

NELR recent developments

In summary, the draft Regulations propose the following significant changes:

- 'regulated trees' will be defined as:
 - all trees within the metropolitan area, other than those in certain zones within the Adelaide Hills Council and City of Playford Development Plans
 - all trees within a Country Township Zone of the Adelaide Hills Council Development Plan,
 - all trees within the whole of the District Council of Mount Barker (with the exception of certain zones within that council's Development Plan

which have a trunk with a circumference of two metres or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of two metres or more and an average of 625 millimetres or more, measured at a point one metre above natural ground level.

- 'significant trees' will be those defined as those 'regulated trees' which have a trunk with a circumference of three metres or more or, in the case of a tree with multiple trunks, that has a trunk with a total circumference of three metres or more, measured at a point one metre above natural ground level.
- The following trees will be excluded from the definition of 'regulated trees':
 - all trees (other than six species of native trees), which are located within 10 metres

of an existing dwelling or swimming pool; and

- 22 species of trees, which are commonly identified as 'pest' trees, or are grown exclusively for commercial purposes.
- Councils will be able to impose the following conditions upon development authorisations for the removal of regulated trees:
 - where a regulated tree is to be removed, that it be replaced by two new trees
 - where a significant tree is to be removed, that it be replaced by three new trees
 - where the Council wishes to require a financial contribution to its urban trees fund, it may require an amount of \$50 for each replacement tree which is not planted.
- The Regulations also propose to amend Schedule three of the Regulations so that tree-damaging activity is excluded from the definition of 'development' where the relevant tree:
 - is a *Melaleuca styphelioides* (Prickly-leaved Paperbark) or a *Lagunaria Patersonia* (Norfolk Island Hibiscus), or
 - is within 20 metres of a dwelling in a Bushfire Protection Area identified as Medium or High Bushfire Risk in the relevant Development Plan, or
 - is on land under the control of the Minister who has primary responsibility for the environment and conservation, or
 - is dead.

WESTERN AUSTRALIA

Joe Freeman and Ainsley Reid

Draft south coast marine plan released

The WA Government has released two key documents regarding future south coast development, from Cape Leeuwin to Eucla.

The draft South Coast Regional Marine Strategic Plan and accompanying reference report were released for a three month public comment period on 3 September 2010.

WA Environment Minister the Hon Donna Faragher MLC said regional marine planning involved 'recognising the key role of ports and other infrastructure in regional and State economies,

the benefits of sustainable commercial and recreational fishing sectors, and the integration of these with marine conservation.'

The preparation of the documents was overseen by a Planning Working Group representing 10 government agencies and South Coast Natural Resource Management Inc, an independent conservation body. Additionally, the South Coast Regional Marine Planning Advisory Group contributed to the reference report.

Copies of the draft Strategic Plan and reference report are available on the DEC website.

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Cape Range National Park management plan released

Cape Range National Park, located near Exmouth on the Ningaloo Coast, is to be managed under a new management plan. Environment Minister Donna Faragher released the plan on 31 August 2010 and claimed:

As more people visit the region, the management plan will help protect the national park's natural values and ensure that a range of high-quality, ecologically sustainable recreation and tourism opportunities are provided, including improved day-use facilities to complement existing facilities such as the Yardie Creek boat tour and Milyering Visitor Centre

According to 2008 research, visitor expenditure in the Ningaloo Coast region was \$141m annually.

The Department of Environment and Conservation (DEC) prepared the management plan in consultation with the community, and on behalf of the Conservation Commission of WA. The management plan is available online on the DEC website.

New conservation and mining arrangements for Mt Manning

New nature conservation and mining arrangements for the Mt Manning area, north of Southern Cross, were announced on 1 September 2010.

The new arrangements were formulated by the Departments of Environment and Conservation (DEC) and Mines and Petroleum and include the retention of the existing Helena-Aurora Range and Mt Manning Range conservation parks, as well as the Mt Manning Range Nature Reserve. Additional reserves under management include an A class nature reserve, conservation parks (not class A) and other reserves for conservation and mining under section 5(1)(h) of the Conservation and *Land Management Act 1984* (WA).

Significantly, any development proposals in the area will continue to be subject to the requirements of the *Environmental Protection Act 1986* (WA) and *Mining Act 1978* (WA), which includes assessment and advice from the Environmental Protection Authority.

The DEC will remain the land managers of the reserves under the new arrangements.

Details of the proposed tenures under the new arrangements can be found on the Western Australian Government's Ministerial Statements website.

Kimberley LNG precinct Master Plan released

A Master Plan showing how the proposed Browse LNG precinct could be established north of Broome was released by the Department of State Development (DSD) on 2 September 2010.

The Master Plan accommodates LNG processing facilities and related activities for at least two proponents, with the potential to produce a combined total of 50 Mtpa of LNG, over an area of 2 500 hectares of fenced land and a further 1 000 hectare marine area for port and shipping facilities.

The proposal for the Browse LNG precinct is yet to obtain strategic environmental approval from both the State and Federal governments.

The Master Plan can be obtained as a PDF from the DSD website, or by contacting the DSD on (08) 9222 0555.

Advice on second port at Cape Lambert released

The Office of the Environmental Protection Authority (EPA) has released Report 1357, providing advice and recommendations to the WA Minister for Environment on the proposal by Pilbara Iron Pty Ltd (Rio Tinto) for the construction and operation of a second port at Cape Lambert. The port will process and export up to 130m tonnes of ore per annum.

The report, which recommends a set of conditions to be imposed if the proposal is approved for implementation, provides detailed evaluation of key environmental factors relevant to the proposal, including terrestrial fauna, marine values and dust.

According to EPA Chairman Paul Vogel, it is unlikely that the EPA's objectives would be compromised by the proposal, providing there is satisfactory implementation by the proponent of the recommended conditions, which includes the establishment of a buffer zone and conservation area between Cape Lambert and the town of Point Samson to buffer the township from industrial noise and dust emissions and protect over 40 hectares of habitat for a conservation significant species of lizard with restricted range.

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The EPA Report 1357 is available on the EPA website.

Consultation on conditions recommended by the EPA

The EPA has adopted a new administrative arrangement to consult proponents and key decision making authorities (DMAs) when the EPA is recommending implementation conditions for proposals it has assessed.

The objective of the consultation is to avoid errors, mistakes or unnecessary difficulties with implementation when recommended conditions are drafted by the EPA. The confidential consultation will occur near the end of the EPA report preparation process and will require managers within the office of the EPA to seek comment from the proponent and key DMAs on relevant draft recommended conditions to establish whether they:

- contain errors of fact
- are technically feasible
- are clear and relevant to the proposal, or
- present any practical opportunities for strengthening environmental outcomes.

The consultation period will be five business days, which may be extended for complex issues at the written request of the proponent.

Outcomes of any consultation will be published within the EPA's report to the Minister. That report remains appealable, but consultation will seek to avoid appeals from proponents about technical matters and implementation.

More information on the consultation arrangement can be found in the EPA's Environmental Protection Bulletin No. 11, available on their website.

Collie Project shortlisted for Federal Government's Carbon Capture and Storage Program

The proposed Collie South West Hub Project is one of four projects nationally nominated for a share of \$2 billion in Federal Government funding as part of the Government's Carbon Capture and Storage (CCS) Flagship Program. The project is being developed by the State government and the region's major industry participants including Griffin Energy, BHP Worsley alumina, Verve Energy, Wesfarmers Premier Coal, and Perdaman

Chemicals.

The project, which aims to initially store up to 3.3 m tonnes of carbon dioxide per annum, will analyse the suitability of locations for the storage of carbon dioxide.

WA Minister for Mines and Petroleum, Norman Moore, said that examining the effectiveness of CCS technology and the manner in which the State Government can work collaboratively to delivery the technology will help WA make a significant cut to its greenhouse gas emissions.

Department of Mines and Petroleum (DMP) Carbon Strategy Coordinator Dominique Van Gent said that the DMP and industry would work closely with the community to ensure they were informed about the project's results and progress, with expected results to be available from the third quarter of 2010.

The EPA recently recommended the approval, subject to conditions, of several projects that may ultimately form part of the Collie South West Hub Project. Several recommended conditions address greenhouse gas abatement and include a requirement to retrofit CCS technology 'within five years of the EPA concluding that carbon capture and storage is economically and technically proven'.

The Conservation Council of Western Australia has criticised the environmental impact assessment process for these projects and the inclusion of CCS conditions in resultant EPA reports and on 2 June 2010 announced that it would appeal the EPA's recommendations to the State Environment Minister.

Pilbara water plan released

The WA Department of Water released the *Pilbara Regional Water Plan 2010–2030* (the Plan) in May 2010. The Plan provides a new a strategic approach to sustainable water resource planning for the Pilbara, and is part of the departments work on a number of regional water plans to support the broader State water plan.

The purpose of the Plan is to set strategic directions for the management and development of the Pilbara region's water resources in a sustainable manner in order to maintain and enhance its natural environment, cultural and spiritual values, quality of life and economic development. The

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Plan has a long-term view to 2030 and identifies priority actions for implementation over the next five years.

The Plan addresses water use, water availability, future trends in water usage, potential sources and the Pilbara's water future. Existing water uses in the area for consumptive purposes include mining operations, pastoral use, use by towns and port facilities, use in fly in/fly out camps and in remote Aboriginal communities. The report emphasises the fact that rapid economic development in the area is likely over the next 20 years and growth in the mining sector has led to increased demand for water at mine sites.

There are currently no water allocation plans for the Pilbara, so plans will be developed for all areas where there are likely to be multiple interests seeking to use water from the same resource. Coastal alluvial aquifers will be the first priority areas.

These water allocation plans will define limits on the abstraction of water from a particular water resource, and specify where and how water entitlements will coexist within the plan area. Objectives outlined in the Plan will be reflected in the Department of Water's water licensing and water allocation planning process.

The Plan will have an inception review one year after it is finalised, a mid-term review and update in five years and be fully revised in 10 years time.

State government announces feed-in tariff scheme

The WA Government has announced that it will provide \$23 m to introduce a residential net feed-in tariff scheme from 1 August 2010. The tariff will be paid per unit of net electricity exported to the electricity grid from eligible systems.

The scheme will provide a subsidy to households with new and existing photovoltaic, wind and micro-hydro systems. The subsidy is only available for residential installations which are owned by the home owner, however a feasibility study is being undertaken into a similar scheme for businesses.

Payments will be made for electricity exported into the South West Interconnected System (SWIS) and regional grids. The price has been set at 40 cents per kilowatt hour (c/kWh) and will be paid in addition to the price paid under the Renewable Energy Buyback Scheme, allowing householders to receive a minimum of 47c/kWh. The tariff rate is applied whenever electricity generation exceeds household consumption during the day and not just the balance at the end of a household's billing cycle.

The scheme will be administered by electricity retailers Synergy and Horizon Power and will be reviewed every 3 years or 10MW of new generation, to assess the ongoing level of support required in light of changing economies and technologies.

TASMANIA

Tom Baxter

Ralphs Bay canal estate rejected by the Tasmanian Planning Commission and Government

The Tasmanian Planning Commission's 'Final Impact Assessment Report' recommending refusal of Walker Corporation's proposed canal estate at Ralphs Bay is the most nationally significant environmental law development arising from Tasmania recently.

The Commission's damning Final Impact Assessment Report created waves beyond Ralphs Bay. It convinced the State Government to reject not only Walker Corporation's proposal, but also to promise a ban on any future canal estates elsewhere

in Tasmania. The Commission's comprehensive report contains much material which may also be relevant to canal estates beyond Tasmania's shores.

Notice of the Governor's order that the project not proceed appeared in the Tasmanian Government Gazette of 4 August 2010. Walker Corporation did not appeal.

See the article by Jane MacDonald and Jess Feehely, 'Ralphs Bay Saved – A Tasmanian Story', later in this issue.