

New WA State Government Department for Water

In response to the Irrigation Review Final Report, authored by the Irrigation Review Steering Committee, the WA State government has announced the establishment of a Department of Water. The new Department of Water will oversee the reform of the regulation of water-related activities and take over the Department of Environment's functions in relation to the allocation, licensing and monitoring of water. It will also oversee the status of water resources and the viability of new source development, subject to the existing environmental approval process. A comprehensive review will be undertaken of the current legislative regime for water resources with a view to streamlining and modernising the legislation. Currently, 14 different Acts provide the regime for water resources in Western Australia. The Department of Water should be operating by 1 December 2005 and the Premier will assume the portfolio.

Busselton Wetlands Conservation Strategy

The WA State government has released a Busselton Wetlands Conservation Strategy for the use, management and conservation of the Busselton Wetlands. The strategy was prepared by the Western Australian Planning Commission in association with the Department of Conservation and Land Management, the Shire of Busselton, other key agencies, community groups and land owners.

The majority of the wetlands are listed under the *Ramsar Convention for Wetlands of International Importance* are home to the largest regular breeding colony of Black Swans. They are also part of the Geographe catchment area. The strategy is intended to guide land use planning and management to ensure the protection of the area, because Busselton is a rapidly expanding area. Following on from the Busselton Wetlands Conservation Strategy, the Department of Conservation and Land Management will assemble a management plan and a wetlands implementation steering committee will be established to implement the Strategy.

Community involvement in tuart forest conservation and management

The State government has announced a number of measures to assist in the conservation and management of tuart trees in the Tuart Forest National Park. The Tuart Forest National Park is an area of tuart forest of 3 136 hectares near Busselton. The Department of Conservation and Land Management will establish a Tuart Forest National Park Community Advisory Committee, a subcommittee of the Tuart Response Group and a Ludlow Working Party.

Nominations are open for the Tuart Forest National Park Community Advisory Committee, which will provide community views on the management of the Tuart Forest National Park. The Tuart Response Group will provide expert advice on tuart conservation and management and will report to the Minister for Environment. The Ludlow Working party will advise the Minister for Environment on areas of mining compliance with the Minister for Environment's *Environmental Approval Statement* 25 November 2003. It is intended that this system will ensure that special interest groups and community views are represented in advising on tuart forest conservation and management issues.

Managed Aquifer Recharge using Treated Wastewater

The Environmental Protection Authority ('EPA') has released its advice to the Minister for the Environment on managed aquifer recharge using treated wastewater on the Swan Coastal Plain in accordance with s.16 *Environmental Protection Act 1986* (WA). This advice was instigated by the need for new water sources in the light of the current drying trend being experienced in the South-West of Western Australia. Currently over 100 gigalitres of wastewater is discharged into the environment each year. Managed aquifer recharge is the injection and infiltration of wastewater in an aquifer for filtration, for later extraction or no extraction. Any extracted water may be used for a variety of purposes including salinity prevention, irrigation or drinking water. In such use of wastewater, there are health and environmental risks.

In its advice to the Minister for the Environment, the EPA supported in principle the concept of managed aquifer recharge. It recommended that further investigation should be undertaken into managed aquifer recharge. This includes site-specific trials of managed aquifer recharge on the Swan Coastal Plain. Such a trial would require approval from the Department of Health and possibly referral for environmental impact assessment by the EPA. The EPA also provided a strategic framework for further investigation of managed aquifer recharge in its advice to the Minister for the Environment.

Kimberley Fire Review

The Minister for the Environment has requested advice from the EPA in relation to fire in the Kimberley region pursuant to s.16 *Environmental Protection Act 1986* (WA). The EPA has released a draft issues paper for public comment on the environmental impacts of the frequency of fire in the Interior and Northern Regions of Western Australia. In particular, the Minister requires advice on biodiversity conservation and protection of human health. The ultimate aim is to enhance ecologically sustainable fire management in the Interior and Northern Regions. The draft issues paper provides background information on fire issues in the Interior and Northern Regions, and identifies some of the problems and potential solutions.

Tracking of controlled waste

The Auditor General has released a review of the tracking of the transport of controlled waste in WA. The report identified deficiencies in the Controlled Waste Tracking System administered by the Department of the Environment. Errors in data had occurred due to the use of different measurement systems by different users. Overall the system has been successful. The tracking system provides information on waste movements to the Department of the Environment and is the first of its kind in Australia. An external consultant will undertake a further audit.

Height Restrictions on Coastal Developments

The Western Australian Planning Commission is seeking public comment in regard to a proposed amendment to the Statement of Planning Policy No 2.6 State Coastal Planning Policy. The proposed amendment will add provisions on building height limits. The amendments will apply to developments within 300m of the foreshore and will restrict the height of developments, with the exception of port works or port purposes. The general height limit will be five storeys with a possible extension to eight storeys. The amendment also allows local governments to impose lower height limits. The purpose of the height limit is to preserve the character of current coastal developments and prevent high rise development within the vicinity of the foreshore.

The closing date for public submissions is Friday 23 December 2005.

WA State Conference Roundup

The NELA (WA) 2005 State Conference was held on 22 September at the Fremantle Maritime Museum. This year's focus was on the *Environment Protection and Biodiversity Conservation Act 1999* and its regulatory regime dealing with referrals, environmental impact assessment and approvals.

The *EPBC Act* procedures are having quite broad impacts in the resources and property development areas so this was a timely topic for WA. The turn out was some 75 registrants from a broad range of interests, including mining, resources, property and government/regulatory backgrounds.

We were very fortunate to have 5 excellent speakers:

- Mr Chris McGrath, barrister (Qld), who has been appeared in litigation involving contentious *EPBC Act* considerations;

- Mr Gerard Early, First Assistant Secretary, Approvals and Wildlife Division, Commonwealth Department of Environment and Heritage;
- Mr Rob Sippe, Director, Policy and Coordination from the Western Australian Department of Environment;
- Dr Paul van der Moezel, ATA Environmental, a consultant with experience in making referrals under the EPBC Act regime; and
- Mr Dusan Mill, Director, Yanchep Sun City Pty Ltd, who gave a proponent's view of how this regulatory scheme impacts on business.

The conference consisted of afternoon speakers sessions, followed by dinner, during which, in 'Geoffrey Robertson'-style, we conducted hypothetical entitled "A Slice of Heaven", moderated by Geoff Gishubl and co-ordinated by Andrew Disney. The five speakers acted on the panel and their candour, expert knowledge and humour all served to pull together and summarise the issues raised by the EPBC Act regime. Another mighty effort by the WA Committee.

Andrew Harman

SOUTH AUSTRALIA

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Water Resources: Prescription of the Western Mount Lofty Ranges

All surface water, watercourses and wells (bores) in the Western Mount Lofty Ranges became "prescribed" on 20 October 2005. The Western Mount Lofty Ranges water resource management covers areas from the Adelaide Hills, the Fleurieu Peninsula, Gawler and Cape Jervis. The main watercourses in the area being the Onkaparinga, Torrens and Gawler Rivers.

Prescription means that these water resources will be subject to a formal allocation and licensing system. Except for water used for stock and domestic purposes, all water users are required to apply to the Department for Water, Land and Biodiversity Conservation ("the Department") for a water licence. Applications for existing users are due by close of business 20 April 2006.

Existing users will be allocated water and receive a licence before new and additional allocations are made. Those that do not apply as existing users by this date will have to apply as "new users" once the Water Allocation Plan, setting out the principles or rules for which water can be allocated on licences, and the principles for the transfer of water allocations, has been implemented.

On 14 October 2004 the Minister declared both his intent to prescribe the Western Mount Lofty Ranges, and placed a prohibition on water resources in the area in order to hold water usage at current levels. This prohibition remains in force.

Planning decision – the Potter case

The 'Mercedes College Principle' established in *Wilson v City of Mitcham & Mercedes College Springfield Inc* (1986) n130 LSJS 31 was recently reconsidered in the Full Court Supreme Court matter of *Potter v City of Holdfast Bay* [2005] SASC 354 ("*Potter*").

In *Potter* the appellant operated a business selling new and used cars, and sought to develop the adjoining land by demolishing a house and replacing it with a car park to be used for customer parking, staff parking and the parking/storage of vehicles being serviced on the premises. The adjoining land was within the Historical Conservation Zone – Residential (New Glenelg), whereas the business was within a Commercial Zone.