments and ensuring that they were not misled by false claims.

The amendments were agreed by both Houses and are subject to a two-year transition period. The Bill received Assent on 27 September 2001.

## **Feral Pigs Listed as a Key Threatening Process**

On 6 September 2001, the Federal Environment Minister Robert Hill announced that 'predation, habitat degradation, competition and disease transmission by feral pigs' had been added to the list of key threatening processes under the *Environment Protection and Biodiversity Conservation Act 1999*.

Senator Hill said that feral pigs can adversely affect a number of listed threatened species, including the Southern Corroboree Frog, Northern Bettong, Southern Cassowary and the Hawksbill Turtle.

Senator Hill has directed the preparation of a threat abatement plan, to be prepared with State and Territory agencies and involving public consultation. This will provide for research, management and other actions necessary to reduce the threat.

## **Environmental Management Systems in Agriculture**

The Commonwealth Department of Agriculture, Fisheries and Forestry has released for public comment a discussion paper, *Towards a National Framework for the Development of Environmental Management Systems in Agriculture*.

Comments can be made until 31 March 2002. Copies of the paper are available through the web site: [www.affa.gov.au/ems\\_framework](http://www.affa.gov.au/ems_framework) or by phone: (02) 6272 4531.

## Conservation Covenants\*

Land owners who enter conservation covenants to protect and conserve land may be entitled to concessional Capital Gains Tax treatment, and income tax deductions.

In an effort to increase participation in conservation programs to protect Australian areas of environmental significance, the Federal Government has amended income tax laws to provide a tax deduction for land owner who donate land for conservation purposes by entering into a "conservation covenant".

A conservation covenant is an arrangement between a land owner and another party that:

- restricts or prohibits particular activities on the land that could degrade the environmental value of that land; and
- is approved by the Federal Minister for the Environment and Heritage.

However, the tax concessions may be of limited application, because of the stringent conditions that must be satisfied before a deduction can be claimed:

- The covenant must be perpetual, continuing indefinitely. Deductions are not available for agreements that apply for limited periods of time only, or which may be rescinded in the future. Where possible, the covenant must be registered on the title of the land;
- The land owner must receive no consideration for entering the covenant. If any money, property or other significant benefit is received by the land owner in return for entering into the covenant, no deduction is available;
- The market value of the land must decrease as a result of the land owner entering into the covenant, so that the land owner has made a loss.<sup>1</sup> The change in market value as a result of the conservation covenant must be determined by the Commissioner of Taxation;
- Either:
  - the covenant must be entered into within 12 months of the land being acquired; or
  - as a result of entering the covenant, the change in the market value of the land must be more than \$5,000;
- The covenant must be entered into with a fund that meets the requirements of Section 31-10 of the *Income Tax Assessment Act*.

Eligible land owners who enter conservation covenants after 1 July 2002 are entitled to a deduction equal to the difference between the market value of the land immediately before the covenant was entered into and immediately after the granting of the covenant. The deduction may be apportioned for up to 5 income years.

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1. The value of the land is its value to the land owner, and not the environmental value of the land to the recipient.