

New Guidelines for EPA Appointed Environmental Auditors

EPA published a number of new guidelines for EPA Appointed Environmental Auditors in April 2006, including:

- Environmental auditor guidelines for appointment and conduct;
- Environmental auditor guidelines for preparation of environmental audit reports on risk to the environment; and
- Environmental auditor guidelines for conducting environmental audits.

Victorian Planning and Environmental Law Association – Upcoming Events

Interakt - Victorian State Planning Conference

14-15 September 2006, Ballarat Lodge, Ballarat

For further information, refer to: <http://www.vpela.org.au>

QUEENSLAND

Editor: Larissa Waters

Forestry rules weaken environmental protection

(i) Rainforest logging permitted by freehold forestry code

Since 2004 the Queensland government has been developing a Forest Practices Code for Freehold Land, in consultation with stakeholders including The Australian Rainforest Conservation Society, The Wilderness Society, AgForce and the Queensland Timber Board.

An interim Forest Practices Code for Freehold Land was released in October 2004 for public consultation, and conservationist stakeholders lobbied for rainforest logging on freehold land to be banned. Negotiations between stakeholders were protracted, and the government's deadline for release of the final code was deferred several times.

The final Vegetation Management Forest Practice Code for Native Forest on Freehold Land was released and took effect on 1 December 2005. Forest practices in remnant vegetation on freehold land are lawful only if they comply with all parts of this code. However, the Queensland government adopted the code which had been released for public consultation 14 months prior *without including any of the changes agreed on by stakeholder groups*. This means that under the current Freehold Forestry Code, intensive logging of old growth rainforests and tall eucalypt forests on private lands are permitted, despite being important threatened species habitat.

The government's media release announcing commencement of the code leaves open the possibility of future amendments, but to disregard 14 months of existing stakeholder consultation is extremely unsatisfactory in this author's opinion.

(ii) Forest protection slowed in favour of graziers under SEQRFA phase-in

In other forestry developments, in December 2005 the Queensland Environmental Protection Agency announced it would grant lease extensions to 34 graziers using land due to be protected under the South East Queensland Regional Forest Agreement, because of expected financial hardship if their grazing leases were not renewed.

The lease extensions will affect 37 forest reserves totalling 14,000 hectares of forest dedicated for protection under the next phase of the SEQ Regional Forest Agreement, which will create 406,000 hectares of new national park when it comes into effect in February 2006.

Queensland climate change policy

In mid November 2005, the Queensland government released the Climate Smart Adaptation Paper on climate change. The paper predicts the effects of climate change on Queenslanders, including warmer weather, declining rainfall, more droughts, increased bushfire risk, more intense cyclones and rising sea levels.

The Paper is open for public comment until 3 March 2006 to allow the public to have a say on the future direction of climate change adaptation in Queensland. Comments received on the Paper will help to shape the development of a 'Queensland Climate Change Adaptation Action Plan' during 2006, which is intended to complement the existing Queensland Greenhouse Strategy.

While the Paper is a welcome development in state climate change policy, alarmingly, it does not mention the contribution that mining and burning of coal makes to greenhouse gas emissions, a major factor in climate change and global warming. There are also indications that the ensuing Action Plan will not be backed up with regulatory force and will simply be a policy document recommending voluntary actions to stem climate change.

This author advocates that any Queensland climate change policy needs to:

- Ensure government commits to greenhouse gas reduction targets;
- Ensure the Adaptation Action Plan is enforceable, by giving it regulatory underpinning which allows conservation measures to be enforced against industry and government;
- Require local Councils to reflect the Action Plan in their planning schemes,
- Amend the Queensland Development Code to mandate sustainable housing and infrastructure, especially in relation to water and energy use, including building design, solar panels and water recycling;
- Mandate energy efficiency in government buildings and implement a Mandatory Renewable Energy Target (MRET) for energy generation in Queensland;
- Ensure the full impacts of greenhouse gas emissions from new coal mines are properly assessed under Queensland's *Environmental Protection Act 1994* including the imposition of appropriate conditions or refusal of permission; and
- Ensure the greenhouse impacts of proposed infrastructure are properly assessed and that demand management alternatives to new infrastructure are given equivalent consideration and assessment.

The Climate Smart Adaptation Paper is available from www.getinvolved.qld.gov.au.

First Wild Rivers nominated by Queensland government

Readers will recall from the Spring 2005 NELR Queensland Update the passage of the landmark *Wild Rivers Act 2005* (Qld), Australia's first comprehensive legislation to protect Queensland rivers which have all, or almost all, of their natural values intact.

On Friday 2 December 2005 the *Wild Rivers Act 2005* (Qld) was proclaimed into force, and on Tuesday 6 December 2005 the Queensland government announced its intention to nominate six river systems for protection under the Act and released declaration proposals for public comment. Since the Act itself does not protect any rivers, these nominations are the welcome beginning of the process to safeguard Queensland's remaining free flowing rivers.

The six rivers systems nominated for protection comprise four in the Gulf of Carpentaria (Settlement Creek, Mornington Inlet, the Gregory River and the Staaten River) plus the streams of Fraser Island and Hinchinbrook Island. The six declaration proposals contain information about the natural values, special features and management areas of the proposed wild river areas, as well as the proposed management of new development activities in the wild river area and a copy of the draft wild river declaration. Public consultation on the draft declaration proposals for the proposed Gulf of Carpentaria Wild River areas has

been extended by 2 months until 24 April 2006, given the need for adequate consultation with indigenous people and difficulties presented by the wet season.

The Department of Natural Resources and Mines has also released the draft Wild River Code for public comment until 28 February 2006. Once a wild river is declared, certain development activities within the river, its major tributaries and catchment area must be assessed against this code. The code provides the rules for when the following activities will be permitted in a Wild River area: agriculture and animal husbandry; aquaculture; environmentally relevant activities; forestry; tidal works, activities in fish habitat areas and marine plants; riverine protection works; urban, commercial and industrial development; vegetation management; overland flow; subartesian water; and waterway barrier works.

The author congratulates the Government on starting the process of nominating Wild Rivers for protection and looks forward to the declaration of all 19 rivers within this political term, as promised by the Premier Beattie in the lead up to the 2004 state election.

The Wild River draft declaration proposals are available from www.nrm.qld.gov.au/wildrivers and the draft Wild River Code is available from www.nrm.qld.gov.au/wildrivers/pdf/wild_river_code.pdf.

Local government law reforms

Since the Crime and Misconduct Commission's inquiry into the Gold Coast City Council in 2005, local government reform has remained high on the political agenda in Queensland.

(i) Councillors' Code of Conduct

Readers will recall from the Winter 2005 NELR Queensland Update the passage of amendments to the *Local Government Act 1993* requiring local governments to develop a Code of Conduct for Councillors setting out standards of behaviour and conduct for Queensland Councillors. Under those amendments, all Councils were required to adopt a Code of Conduct by 1 March 2006.

In December 2005 the State government released a Model Code of Conduct, which Councils can adopt or use as a guide and adapt to suit their circumstances. Councils with nothing in place by 1 March 2006 will automatically adopt the Model Code by default. The Model Code is based on six principles:

- Integrity of local government;
- Primacy of the public interest (Councillors must make decisions solely in terms of the public interest and must take steps to avoid, resolve or disclose conflicts of interest);
- Independence of action;
- Appropriate use of information (Councillors must not misuse information, particularly for personal gain);
- Transparency and scrutiny (Councillors must disclose their financial interests); and
- Appropriate use of entitlements.

Given frequent accusations of bias against Councillors who decide important development issues in Queensland, the binding Model Code of Conduct is a welcome initiative.

The Model Code of Conduct and accompanying explanatory notes are available from: www.lgp.qld.gov.au.

(ii) Review of Local Government Electoral Arrangements

In January 2006 the Queensland Department of Local Government and Planning (DLGP) has released a Community Questionnaire and Discussion Paper on Local Government Electoral Arrangements. The documents invite public comment by 1 March 2006 on the management of council elections, caretaker periods, a Code of Conduct in council elections, election donations, dissolving a council and penalties for council electoral offences. The DLGP discussion paper is available from www.lgp.qld.gov.au/elections.

(iii) CMC discussion paper on issues arising from Gold Coast Council inquiry

The Crime and Misconduct Commission released a public discussion paper on issues arising from its inquiry into Gold Coast City Council, including the adequacy of existing legislation and topics such as misleading voters, electoral bribery, electoral returns, and conflicts of interests. The CMC discussion paper is available from www.cmc.qld.gov.au.

Water law developments

Persistent drought and increasing population in the South East continues to drive Queensland's water law and policy reform agenda.

(i) New Water Charges Legislated

The *Water and Other Legislation Amendment Regulation (No. 1) 2005* ("Amendment Regulation") implements the Queensland Premier's water pricing package announced on 20 December 2005, which was foreshadowed in the Queensland Water Plan 2005-2010 (see Spring 2005 NELR Queensland Update).

The Amendment Regulation establishes a framework to implement new water charges for local governments, industry and irrigators, which commenced on 1 January 2006 (1 July 2006 for local governments). The new water charges are:

- For local governments and power generators – 1.5 cents per kilolitre (1000 litres) or \$15 per megalitre (one million litres);
- For industry (other than agricultural primary industry), mining and petroleum companies – 1 cent for kilolitre or \$10 per megalitre; and
- For agricultural irrigators, intensive livestock operations (such as feedlots) and other agricultural primary production – 0.4 cents per kilolitre or \$4 per megalitre.

The Amendment Regulation also establishes new penalty infringement notices which commenced on 16 December 2005 in relation to a number of offences under the *Water Act 2000* (Qld).

For a copy of the Amendment Regulation see: www.legislation.qld.gov.au/LEGISLTN/SLS/2005/05SL334.pdf

(ii) Draft Central Queensland Regional Water Supply Strategy

On 21 December 2005 the Queensland Minister for Natural Resources and Mines released a Draft Water Supply Strategy for the Central Queensland Region for public comment by 31 March 2006. The Draft Strategy covers the Fitzroy Basin and nearby coastal catchments, encompassing regional centres Gladstone, Rockhampton, Yeppoon and Emerald. The Draft Strategy sets out possible water infrastructure and demand management initiatives which could be adopted in central Queensland over the next 50 years.

Despite espousing water efficiency and demand management principles, in the "options" listed for each sub-area within the catchment, the Draft Strategy makes just two references to employing efficiency, trading and demand management to meet future need. In all other instances the "options" are solely infrastructure proposals, including pipelines, dams and weirs. The draft strategy is available from www.cqwaterstrategy.qld.gov.au.

(iii) New Wastewater and Greywater Code commences

On 1 March 2006 the *Plumbing and Drainage Legislation Amendment Regulation (No 1) 2005* will commence, giving effect to the new Queensland Plumbing and Wastewater Code governing greywater in sewered areas, which replaces the Onsite Sewerage Code. The Amendment Regulation also includes the criteria local governments must apply in granting a compliance permit for greywater use, and the relevant criteria for declaring areas to be unsuitable for greywater use.

This Amendment Regulation coincides with the commencement of the *Plumbing and Drainage and Other Legislation Amendment Act 2005*, reported in the Spring 2005 NELR Queensland Update, which allows homeowners in sewered areas to divert greywater from showers, bathtubs and washing machines to their gardens via underground watering systems.

National Packaging Covenant implemented

On 16 December 2005 amendments to the *Environmental Protection Regulation 1994* (Qld) came into force, which enact the renewed *National Packaging Covenant* that will apply from July 2005 until 30 June 2010. The *Environmental Protection Amendment Regulation (No. 2) 2005* alters the application of the re-use, recycle and energy recovery rules by changing the definition of "brand owner" to include the first person to sell an imported product in Australia plus retailers who supply (polyethylene) plastic bags to customers.

Under the amendments, the obligation to implement an action plan and keep statistics on re-use, recycling and energy recovery of consumer packaging materials will now not apply to businesses with a gross annual turnover of less than \$2 million. Where a brand owner is required to have an action plan, it must commit to re-using (as a first preference), recycling or energy recovery of set percentages of consumer paper (80%), glass (60%), steel (65%), aluminium (75%) and plastics (35%), and must keep annual statistics on these and other matters for five years. The amendments also clarify that compliance with the *Australian Retailers Association Code of Practice for the Management of Plastic Bags* is sufficient, and means a plastic bag brand owners will not also have to prepare an action plan and keep annual statistics.

For a copy of the Amendment Regulation see: www.legislation.qld.gov.au/LEGISLTN/SLS/2005/05SL322.pdf.

WESTERN AUSTRALIA

Editor: Merinda Logie

NELA (WA Division) State Conference 2006

"From Environmental Incident to Enforcement and Beyond"
Thursday 28 September 2006, Crawley, Western Australia

NELA(WA) is holding its annual state conference at the University Club of Western Australia, Crawley, on the afternoon and evening of Thursday, 28 September 2006. The theme of the conference is Environmental Prosecutions.

Speakers are:

- Danicia Dutry (Q&A Communications Group) – public communication/public relations
- Sonya Krishnan – (Enforcement Unit, Department of Environment and Conservation) – investigations by Enforcement Unit
- Simon Daddo – (Freehills) – solicitor – defending an environmental prosecution
- Neils Monaghan (State Solicitor's Office) –prosecution and court procedures
- Caroline Watkins (URS Asia Pacific) – risk minimisation

The after-dinner speaker will be Professor Don Bradshaw, Department of Zoology, University of Western Australia - *"Protecting Australia's Biological Diversity: Past imperfect, present tense and future conditional?"*

We expect between 80 to 100 delegates including NELA members, environmental consultants and scientists, government representatives and attendees from the property development and resources sectors.

The cost will be \$195 for members and \$250 for non-members which includes materials, lunch, attendance at the conference, post-conference drinks and conference dinner at the University Club.

Registration forms will be available shortly. In the meantime, the conference secretariat, Jackie Eigenmann, can be contacted at: jackie@marketfirst.com.au.

April Seminar - Great Southern Arc

A NELA (WA) seminar held on 20th April 2006 examined the largest private conservation project ever undertaken in Western Australia, the Great Southern Arc Project.