

(previously known as by-laws or ordinances). The purpose of this system is to provide a common law making process for all laws made by local governments.

All existing by-laws and ordinances are saved by the LGA and take effect as local laws.

In addition to local laws, local governments may make a "local law policy" to assist the detailed implementation of the objects of a local law. These local law policies are binding on the local government which makes the policy.

The mechanisms for formulating a local law and a local law policy are set out in detail in the LGA. That mechanism also provides a process for a local government to adopt a "model local law", which is a law about a matter within the jurisdiction of local governments that is proposed by the Minister as suitable for adoption by any local government.

The local government is required to keep registers of any local laws and local law policies it makes open for inspection by the public.

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## DEVELOPMENTS IN SOUTH AUSTRALIA

### **New institutional arrangements for stormwater management in South Australia**

On 24 November 1994, the South Australian Government announced that it would enact new legislation to establish urban catchment management authorities in an effort to speed up the clean-up of a number of water courses within the Adelaide Metropolitan area and in particular the Patawalonga River and the River Torrens.

The Minister for Environment and Natural Resources will delegate certain powers and functions to joint State and local government based catchment management authorities to be established under the new Act. The authorities will be responsible for the management of urban stormwater as a multi-purpose activity, including flood control and drainage, water quality protection, the protection of the stream environment, amenity and the use of stormwater for beneficial purposes. They will also have the function of developing and implementing catchment stormwater management plans. It is proposed that a bill to establish the authorities and the legislative structure for the proposal will be put to State Parliament in the Autumn Session of 1995.

Funds will be available for stormwater management measures, the primary source of which will be a new stormwater levy set by the Catchment Management Authorities and collected by their constituent Councils. It is envisaged that the stormwater drainage program to be undertaken by the Catchment Management Authorities will be defined in the legislation and will be aimed at conserving water run-off, rather than have it run into the sea and also ensuring cleaner waterways are available throughout the urban area. The authorities will be

responsible for implementing environmental measures such as the use of wetlands to clean surface water, the recharge of underground aquifers and the installation of trash racks along watercourses.

## **Environment Protection Act - Update**

The Environment Protection Act which was due to come into operation in December 1994 has now been delayed yet again. The date presently being mooted for the commencement of the legislation is February 1995. Essentially the reason for the delay is complications concerning the setting of appropriate fees under the new legislation.

On 27 October 1994 three sets of Regulations and six environment protection policies under the Act were gazetted. Both the Regulations and the policies are expressed to come into operation on the day on which the Act comes into operation. The Regulations may still be subject to disallowance by the Parliament, because the 14 day period required by the Subordinate Legislation Act during which new Regulations must lie on the table and are open to challenge had not expired at the time Parliament ceased the 1994 sittings.

Regulations and policies are as follows:

### **Environment Protection (Variation of Act, Schedule 1) Regulations 1994**

These Regulations both delete some activities and add other activities from and to the list of activities of environmental significance which is prescribed in Schedule 1 to the Act.

### **Environment Protection (General) Regulations 1994**

These Regulations prescribe certain exemptions under the Act, impose time limits for the determination of applications for environmental authorisations and the renewal of environmental authorisations as well as various provisions about authorised officers under the Act and the keeping of a public register.

### **Environment Protection (Ozone) Regulations 1994**

These Regulations set out additional procedures and requirements in relation to ozone depleting substances.

### **Environment Protection (Air Quality) Policy 1994**

Under Clause 5 of Schedule 2 of the Environment Protection Act the Minister has the power to prepare draft Environment Protection Policies without going through the normal procedure in relation to draft policies where the draft Environment Protection Policy has in the Minister's opinion as nearly as practicable the same effect as provisions made under repealed environmental laws. The Air Quality Policy presumably repeats much of the material previously contained in the Clean Air Act and the Regulations under that Act.

### **Environment Protection (Burning) Policy 1994**

This policy has similarly not been through the normal public exhibition process. It basically repeats the provisions previously found in the Clean Air Act and the Regulations under that Act in relation to backyard burning.

### **Environment Protection (Industrial Noise) Policy 1994 and Environment Protection (Machine Noise) Policy 1994**

These policies both repeat provisions previously found in the Noise Control Act and the two sets of Regulations under that Act.

### **Environment Protection (Marine) Policy 1994**

This policy repeats many of the provisions presently found in the Marine Environment Protection Act 1990 or the Regulations under that Act.

## **Environment Protection (Waste Management) Policy 1994**

This policy deals with the procedures for the collection and transport of medical waste, the duties of Councils, hospitals and pharmacies in relation to such waste and the transport of waste generally. The policy repeats the provisions previously found in either the Waste Management Act 1987 or the Regulations under that legislation.

## **Development Act - Update**

On 7 December 1994 the Minister for Housing Urban and Regional Development and Local Government Relations, Mr John Oswald announced at the Urban Development Institute of Australia Christmas lunch that he would be releasing a draft Bill proposing changes to the Development Act. The proposals are to be available for some public submissions. The proposed changes are a result of a review of the Development Act and Regulations which was instituted in April this year. Submissions were invited by the Minister in relation to that review and the submissions were considered by a monitoring group established by the Minister. The monitoring group's purpose was to assist the Minister in the task of reviewing the legislation.

The purpose of the proposals is to provide improved procedures for amending development plans and for assessing applications to undertake development, to provide revised procedures for some major projects and to provide greater power for the Minister to call in applications of State interest for assessment by the Development Assessment Commission.

However, from comments made by the Minister at his luncheon address it would appear that EIS procedures under the legislation will be amended to enable the Minister to dispense with an EIS for a declared major project that does not have significant environmental or social impact. It is proposed that the Minister be given the power to amend a development plan prepared by a Council where the Minister believes the development plan is inconsistent with the State Government's planning strategy.

The overall purpose of the amendments is to attempt to streamline the development control and development policy formation process. The State Government has indicated that it wishes to send a legislative message to potential investors that the integrated planning and development assessment system in South Australia will be able to deal with the development applications promptly and with improved levels of certainty. Presumably the Minister will want to be in a position to bring the draft Bill into Parliament in the first session in 1995. The original intention has been to have a Bill into Parliament before the end of 1994, but this has not proved possible.

## **National Environment Protection Council (South Australia) Bill**

The Bill was introduced into the House of Assembly on 3 November 1994. It is one of the measures of environment protection which was part of the Inter-Governmental Agreement on the Environment to which the State of South Australia is a signatory. The Bill is part of a package of complementary State and Commonwealth Legislation to give effect to Schedule 4 of the Inter-Governmental Agreement. It has been introduced by the South Australian Government as part of its obligations under the Inter-Governmental Agreement. South Australia will implement National Environmental Protection Measures made by the National Council within South Australia through the Environment Protection Act 1993. The Bill provides for amendments to that Act to enable National Environment Protection measures made by the National Environmental Protection Council to become State Environment Protection Policies for the purposes of the State legislation. The Lower House has passed the Bill and it is anticipated that the Upper House will deal with it in the first session in February 1995.

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