

### **Heritage Legislation Amendments Passed by the House of Representatives**

(See also *National Environmental Law Review* No 3/2002, 6)

On 14 November 2002 the House of Representatives passed the Government's proposed amendments to the Commonwealth's current heritage protection regime. The legislative package comprises:

- the Environment and Heritage Legislation Amendment Bill (No 1) 2002
- the Australian Heritage Council Bill 2002
- the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002.

In summary, the Bills:

- establish the Australian Heritage Council as the successor to the Australian Heritage Commission to provide advice to the Minister
- establish a list of National Heritage Places
- establish a list of Commonwealth Heritage Places
- amend the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) to identify places on the National Heritage Places list as matters of national environmental significance, thereby making such places subject to the environmental assessment and approval processes under that Act
- impose requirements on Commonwealth agencies in relation to Commonwealth Heritage Places.

The Bills were introduced in the Senate on 15 November 2002.

### **Murray–Darling Basin Act Amendments Introduced**

On 19 September 2002 the Minister for Agriculture, Fisheries and Forestry, Warren Truss, introduced in the House of Representatives the Murray–Darling Basin Amendment Bill 2002. The Bill amends the *Murray–Darling Basin Act 1993* so as to approve and give effect to the Murray–Darling Basin Amending Agreement between the Commonwealth, New South Wales, Victoria and South Australia. The Agreement makes new arrangements for the sharing of water in the River Murray catchment above Hume Dam arising from the corporatisation of the Snowy Mountains Hydro-Electric Authority. The amendments also provide for the management of environmental flows in the River Murray.

Mr Truss said that, for the first time, water users on the Murray and Murrumbidgee Rivers will receive guaranteed levels of annual releases from the Snowy scheme. The River Murray will also receive a boost in dedicated environmental water, sourced from increased efficiencies in the use of water in the river.

Under the agreed arrangements the Snowy Water licence, issued by the New South Wales Government, provides for the operation of Snowy Hydro Ltd within the New South Wales regulatory environment. The licence specifies rights over water, consultation and direction processes, exchange of data, the annual water licence fee and water release obligations. It also contains release rules designed to avoid unnecessary spills from water storages and to provide additional water security during summer.

As part of the corporatisation process, the New South Wales and Victorian Governments conducted the Snowy Water inquiry to consider the benefits of additional environmental flows in the Snowy River to offset the impact of diversion of water to the Murray and Murrumbidgee Rivers by the Snowy scheme. The Commonwealth also conducted an environmental assessment of the Snowy scheme corporatisation proposals, including the impact of additional environmental flows on the Murray–Darling Basin. As a result of those inquiries the governments decided to return substantial environmental flows to the River Murray, the Snowy River and key alpine rivers in the Kosciuszko National Park. These flows are to be found principally from water efficiency projects in the River Murray and in the Murrumbidgee and Goulburn–Murray river systems.

The Commonwealth has agreed to provide \$75 million to fund water savings of up to 70 gigalitres annually. These are to be released from the Snowy scheme and will be dedicated to achieving environmental outcomes in the River Murray. For their part, the New South Wales and Victorian Governments have agreed to a long-term staged process to return 28 per cent of average natural flows to the Snowy River. As a first stage, the two governments have agreed to provide \$150 million each to achieve a target flow rate of 21 per cent to be returned over 10 years.

The Commonwealth has insisted on certain safeguards throughout the corporatisation process, said Mr Truss. These are:

- allocations of water to environmental entitlements must not adversely impact on irrigators
- the allocations must not adversely impact on the rights and interests of South Australia
- the commercial viability of the Snowy scheme will be maintained
- water for environmental flows will be sourced principally from verified water savings
- water for environmental flows in the Snowy and Murray cannot be consumed, and must flow through the river systems to the sea.

## EPBC Act Developments

### *Bilateral Agreement Signed with the Northern Territory*

On 20 September 2002 the Commonwealth and Northern Territory Environment Ministers announced the signing of a bilateral agreement which accredits the NT's environmental assessment processes for the purposes of the EPBC Act. Accreditation applies to NT Environmental Impact Statements and Public Environment Reports under the Territory's *Environment Assessment Act*. The inquiries process under the *Territory's Inquiries Act* is also accredited.

The agreement means that proposals that are subject to both Commonwealth and NT jurisdiction will be subject to a single assessment process conducted under NT legislation. Such proposals will, however, still require approval by the Commonwealth Environment Minister.

The Commonwealth Minister for the Environment and Heritage, Dr David Kemp, said that the agreement accredits the NT system for environmental assessment against national 'best practice' standards. These are prescribed in the *Environment Protection and Biodiversity Conservation Regulations 2000*.

Assessment bilateral agreements have already been signed with Tasmania and Western Australia. In September 2002 Dr Kemp released for public comment a revised draft bilateral agreement with Queensland.

*National Approach to the Management of Threatened Flying Foxes*

The Minister for the Environment and Heritage, Dr David Kemp, announced on 1 November 2002 that the Commonwealth and relevant States have agreed on a national approach to the management of both the Grey-headed Flying-fox and the Spectacled Flying-fox during the 2002–03 fruit season.

The Grey-headed Flying-fox is listed as a threatened species under the EPBC Act in December 2001. It is found along the east coast of Australia, from Bundaberg in Queensland to the far west of Victorian coast. Under the agreed national approach, any person operating under a valid State permit for the management of Grey-headed Flying-foxes issued by Queensland, New South Wales or Victoria does not need to refer their activity for Commonwealth approval under the EPBC Act. This approach will remain in place, Dr Kemp said, as long as the number of Grey-headed Flying-foxes taken under State permits does not exceed the agreed maximum limit of 1.5 per cent of the national population.

The Spectacled Flying-fox was listed as a threatened species in May 2002. It is only found in and around the rainforests of north-east Queensland and the Torres Strait, with the largest population being found in the Wet Tropics of Queensland World Heritage Area between Townsville and Cooktown. Dr Kemp has agreed with the Queensland Minister for Environment, Dean Wells, to adopt a similar approach to that agreed in relation to the Grey-headed Flying-fox.

Dr Kemp said that the Government recognises that flying foxes can damage crops and that fruit growers must take measures to protect their livelihood, as long as it does not affect the viability of the flying-fox populations. The decision to put a national management approach in place, he said, reflects the Commonwealth's desire to manage a species effectively across its range—particularly a species like the Grey-headed Flying-fox, which crosses State borders.

The agreed national approach applies only to the 2002–03 fruit season. It will be reviewed in June 2003 before the start of the 2003–04 season.

Administrative Guidelines setting out the agreed arrangements for each of the two species have been issued as supplements to the *EPBC Act Administrative Guidelines on Significance*. Copies are available via the Environment Australia website at [www.ea.gov.au](http://www.ea.gov.au).

*Strategic assessments of fisheries*

Under Part 10 of the EPBC Act fisheries management plans and policies for Commonwealth managed fisheries must undergo strategic environmental assessment. Draft terms of reference have been issued for strategic assessments of the following Commonwealth managed fisheries:

- (a) Coral Sea Fishery
- (b) Western Deepwater and North West Slope Fisheries
- (c) Skipjack Tuna Fishery
- (d) Small Pelagic Fishery
- (e) Torres Strait Beche de Mer Fishery
- (f) Torres Strait Tropical Rock Lobster Fishery
- (g) Torres Strait Prawn Trawl Fishery.

The draft terms of reference can be viewed at the Australian Fisheries Management Authority's website at [www.afma.gov.au](http://www.afma.gov.au). They are available for public comment until 23 December 2002.

### *Invasive Species Amendments Proposed*

On 19 November 2002 Senator Andrew Bartlett (Australian Democrats) introduced proposed amendments to the EPBC Act to regulate invasive species. The Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002 proposes amendments to control the entry, spread and impact of invasive species in Australia.

### **Legislation Proposed to Minimise Use of Plastic Bags**

Senator Bob Brown (Australian Greens) and Mr Peter Andren (Independent) have introduced in the Senate and the House of Representatives respectively Bills to minimise the use of plastic bags in Australia. The Bills provide for the collection of a levy of 25 cents per bag at retail points of sale, which would be paid into a fund to be administered by the Minister for the Environment to be used to minimise the impact of plastic bags and other environmentally hazardous waste and for educational purposes. Some limited exemptions from the levy would apply and the levy would not apply to paper bags or other non-synthetic packaging.

Plastic bags are known to have harmful effects, including on the marine environment where whales, dolphins and fish die from plastic ingested in mistake for squid or jellyfish.

Bans or levies on plastic bags have been adopted in a number of other countries. Senator Brown said that a levy of approximately 27 cents per plastic bag, imposed by regulation in Ireland in March 2002, led to a 90 per cent reduction in plastic bag usage within 5 months, with much popular approval.

### **Draft Indicators and Methodologies for Public Environmental Reporting Released**

Environment Australia is seeking comments and feedback on the exposure draft of *Indicators and Methodologies for Public Environmental Reporting, an Australian Guide* released on 25 November 2002. Comments are sought by 20 December 2002.

The guide has been developed for companies and other organisations, especially first time reporters, to assist them in measuring and voluntarily reporting on their environmental performance. It aims to provide a clear and comprehensive description of the processes for calculation and reporting on selected management and environmental performance indicators. The guide forms a companion volume to *A Framework for Public Environmental Reporting: An Australian Approach (Environment Australia, 2002)*.

The objectives of the guide are to provide organisations with:

- guidance on the selection of suitable environmental indicators that are both relevant to Australian conditions and align with the Global Reporting Initiative
- simple methodologies to enable organisations to determine performance in relation to selected indicators
- links to other resources to assist with the preparation of public environment reports.

The guide focuses on the environmental aspects of public reporting and complements a related project on social indicators being undertaken by the Commonwealth Department of Family and Community Services.

For further information see the website [www.ea.gov.au/industry/sustainable/per/indicators.html](http://www.ea.gov.au/industry/sustainable/per/indicators.html).

## Great Barrier Reef Developments

### *Environment Minister Promises to Reintroduce Disallowed Fishing Regulations*

The Environment and Heritage Minister, Dr David Kemp, has promised to reintroduce regulations which were disallowed by the Senate on 23 October 2002 that allow five local families to continue fishing in Princess Charlotte Bay. The bay has been declared a Conservation Park Zone under the Far Northern Section Zoning Plan for the Great Barrier Reef Marine Park. Section 49 of the Acts Interpretation Act 1901 prevents the Government from remaking the regulation until six months after the date of disallowance.

The Government has acted to reduce commercial fishing in Princess Charlotte Bay in order to protect dugongs, on the advice of the Great Barrier Reef Marine Park Authority. The *Great Barrier Reef Marine Park Amendment Regulations 2002 (No 5)*, now disallowed, allow some fishing to continue under controls aimed at minimising interaction with dugongs.

### *Reef under Threat from Declining Water Quality*

A draft report issued for public comment by the Productivity Commission on 20 November 2002—*Industries in the Great Barrier Reef Catchment and Measures to Address Declining Water Quality*—has found that declining water quality in rivers entering the Great Barrier Reef (GBR) lagoon poses a significant threat to inshore reefs and associated ecosystems.

The draft report found that, while there is no conclusive evidence yet of water quality decline within the GBR lagoon, there is circumstantial evidence. The main cause of pollution affecting rivers in the GBR catchment includes runoff from cattle grazing and cropping. The Commission found that most current regulation is directed at controlling 'point sources' of water pollution, such as sewage plants, but existing regulations are not well suited to controlling pollution from diffuse sources.

The draft report was prepared in response to a request by the Government to undertake a research study into the economic and social importance of different industries in the GBR, and the costs and benefits of actions to address declining water quality. In its final report, scheduled for release in February 2003, the Commission will examine policy options to adopt 'best management practices'. The Commonwealth and Queensland Governments will use that report to develop a Water Quality Protection Plan for the reef.

## Gene Technology Developments

### *Decisions by Gene Technology Regulator*

On 24 September 2002 the Gene Technology Regulator, Dr Sue Meek, announced that she has rejected an application by Monsanto Australia Ltd for the commercial release of two types of genetically modified (GM) cotton in northern Australia because of uncertainty about their potential to become a weed problem. Dr Meek has, however, given the company approval to undertake commercial release of the genetically modified cotton in southern Australia, south of 22 degrees South, and to continue field trials north of that latitude.

Dr Meek also announced, on 8 November 2002, that she had decided to 'stop the clock' on two applications for the commercial release of GM canola until technical documentation currently in preparation becomes available. Public consultation on risk assessment and risk management plans for these applications was originally scheduled for mid-November 2002 but has now been postponed until early in 2003.

Further information in relation to these decisions, and gene technology regulation generally, is available on the Office of the Gene Technology Regulator website at [www.ogtr.gov.au](http://www.ogtr.gov.au).

*Modelling Possible Impacts of GM Crops on Australian Trade*

On 8 November 2002 the Productivity Commission released a staff research paper, *Modelling Possible Impacts of GM Crops on Australian Trade*. The paper analyses the economic and trade implications of the introduction of GM technology in the grains sectors, excluding wheat and oilseeds.

The study found that, under current market conditions, the introduction of GM technology into the non-wheat grains and oilseed sectors will have minimal impact on Australia's trade position. However, Australia's response to GM technology could affect future trading opportunities.

**Water Labelling Proposals**

The Minister for the Environment and Heritage, Dr David Kemp, has foreshadowed the possible introduction of a mandatory water efficiency labelling system for showers, dishwashers, washing machines and other household appliances. A labelling system similar to the labelling system for energy use is one proposal the Government is exploring, Dr Kemp said. As an initial step, Environment Australia is calling for tenders to study the feasibility and effectiveness of a mandatory labelling system.

These proposals were announced at the beginning of Water Week on 20 October 2002.

**Paper Industry Signs Eco-Efficiency Agreement**

On 22 October 2002, the Minister for the Environment and Heritage, Dr David Kemp, and the Executive Director of the Australian Paper Industry Council (APIC), Ms Belinda Robinson, signed an Eco-Efficiency Agreement for the Australian paper and pulp industry. The agreement commits the industry to pursue improved environmental performance, including developing eco-efficiency indicators, conducting a study of the greenhouse 'footprint' of the industry and publishing its first environmental report.

Dr Kemp noted that since 1985 the industry has already lifted its environmental performance. Since 1985 the industry has cut water use by 34.8 per cent and energy use by 37.3 per cent per tonne of production.

An Eco-Efficiency Agreement is a three-year, voluntary agreement between the Commonwealth and a peak or sectoral industry association to promote eco-efficiency in the industry or sector. Eco-efficiency seeks to improve the profitability of businesses by producing more goods and services with less energy and fewer natural resources while at the same time producing less waste and pollution. The APIC agreement is the 25th agreement approved by the Howard Government.

For further information see the website [www.ea.gov.au/industry/eecp/agreements/index.html](http://www.ea.gov.au/industry/eecp/agreements/index.html).

**PVC Industry Makes Environmental Commitments**

On 25 November 2002 the Minister for the Environment and Heritage, Dr David Kemp, launched a voluntary product stewardship commitment by the Vinyl Council of Australia to improve environmental performance in the polyvinyl chloride (PVC) industry.

The commitment aims to promote more environmentally friendly practices in the production, use and disposal of PVC products and chemicals used in their manufacture by moving to phase out cadmium and lead based stabilisers, and establishing a program to recycle pipe offcuts. The commitment also addresses the use of phthalate stabilisers, waste management, research and public reporting. A technical steering group representing industry, the Commonwealth and science will inform the industry of emerging and relevant environmental issues.

The commitment has an initial life of five years and will be reviewed annually.