recover more waste in the future. The assessment revealed that:
Melbourne has an adequate number of transfer stations and materials recovery facilities (MRF) however improvements will be needed for MRFs in particular as sorting technologies continue to develop;
In order to achieve a reduction in garden and food organics going to landfill, an extension of the current three bin collection system and significant development of processing facilities would be required.

Part 3: The Metropolitan Landfill Schedule
Part 3 presents a review of landfills and covers a 10 year period from 2008 to 2017. The overarching aim is to minimise the development and use of landfills. Melbourne is divided into two catchments with the north-west catchments having significantly more capacity than the catchments in the south-east.
To read the full documents go to http://www.sustainability.vic.gov.au/www/html/2408-metropolitan-waste-and-resource-recovery-strategic-plan.asp

EPA Victoria HazWaste Fund

The HazWaste Fund is an initiative of the EPA and Victorian State Government that invests the monies gained from landfill levies (increased in 2007) back into industries. The fund is specifically designed to support sectors generating hazardous waste. The policy behind the Fund is a desire to achieve the government's commitment to eliminate high-hazard waste disposal by 2020. EPA Victoria has released a fact sheet for businesses interested in applying for a grant under the EPA's HazWaste Fund. All businesses generating hazardous waste are eligible to apply but they will be required to show that they are undertaking activities that 'go beyond the minimum compliance requirement of an EREP'. Some of the identified activities that may be eligible include an advanced literature review of hazardous waste reduction options; detailed sampling and analysis of hazardous waste streams; trials of new equipment or processes; external waste or process-specific expertise; or life-cycle costing of waste streams. To find out more visit www.epa.vic.gov.au/erep

NEW SOUTH WALES

Nicholas Brunton

Contaminated land management amendment bill 2007

The *Contaminated Land Management Act* 1997 (**CLMA**) was introduced in 1997 to regulate sites in NSW impacted by historical contamination.

The CLMA established a regime for determining responsibility for remediating contaminated sites, and a process for cleaning up those sites under the supervision of the EPA.

The EPA commenced a review of the CLMA in October 2003. This culminated in the drafting of the *Contaminated Land Management Amendment Bill* 2007 (**the Bill**) which is expected to be tabled in the April or May 2008 sitting of Parliament.

The most significant differences between the CLMA and the Bill are summarised below:

Removal of Significant Risk of Harm Test
Many of the public submissions received by the EPA following the release of a discussion paper on the CLMA noted that the term "significant risk of harm" was overly emotive and created unnecessarily adverse public perceptions. Once the Bill is passed, sites will be referred to as "regulated sites" instead of "significant risk of harm sites". However, the test for determining whether a site warrants regulation under the Bill is almost identical to the test under the CLMA.

Stages of Regulation
Under the CLMA, land is first declared to be an "investigation area", and then an investigation order is issued or a voluntary investigation agreement entered into. The

second stage under the CLMA involves the declaration of the site as a "remediation site". At that point, a remediation order can be issued or a voluntary remediation agreement entered into. Under the Bill, the EPA can serve a person with a "preliminary investigation order" (**PIO**) to determine whether land is contaminated. If the land is significantly contaminated (determined either through investigations undertaken in response to the PIO or otherwise), the land will then be declared to be a "regulated site". Once this has occurred, the EPA can issue a management order, or a voluntary management agreement (**VMA**) can be entered into. The VMA can contain both investigation and remediation stage activities. Accordingly, the delineation between investigation and remediation is maintained under the Bill, but the investigation/remediation process can be streamlined and undertaken in one stage if appropriate.

Ongoing maintenance of managed land

The Bill provides the EPA with greater powers to require ongoing management of land that has been the subject of a management order or an approved VMA. This means that, even if a party or parties have complied with the requirements of the EPA with respect to regulated land, the EPA may still issue an order or require an ongoing management action to be undertaken. This obligation can be registered as a public positive covenant or restriction on the title to the land.

Interaction between CLMA and POEO Act

The Bill makes it clear that the EPA may also use the powers given to it to issue clean-up notices and prevention notices under the *Protection of the Environment Operations Act* 1997 (**POEO**) in respect of regulated land.

Duty to Notify

Under the CLMA, a person was required to notify the EPA if that person "became aware" that the person's activities had caused the land to present a significant risk of harm or, in the case of an owner of land, where that owner "became aware" that the land had been contaminated such as to present a significant risk of harm.

The guidelines that accompany the CLMA make it clear that a mere suspicion of significant contamination would not trigger the reporting obligation. However, under the Bill, a person is required to notify the EPA "as soon as practicable after the person becomes aware of the contamination". The Bill further provides that a person is taken to be aware of contamination for the purposes of the Bill if the person "ought reasonably to have been aware of the contamination". In determining when a person should reasonably have become aware of contamination, the Bill requires the following to be taken into account:

- A person's abilities, including his or her experience, qualifications and training;
- Whether the person could reasonably have sought advice that would have made the person aware of the contamination; and
- The circumstances of the contamination.

Update on Planning Reforms Bill

The *Environmental Planning and Assessment Amendment Bill 2008* has now been introduced into Parliament. The reforms comprise some of the most significant changes to planning in NSW in decades. The Bill seeks to implement the proposals in the Department of Planning's Reforms Discussion Paper which has been discussed in previous issues. The Bill proposes the following changes.

Changing the plan-making process

The Bill introduces a gateway screening system. A planning authority (eg council, Director-General of Planning etc) will be appointed for the plan and that authority will first need to prepare and submit a proposal including a statement of objectives or intended outcomes, an explanation of the proposed provisions, a justification report and any proposed maps. The Minister will then consider the proposal and decide whether the matter is to proceed or should be resubmitted, what consultation

must be undertaken with the community and public authorities, whether a public hearing should be held, a timetable for the various stages of the process and whether the plan making power is to be delegated.

The Planning Assessment Commission or a Joint Regional Review Panel will be provided with power to review a planning proposal when there is delay in finalising the matter.

The Bill provides for the removal of regional environmental plans (REPs) so that SEPPs will now be used for matters of regional planning significance.

New development assessment regime

The Bill introduces the Planning Assessment Commission (**PAC**), Joint Regional Planning Panels (**JRPPs**), independent hearing and assessment panels (**IHAPs**) and planning arbitrators.

The PAC will be an independent statutory body representing the Crown and not subject to the direction of the Minister. Its functions will include determining applications for Part 3A projections and concept plans delegated to it by the Minister, reviewing any aspect of a Part 3A, 4 or 5 development where it is requested to do so, sometimes undertaking functions of a JRPP or independent hearing and assessment panel, and certain functions in relation to applicant and third party merit reviews.

JRPPs may be established for specified areas and will be statutory bodies representing the Crown and not subject to direction by the Minister. Their functions will include acting as a consent authority where provided by an environmental planning instrument (**EPI**), exercising functions of planning administrators and panels where conferred, advising the Minister on planning and development matters or EPIs relevant to their area, and certain functions in respect of applicant and third party merit reviews. It is anticipated JRPPs will be the consent authority for designated development, development over $5million such as Crown development and private infrastructure, residential commercial or retail development over $50million, and nominated subdivisions and other development in coastal zones currently dealt with under Part 3A.

IHAPs may be constituted by a council to assess any aspect of a development application or any planning matter referred to it and is not subject to a direction by the Minister.

A register of planning arbitrators is to be introduced and kept by the Director-General. Planning arbitrators may be appointed by the Minister and may be designated for particular areas. Planning arbitrators will be responsible for reviewing DAs determined by councils for minor development eg residential development under $1million. An appeal may not be lodged the Court without having first gone through a planning arbitrator review (for specified matters) unless the council consents. For other matters, an applicant may appeal to the Court or seek a review by a JRPP or PAC (depending on who was the primary consent authority).

Third party objectors may seek review of decisions to the JRPP or PAC (whichever is applicable) where there is no right to appeal under section 98 of the EP&A Act. There is no right of appeal from decision of the PAC where it has held a public hearing.

Appeals to the court by applicants will need to be commenced in three, not twelve, months.

Exempt and Complying Development

The ambit of exempt and complying development is to be extended and state-wide guidelines developed. Development that meets the standards (or varies in only minor ways) could be approved by the council or an accredited certifier.

More accountable certification of development

The Bill proposes that a certifier will be able to carry out a maximum of work generating

20% of its total annual income. The accreditation system will be altered so that companies could also be accredited, not just individuals. Council certifiers will be required to obtain accreditation to improve accountability. Certifiers will be given increased powers to issue orders and directions in relation to compliance with development consents. They will also be subject to greater fines and penalties for failing to carry out their functions properly.

QUEENSLAND

Larissa Waters

Vegetation protection laws avoided through 'Eco Fund'

In March 2008, the Premier announced an intention to increase the area of national parks in Queensland by 50% by 2020, an increase of 7.6 million hectares to around 12 million hectares. The expansion is to be funded by a new body called *EcoFund Queensland*, which will make strategic purchases of land that will be added to the protected area estate. However, the funding for *EcoFund Queensland* will come from payment from developers and government who are unable to otherwise offset the ecological damage their proposal will cause. Under current laws, where a development proposal cannot meet the land clearing laws or provide an appropriate offset, it would have to be refused. This announcement will now allow developers and infrastructure providers to buy their way out of complying with vegetation protection and offset laws. Conservation groups have welcomed the long overdue expansion of the national park estate but are outraged that it comes at the expense of protecting valuable areas that lie in the path of infrastructure and development.

Climate Strategy under review

Adopted only last year, Queensland's Climate Smart 2050 Strategy is now under review because of updated climate change impact predictions and changes to federal policy. The review is scheduled to be completed late this year by the Office of Climate Change in the EPA, after

consultation with community, industry, academic and government stakeholders.

Conservation groups have welcomed the review given the numerous flaws in the 2050 Strategy, including continued huge financial support for the coal industry, the failure to properly invest in the renewable energy sector, and the failure to ensure all transport, mining and infrastructure projects are assessed for their climate change impacts. Queensland's State of the Environment Report brings bad news

Queensland's 2007 State of the Environment Report has been released, showing declining biodiversity, river and wetland health and escalating consumption and greenhouse gas emissions. The report is available for download from www.epa.qld.gov.au/environmental_management/state_of_the_environment.

Iconic Places legislation passed

The Queensland government's response to community outrage at local Council amalgamations was the *Iconic Queensland Places Act*, which commenced on 6 March 2008. Noosa and Douglas Shire Council areas are listed as iconic, with more areas able to be declared before the cut-off date of 30 June 2008. The Act changes the normal processes of amending a planning scheme by requiring the Planning Minister to condition or reject any planning scheme amendments that would not protect the iconic place. Of concern is the new process for assessing development applications within iconic places. Decision making powers have been removed from the newly amalgamated Councils that now cover Noosa and Port Douglas and given to a Ministerially appointed panel of 5 people (including no more than 2 Councillors), who need not be locals. The panel decides the application as if it were the Council, using