

through its Planning Review Committee. The Committee made lengthy verbal submissions and numerous written submissions to the Review including one on the establishment of a specialist Court to deal with all building, environment and planning matters.

It is likely that a draft Development Act will be released for formal public comment in June.

Environment Protection Legislation

A discussion paper on a proposed Environmental Protection Act setting up an Environmental Protection Authority has been released and the time for making submissions has closed. The Division made a comprehensive submission on the proposed Act and Authority. At its last regular meeting with the Minister for Environment & Planning the Division was advised that draft legislation is likely to be released in time for the Spring sittings of Parliament.

Contaminated Land Legislation

As was explained in the article prepared by Associate Professor Robert J Fowler printed in the last edition of the Australian Environmental Law News a discussion paper on proposed Contaminated Land Legislation has been released and the time for submissions has closed. The Division made a substantial submission on the discussion paper.

The Minister for Environment & Planning has advised the Division that draft legislation is to be prepared but it is unlikely that any such legislation will be prepared prior to the Spring sittings of Parliament.

John Scanlon
Ward & Partners,
Adelaide

DEVELOPMENTS IN QUEENSLAND

Contaminated Sites legislation

As noted in the March edition, the *Contaminated Land Act 1991* (the "Act") commenced operation on 1 January 1992. One of the significant features of the Act is the requirement that local authorities, Government Departments and other statutory authorities notify the Director of the Bureau of Emergency Services (the "Director") of the actual or likely existence of contaminated land within their jurisdiction of which they are aware. For that purpose, the Act prescribes that the following activities are deemed to be likely to cause the contamination of land:

- Agriculture fertiliser manufacture;
- Asbestos production and manufacture;
- Battery manufacture and recycling;
- Chemical manufacture and formulation;
- Storage of chemicals in excess of 10 tonnes (being chemicals designated as dangerous goods under the Australian Code for the Transport of Dangerous Goods by Road and Rail);
- Commercial waste storage or treatment;
- Defence establishments and training areas;
- Drum reconditioning wastes;
- Dry cleaning establishments;
- Electroplating;
- Explosives production and storage;
- Fuel depots and storage areas;
- Galvanisers;
- Gas works;
- Gun, pistol and rifle clubs;
- Hazardous waste landfills;
- Industrial cleaners;
- Lime burners;
- Metal foundries;
- Metal sprayers;
- Metal treaters and picklers;
- Mining and extractive industries;
- Paint manufacture and formulation;
- Pest controllers, being areas where pest control chemicals are stored or vehicles and tanks used in connection with pest control are washed;
- Pesticide manufacture and formulation;
- Petroleum and petrochemical industries;
- Pharmaceutical manufacture and formulation;

- Printers;
- Railway yards;
- Sanitary landfill sites;
- Scrap yards;
- Service stations;
- Smelting and refining;
- Tannery or fellmongery or hide curing works; and
- Wood treatment and preservation sites.

A local authority which is aware of land which has been or is being used for any of these activities is required to notify the Director of this fact. Local authorities and other persons required to notify the Director of the existence, or likely existence, of contaminated land must do so by 31 December 1992 or within 30 days of becoming aware of the actual or likely contamination, whichever is the later.

Impact of the Legislation

The Act is likely to have a number of significant impacts including:

the imposition of high costs associated with the investigation and remediation of land;

the imposition of restrictions on the use of land arising from the classification of the land in the Contaminated Sites Register. Such restrictions could, of course, reduce the value of the land; and

additional requirements in relation to transactions involving the acquisition of an interest in potentially contaminated land. Any person contemplating such an acquisition should consider undertaking an investigation of the potential contamination and also structuring the transaction so that appropriate indemnities and warranties are provided.

Conclusion

It is plain that potentially onerous obligations arise under the Act. A number of difficult questions will need to be considered by those potentially affected by the Act. They include:

Should an investigation of the land be undertaken notwithstanding that a notice under the Act has not been issued?

Is an investigation prudent if it is thought that the land is potentially contaminated?

What rights are available to an owner of contaminated land against parties who have caused the contamination or recently disposed of the land?

DEVELOPMENTS IN NEW ZEALAND

Contaminated Sites

The Australian and New Zealand Environment and Conservation Council and the Australian National Health and Medical Research Council have recently adopted guidelines for the assessment and management of contaminated sites in New Zealand.

While the guidelines do not currently have statutory force, they are intended to provide a systematic framework for the assessment and management of existing and future contaminated sites. This framework is aimed at ensuring that a consistent, reliable standard of site assessment and clean-up is implemented at all contaminated sites, and that public health and environmental concerns are adequately addressed. Although the guidelines are not mandatory, local authorities can refer to them in Regional Plans and Policy Statements and District Plans and when granting consents under the *Resource Management Act 1991*.

A contaminated site is broadly defined as a site at which hazardous substances occur in concentrations above the background levels and where assessment indicates that the site poses, or is likely to pose an immediate or long term hazard to human health or the environment.

The approach advocated in the guidelines relies on consideration of site specific data to derive acceptance criteria to ensure that public health, local amenity and soil, air and water quality are protected. This recognises that every site is different and that environmental consequences may vary from site to site. As a result, acceptance criteria and clean-up technologies will often be influenced by local conditions. The guidelines therefore allow for the degree of clean-up to be tailored to the specific circumstances of each site. Guidance is given as to the levels of contaminants in soil that are considered sufficient to warrant a site investigation. These criteria have guidance value only.

A number of policy issues relating to contaminated sites are still to be formulated by the government. These include: