

the *Water Resources Act* 1990 and the *Catchment Water Management Act* 1995.

The paper acknowledges the important role that councils will play under the new legislative regime in water resources management. In particular, it is proposed to rationalise local government's responsibilities with respect to:

- * controlling water-sensitive activities such as the construction of dams and to protect watercourses within council areas unless the watercourses are under the management of a water management board or some other statutory body;
- * drainage and flood control. The paper moots the possibility of transferring the drainage and flood control provisions of the *Local Government Act* to either the new *Water Resources Act* or the proposed *Local Government (Lands) Act*;
- * continued participation of local government representatives, with appropriate expertise in water management, on Catchment Water Management Boards; and
- * retention of Councils' existing powers to make by-laws relating to the care and protection of Council property, including watercourses passing through Council land.

The paper also envisages that Councils, as well as the Catchment Water Management Boards, will be required to prepare water management plans for their council area. These water management plans are likely to be directly linked to Development Plans prepared under the *Development Act*

The paper identifies significant opportunities for local government to participate in water resources management, and to link this extremely important issue with development control and related local policies. Any submissions to the paper may be directed to the Director of the Water Resources Group, DENR.

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VICTORIA

Flora and Fauna Guarantee Act 1988

The Department of Natural Resources and Environment has, for the first time, utilised its powers under section 11 of the Act to declare a critical habitat.

The declaration was made on May 4, 1996 over a nine hectare site in Altona in the inner western suburbs of Melbourne. The area was declared in an effort to protect the environment of the small golden moths orchid (*Diuris lanceolata*).

The land had been approved by the local council for subdivision. The Department has also taken action in

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the Administrative Appeals Tribunal to have the approval revoked.

Industrial Waste Strategy Review

The EPA has established an advisory committee drawing from key stakeholders in business, industry, environment and government, to assist in its review of the Industrial Waste Strategy.

The Strategy was released in 1986 and provides a framework for the proper management of hazardous industrial wastes and recommends statutory and non-statutory measures to control industrial waste.

The EPA has released a scoping and issues paper which lists the key issues to be discussed between the EPA, the advisory committee and the interested members of the general public, business and the industrial community. These issues include:

- * maintaining past gains;
- * promoting cleaner production;
- * promoting product stewardship (including how to best encourage the widespread adoption of whole of life cycle and product stewardship approaches to manufacturing);
- * how to best identify and encourage possibilities to maximise environmentally sound opportunities for reuse and recycling of hazardous industrial waste to make them industrial resources;
- * viable waste treatment/disposal industry;
- * regulatory safety nets (how effective has the range of statutory controls over industrial waste been in the last 10 years and to what extent can reliance be placed on the market mechanisms in self-regulation?);
- * community right to know;
- * managing the risks (what are the environmental risks associated with various waste industry activities and how effectively are they being managed?);
- * interstate movement of waste;
- * nationally consistent approaches.

The review will not examine the management and operation of the sewage system. A separate review of trade waste acceptance standards is already being undertaken under the auspices of Melbourne Water. The review will address biomedical wastes as these wastes are now subject to the controls in the *Environment Protection Act* 1970.

The EPA will work with the advisory committee to prepare a revised draft strategy to form the basis for public consultation.

Best Practice Environmental Management

The EPA has recently released two new publications as part of their series on best

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practice environmental management (*BPEM*). The first concerns guidelines for waste water reuse.

The BPEM approach used by the EPA seeks to promote innovative uses of waste water by focusing on desired objectives and outcomes rather than regulatory control. This is a change from the prescriptive regulation of waste water reuse under the *Health (Use of Waste Water) Regulations 1985*.

The guidelines provide discharge, deposit and operating specifications for the use of wastewater in any effluent reuse scheme or activity. They apply to both the public and private sectors but do not apply to the onsite treatment and reuse of effluent from septic systems already covered by Section 53M of the *Environment Protection Act 1970*.

Wastewater reuse schemes which are implemented in accordance with these guidelines will be exempt from the works approval and licensing requirements under the Act. Reuse in accordance with industry specific guidelines acceptable to the EPA will also be exempt. In all cases, the relevant *State Environment Protection Policy* must be complied with.

The second publication is entitled *Environmental Guidelines for Major Construction Sites*.

These guidelines aim to provide developers and contractors with a framework for implementing sound management practices which minimise the likelihood of environmental impacts, reduce the prospect of nuisance to individuals residing nearby and eliminate health risks associated with major construction projects. The emphasis in the guidelines is on prevention of any environmental impacts which are associated with the project. Information is provided in relation to minimising and avoiding problems at the early stages of development of the project. Whilst the guidelines have no legislative force, the approach of the EPA emphasises the need for a major construction company to consider the environmental effects that the project can potentially have. The guidelines are said to provide a framework within which the obligations of due diligence can be met and reflect the EPA's approach to encouraging a pro-active approach to environmental management by industry. The EPA notes that it is happy to accept any comment that industry personnel have in relation to the guidelines.

Port Services Act 1995

This Act was assented to on November 28, 1995 and is now largely in operation.

Pursuant to Part 12 of the Act, the EPA is now the responsible authority for the enforcement of marine pollution provisions of the *Pollution of Waters by Oil and Noxious Substances Act 1986*.

The amendments to the *Pollution of Waters by Oil and Noxious Substances Act* allow the EPA to investigate

and prosecute marine pollution incidents and audit documents that are required to be kept.

The amendments also make it clear that the EPA will be responsible for the following:

- * Discharges of oil or oily mixtures from ships;
- * Oil residues remaining on ships;
- * Reporting of oil discharges;
- * Maintenance of oil record books;
- * Discharge of garbage;
- * Directing the provision of reception facilities.

Heritage Act 1995

The *Heritage Act 1995* has become almost fully operational from May 23, 1996, replacing the old *Historic Buildings Act* and *Historic Shipwrecks Act*. The new Act establishes a single heritage register and a new Heritage Council of 10 members.

The Register incorporates a wide range of protected items including buildings, gardens, trees, shipwrecks and so on. A new Heritage Fund replaces the previous Historic Buildings Fund. The Council is empowered to issue Interim Protection Orders operating for up to four months. Supreme Court restraint and remedy powers are retained.

Despite the proclamation of the new Act, the Regulations supporting the Act are still in draft form and the subject of public comment. A likely focus of debate on these Regulations is the level of fees involved in nominating an item for the Register. The practical operation of the Act seems somewhat uncertain until the Regulations are finalised and gazetted.

SEPP on Contamination of Land from Wastes and Chemical Substances

The Victorian EPA has recently formed a working party to consider the development of a State Environment Protection Policy which relates to the contamination of land by wastes and chemical substances.

While it is in its early stages of development, the proposed SEPP will address a number of issues relating to the contamination of land from these substances. The working party, which comprises a number of consultants, practitioners and lawyers, will discuss broad background issues relating to the contamination of land from wastes and chemical substances and will develop a framework for addressing these issues.

It is believed that a draft SEPP will be available for public comment later this year.

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