prohibitions contained in sections 27 and 70QA of the *Nature Conservation Act* 1992 (Qld). This means that geothermal leases or exploration permits cannot be granted over national parks, conservation parks or forest reserves.

Second, relevant environmental authorities under the *Environmental Protection* 1994 (Qld) must have been granted. Any conditions attached to these authorities must also be followed. If water resources will be interfered with, an authorisation must be granted under the *Water Act* 2000 (Qld).

SOUTH AUSTRALIA

Suzanne Dickey and Victoria Shute

Site contamination notifications

The South Australian Environment Protection Authority (EPA) has been actively enforcing the requirements of s.83A of the Environment Protection Act 1993 (SA), which took effect on 1 July 2009. Under s.83A, owners, occupiers, auditors and environmental consultants who fail to notify the EPA in writing as soon as reasonably practicable of the existence of site contamination that affects or threatens water face penalties up to $120 000.

The duty to notify applies to site contamination that has been identified after 1 July 2009 and not yet notified to the EPA.

EPA's guidelines and recent public statements about s.83A indicate that there is a duty to notify the EPA about:

- results from recent testing that indicate contamination in the vicinity of a known contaminated site
- non aqueous phase liquid as soon as that stage of the field investigation has been completed
- chemical substances greater than the background concentration, the laboratory limit of reporting and where no appropriate water quality criteria exists for those substances.

If a non-aqueous phase liquid, such as a hydrocarbon, is discovered during well installation, the EPA's position is that notification should occur as soon as the field work is completed – in other words, as soon as the person who discovered the liquid is back in the office. Notification that occurs several months later after a report on a site has been completed has been deemed untimely.

Urban tree protection

Victoria Shute

Under South Australia's *Development Act* 1993, trees of a certain circumference in the metropolitan area, and some trees in other areas, are designated as 'significant trees', and they cannot be damaged or removed without development authorisation.

Development applications for the removal of significant trees are subject to strict criteria which, in recent times, have resulted in criticism from developers and the community at large.

In response to this criticism, the *Development (Regulated Trees) Amendment Act* 2009 was enacted, but pending the release of regulations, has not yet commenced: See <http://www.planning.sa.gov.au/index.cfm?objectid=8251C390-018C-11DF-9542000F2030D46A>

Briefly, the 2009 Act:

- creates a new two-tier system of 'regulated trees' and 'significant trees', with less vigorous criteria (to be introduced through a Ministerial Development Plan Amendment) applying to development applications seeking the removal of 'regulated treeswill prevent councils from requiring applicants seeking removal of regulated trees to produce expert or technical reports. This will greatly increase the workload of local council arborists who willhave to inspect and assess each 'regulated tree' subject to an application for removal), and
- allows councils to impose special conditions upon applications seeking the removal of regulated and significant trees which require the planting of replacement trees, or a financial contribution to an urban trees fund in lieu of such plantings.

When the Act was passed, both the definition of 'regulated tree' and a number of other matters were left to be defined or explained in the regulations. Accordingly, the full extent of the regulated tree regime could not be appreciated fully.

Recently, the Department of Planning and Local Government (SA) released the draft Development (Regulated Trees) Variation Regulations 2010 for comment...

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 trucks, 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 or 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.