

Indigenous Land Management Framework - Discussion Paper

DSE invites comments from all members of the community on its recently released Discussion Paper which seeks to raise awareness of the aspirations of Victoria's Indigenous community for land and resource management.

The Discussion Paper is the first step in the development of an Indigenous Land Management Framework. The Framework will set out the land and resource management aspirations of Indigenous Victorians, and identify opportunities for government to meet these aspirations. In doing this, the Department hopes to build working partnerships with Indigenous communities and improve its approach to sustainable land and resource management.

The Premier's Business Sustainability Awards 2004 Winners

These awards recognise companies that are working to reduce their impact on the environment, recognising innovation, rewarding leadership and demonstrating that the principles of sustainability can help drive productivity. The following 2004 Winners were announced by Victorian Premier Steve Bracks on 10 November 2004 in Melbourne.

- GreenPlumbers,
- Toyota and
- ECO-Buy.

CHEP Asia Pacific and the Department of Sustainability and Environment both received honorable mentions.

Statements of Obligations for water authorities

Pursuant to sections 4I and 8 of the Water Industry Act 1994, the Minister for Water, the Hon John Thwaites MP, has made and issued Statements of Obligations to the licensees, Melbourne Water Corporation and the regional urban water authorities. The purpose of the Statements of Obligations is to impose obligations in relation to the performance of their functions and the exercise of their powers.

The statements of Obligations were made on 26 July 2004 and came into effect on 28 July 2004.

QUEENSLAND

Editor: Chris McGrath

Draft seq regional plan released

The Draft South East Queensland Regional Plan has been released under the Integrated Planning Act 1997 (Qld) for public consultation until 28 February 2005. It is available at <http://www.oum.qld.gov.au/>. The draft regional plan is intended to guide growth in SEQ to 2026 and covers 18 local government areas in South East Queensland ("SEQ") from the Gold Coast on the NSW border, north to Noosa and west to Toowoomba.

The draft regional plan notes that the current estimated population of SEQ of 2,654,000 is expected to increase to 3,709,000 by 2026 – an additional 1.05 million people at a rate of 50,000 each year. Whether this increase is desirable or preventable is not addressed, nor is the issue of what happens to population growth after 2026.

The draft regional plan responds to public concerns of a loss of greenspace and a lack of integration in infrastructure, transport and communities in SEQ. These concerns were tapped and given a public voice by a series of articles in the Courier Mail during 2003. In Queensland the State Government has traditionally delegated landuse planning to local governments (other than mining development, which is managed at a State level largely because it is a major revenue earner for the State Government).

A major component of the draft regional plan is to identify an “urban footprint” – land that is allocated to provide for the region’s urban development needs by 2026. This is contrasted to regional landscape and rural production area, which is intended to remain outside the urban development area. The basic two-pronged approach taken in the draft regional plan is that urban development outside of the urban footprint will be stopped by the State Government while urban development within the urban footprint will be permitted and managed by local governments.

There are significant positive aspects about the draft regional plan. The fact that it exists at all, and that a statutory regional planning process has been included in Queensland’s central planning legislation, the Integrated Planning Act 1997 (Qld), is a major step forward. In addition, unlike previous (failed) attempts at regional planning in SEQ over the past 30 years, the draft regional plan imposes a regulatory framework driven by the State Government with which local governments must comply.

There are also negative points and difficulties for the draft regional plan. Most fundamentally, the draft regional plan proceeds upon the assumption of managing growth that will occur without questioning what growth should occur. At no point is the question asked, what can be regarded as a sustainable population or sustainable use of the SEQ ecosystem? From a sustainability perspective it is flawed for this reason alone. Another problematic issue is the perennial difficulty of effective implementation. The State Government will require a great deal of discipline, as well as significant ongoing resources, to implement it effectively in the future.

Draft seq regional coastal management plan released

Adding to the seeming frenzy of regional planning in SEQ, a Draft South-east Queensland Regional Coastal Management Plan (“SEQ RCMP”) under the Coastal Protection and Management Act 1995 (Qld) has also been released for public comment until 28 February 2005. It is available at <http://www.epa.qld.gov.au>.

The obvious question about the two regional planning processes currently underway in SEQ is, why have two plans rather than a single, integrated regional plan? There is no particularly logical or satisfactory answer to this question. The fundamental reason is because the SEQ regional plan prepared under the Integrated Planning Act 1997 (Qld) is a reactionary measure to public and media pressure over the loss of greenspace, traffic congestion and urban sprawl in 2003. In contrast the SEQ RCMP is one of a series of RCMPs prepared under the Coastal Protection and Management Act 1995 (Qld) over the past 3 years under an umbrella State Coastal Management Plan 2001 prepared under the same Act.

Despite the lack of any particular logic, SEQ will soon have two statutory regional plans with slightly different purposes. The SEQ regional plan under the Integrated Planning Act 1997 (Qld) deals mainly with containing the urban footprint and coordinating transport and other infrastructure in the region. The SEQ RCMP under the Coastal Protection and Management Act 1995 (Qld) focuses on protecting coastal processes, such as waterways and wetlands, and managing the impacts of coastal development, particularly from acid sulphate soils, dredging, marinas and waterfront estates.

While the SEQ RCMP is a positive step for protecting the coastal environment in SEQ, the real challenge will be effective implementation. The major problem with the State Coastal Management Plan 2001 and RCMPs prepared in other parts of Queensland is that the budget of the Queensland Environmental Protection Agency (“EPA”) appears only to have extended to preparing the documents. Implementation of RCMPs has been passed to local governments, few of whom have the resources to investigate the often complex scientific problems associated with coastal development. If the regional coastal management planning process is to be successful in protecting coastal values in the future, the EPA will need to proactively implement and defend the integrity of RCMPs, not simply rely upon already over-stretched local governments.

Update of internet sources for queensland planning decisions and casenotes

The Supreme Court of Queensland website provides ready access to decisions of the Queensland Planning and Environment Court from 2000 onwards at <http://www.courts.qld.gov.au/>, as well as Court of Appeal decisions from 1992 onwards.

There are a number of regular, useful and free casenote updates produced by Queensland law firms that are available on request. These include:

- Monthly updates and regular short articles on topical issues from the Environment & Planning group at Deacons. To subscribe email paula.wirth@deacons.com.au or see the website at <http://www.deacons.com.au/epqld>.
- Monthly updates of planning issues and case notes from the Queensland Planning Environment and Local Government Group at Corrs Chambers Westgarth. To subscribe email Fiona.Farrell@corrs.com.au or see Corrs' website at <http://www.corrs.com.au/corrs/website/web.nsf/Content/PlanningEnvironmentLocalGovernment>.

WESTERN AUSTRALIA

Editor: Rob Campbell-Watt and Merinda Logie

Enforcement and Prosecution Policy

The Department of Environment's Enforcement and Prosecution Policy (the Policy) came into effect on 23 November 2004. The Policy provides general guidance on how enforcement and prosecution is approached by the Department. The Policy applies to industry, environmental consultants, lawyers, departmental officers, local governments and other authorities. The Department invites comments on the Policy, which is intended to be reviewed in 12 months from the date of commencement.

The Policy, which is administered by the Environmental Enforcement Unit within the Department, covers all legislation administered by the Department, including water legislation.

The Policy sets out the Department's position and other information on the following:

- Principles of enforcement.
- Choosing the appropriate defendant.
- Possible enforcement actions, including options such as prosecution, infringement notices, modified penalty notices, statutory notices and directions, environmental field notices, written warnings, amendments to licence conditions / permits and physical intervention.
- Rights of appeal.
- Factors influencing a decision to prosecute including the prima facie case, the public interest, fair process and reasonable prospects of success.
- Fundamental objectives of a criminal prosecution, being to bring justice to those who commit offences, to punish those who deserve punishment for their offences, to provide expeditious compensation and restitution to victims of crime and to protect the community.
- Essential conditions to be met before commencing a prosecution, being the need for sufficient evidence to establish a prima facie case and that it be in the public interest.
- Factors which address the public interest including a fair process, reasonable prospects of conviction, the need to maintain the rule of law and so on.
- Factors relevant to plea negotiation.

The address to provide comments or obtain further information is:

Environmental Enforcement Unit
Department of Environment
Hyatt Centre, PERTH WA 6000