

The Bill also introduces a rebate scheme as an incentive to recover valuable material from the waste stream. Where materials which have been sent to a landfill can be recovered and recycled within twelve months of being deposited, the landfill operator will receive a rebate on the amount of material recovered, equal to the levy which applied at the time the material was recovered.

To allow for proper calculation of the rebate, appropriate record keeping obligations are also introduced. Landfill operators will also be required to keep records of the broad categories of waste they take in to enable the EPA to better understand the waste stream.

### **Regional Waste Management**

The role of Regional Waste Management Groups is clarified by the Bill to ensure the functions of the Groups are consistent with EPA policies and strategies.

Under the Bill, Regional Waste Management Groups will be responsible for implementing the strategies established by Ecocycle Victoria. Groups will also receive a direct payment from the Landfill Levy to support their operations. The payment will consist of a core amount distributed equally amongst the Groups with a variable amount based on the number of municipalities in the region.

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### **Industrial Waste Strategy Review**

The EPA has released a draft Strategy "Zeroing in on Waste : Pathways to Cleaner Production" as part of its review of the 1986 Industrial Waste Strategy. The focus of the review is the waste streams generated by Victorian industry, particularly the most hazardous wastes prescribed by regulation, with the focus continuing on measures to minimise the generation of wastes and the management of residual solid and liquid waste streams. The draft Strategy also deals with liquid waste streams which currently go to sewer, including a large proportion of water-based, biodegradable wastes such as laundromat waste and food processing wastes, heavy metal wastes from processes such as metal finishing, and other liquid wastes from some chemical processes. The draft Strategy focuses on the role of the water industry in working with trade waste generators to promote cleaner production and to minimise the risk of eventual discharges to the environment posed by inputs of industrial waste to the system.

The draft Strategy outlines key issues and proposed strategies to deal with these issues within a 10 to 15 year timeframe. The draft Strategy has two interdependent goals:

- \* ongoing protection of human health and the environment;
- \* promotion of sustainable industry.

To achieve these goals three broad strategic approaches are set out:

- \* **Cleaner production is better production.**

Strategic Objective: To achieve the widespread avoidance of waste by encouraging and facilitating the adoption of cleaner production practices and technologies.

- \* **Wastes are unrecognised resources.**

Strategic Objective: To achieve significant further gains in re-use, recycling and energy recovery.

- \* **A viable waste management industry is essential to the health of our industries and our environment.**

Strategic Objective: To improve the management of residual waste streams.

Within each of these strategic contexts, the draft Strategy identifies a range of mechanisms to promote and facilitate change drawing extensively upon concepts of cleaner production and product stewardship. The draft Strategy has been released as the basis for public consultation, the period for which closes on December 31, 1996. A final Strategy will then be prepared for consideration by Government in early 1997.

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## **WESTERN AUSTRALIA**

**I**n recent months there have been a number of significant developments in the policy area as well as some judicial and statutory developments.

### **New Policy Developments**

#### **Coastal Planning & Development Policy**

In August, the Western Australia Planning Commission released a discussion paper for public comment titled "Towards a Policy Framework: Coastal Planning and Development in WA". The discussion paper reads very much like a draft statement of policy.

The policy statement applies to the area of the coastal zone including beaches, coastal vegetation communities, estuaries, shorelines, near shore waters, foreshore open space and land within the coastal viewshed. It addresses issues of:

- \* urban and tourism development,
- \* land use, including coastal industries, coastal access and off-road use of motor vehicles, and
- \* conservation, including reserves and maintenance of distinctive visual character and coastal cultural

heritage.

The formal period for public comment closed on October 29, 1996. Submissions are now being processed by the Ministry for Planning. During the first half of 1997, the reworked statement and public submissions will be presented for the consideration of the Coastal Zone Council (a subcommittee of the WA Planning Commission) and final adoption by the WA Planning Commission. The policy will be applied at least internally by the Commission. A further statement of the policy may be developed for external application.<sup>1</sup>

## State Planning Strategy

In November the WA Planning Commission released its draft *State Planning Strategy* ("SPS"). The SPS report is open for public submission until February 28, 1997.

The SPS has been prepared pursuant to the *Western Australian Planning Commission Act* 1985, s.18(1)(b), which provides that the SPS will be "a basis for co-ordinating and promoting regional land use planning and land development and for the guidance of Government Departments and instrumentalities and local authorities on those matters". There is otherwise no statutory statement of procedures to be followed either in the preparation or adoption of the SPS or of the content of the SPS. The Commission has engaged in an extensive process of public consultation on the preparation of the SPS, releasing 8 discussion papers on the following issues this time last year: population, the community, transport, public utilities and services, the economy, environment and natural resources, managing growth and the regions.

The draft SPS has six basic chapters:

1. Introduction, addressing the purpose and structure of the Strategy Report;
2. Driving Forces which influence land use planning; eg. population, economy and environment;
3. Implementing the Strategies;
4. Principles and Actions;
5. Regional Issues and Actions; and
6. Conclusions and Recommendations.

What is significant about the SPS report is that it does something which is abysmally lacking in the planning legislation of this State: it addresses the issues of sustainable development. The proclaimed core of the SPS is a set of five principles to guide future decision making throughout government, the first enunciated of those principles being the environmental principle: "to protect and enhance the key natural and cultural assets of the State and deliver to all Western Australians a high quality of life which is based on sound environmentally sustainable principles" (I suggest that the Commission needs to reconsider the expression of this principle - "based on sound principles of environmental sustainability" would make more sense.) The SPS report then identifies strategies and actions to

implement the environmental principle. The strategies include:

- \* increasingly use energy sources which have minimal impact on the environment;
- \* prevent further loss in biodiversity;
- \* ensure that air quality is protected;
- \* ensure that water resources are conserved and their quality protected;
- \* ensure that land and soil is safeguarded and that degradation does not occur;
- \* reduce consumption of materials and promote recycling;
- \* promote management and protection of resources;
- \* protect landscape, open space and public access;
- \* enhance the quality of life for all Western Australians; and
- \* protect the State's cultural heritage.

This catalogue of strategies reveals a new direction for the role of planning in WA. The SPS comments:

One of the key roles of the WAPC is co-ordination of land use planning. This role is very important in resource management. Environmental issues, such as biodiversity conservation and addressing land degradation, are largely a question of continuing management requiring the co-operation of resource managers and landowners. The WAPC should not necessarily take a dominant role in decision making, but it needs to take the lead in bringing agencies together where the statutory powers may lie elsewhere (such as the power to grant water extraction licences or control clearing).<sup>2</sup>

This co-ordinating function of the WAPC will be enhanced by the creation in 1996 of statutory duties for both the WAPC and local authorities to consult "such public authorities and persons as appear to be likely to be affected" by a proposed planning scheme or amendment.<sup>3</sup> The co-ordinating role and duties of consultation will, at least, ensure that planning authorities will have to consider the environmental and natural resources management issues being confronted by other regulatory agencies. One wonders, however, whether this will be sufficient to ensure that the planning decisions adequately provide for the management of those issues.

In this regard, it is notable that one of the recommendations of the SPS is that the current planning legislation be reviewed with a view to preparing a single consolidated and updated *Planning Act*, and that the

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<sup>1</sup> I am grateful for the information about the development of the policy provided by Allan Carmen-Brown of the Ministry for Planning.

<sup>2</sup> *Ibid*, p 27.

<sup>3</sup> *MRTPS Act* s.33(2)(e) and *TP&D Act* s.7(2aa), both inserted by the *PLA Act* 1996, ss.29 & 44.

review investigate the potential for simplification and greater integration of land use planning and approval processes.

[The NELA (WA) Committee is considering preparing a submission on the SPS report. Any member interested in contributing to the preparation of the submission should contact Mr Glen McLeod, President NELA (WA), at Mallesons Stephen Jaques, on ph 09 269 7000; fax 09 269 7999]

## Salinity Action Plan

Also in November, the State Government released its "Salinity Action Plan" The Plan provides the strategy to guide a promised \$40 million of expenditure annually on tackling salinity. The strategy is based on the use of regionally adapted perennial woody vegetation to reduce rising water tables which have brought saline groundwaters to the surface of many parts of Western Australia cleared for agriculture. The Plan advocates the provision of technical and information assistance to landholders to promote the retention of native vegetation and planting of appropriate introduced and agricultural vegetation. Although this strategy requires the extensive adoption of catchment and property plans, the Plan is most notable for its lack of any reference to legal mechanisms to facilitate these planning processes.

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## NEW ZEALAND

### OECD Environmental Performance Report

Aspects of New Zealand's environmental management have been criticised in an OECD Country Performance Review on environmental management released last month. The report considers New Zealand's performance in environmental management, integration of policies and co-operation with the international community. Reviews are conducted on about a four yearly cycle.

While New Zealand was considered to have developed a coherent approach to safeguarding its natural resources through the *Resource Management Act*, the report suggests that more Government effort is required to effectively implement the Act. It also criticises a lack of data on whether environmental targets are being met.

The report expresses particular concern with the management of the energy sector and recommends:

- \* That the government continue to use and expand the use of quantitative targets for environmentally related energy objectives, particularly with respect to energy efficiency, car emissions and greenhouse gas emissions; choose dates by which these targets are to be reached, specify who is responsible for

achieving them and indicate how the public can verify their accomplishment.

- \* That the polluter pays and user pays principles be further implemented through the use of economic instruments and water, electricity and road pricing.

Commenting on the release of the report, the Minister for the Environment, the Hon. Simon Upton, said that it made some very useful observations and offered recommendations to improve environmental management. However, the Minister noted that it was over 15 months since the review team visited New Zealand. In the intervening period, a significant number of issues identified by the review had been acted upon. These are summarised in an "update of Actions" produced by the Ministry.

## Resource Management Act 1996

The *Resource Management Amendment Bill (No 4)* (as reported in AELN 3) was approved by Parliament prior to the General Election and became the *Resource Management Amendment Act 1996*. The most important changes introduced by the Amendment Act are:

- \* Current transitional regulations which lapsed on September 30 1996 were extended. These regulations are required to exempt controls in the RMA over activities on rivers and lakes, and minor discharges to air and land, until regional plans are in place. If not extended, commercial activities on rivers and lakes and minor discharges to air and land would have required resource consents.
- \* The Planning Tribunal became the Environment Court, and Planning Tribunal Judges (whose numbers have been increased from 5-8) are now Environmental Judges. There is now the ability for "any person representing some relevant aspect of the public interest" to give notice that he or she wishes to be heard on an appeal or reference. This extends the right of parties to appear in such proceedings where they had not lodged a submission.
- \* With the parties consent, Environment Commissioners are able to hear and determine proceedings without an Environment Judge being present.
- \* The creation of a new category of "infringement offences" which are minor offences prescribed in regulations. The rationale for "infringement offences" is that the prosecution of minor offences has become cumbersome and costly.
- \* An infringement notice may be served by an enforcement officer with a maximum fine of \$1,000.
- \* The new Act inserts a new section 10B which provides that the notification of a proposed plan has no impact on building works where a building