

relevant regulation made pursuant to the NVC Act (there are currently no regulations). No further consent need be obtained where the landholder has an authority to clear protected land under the Soil Conservation Act 1938. However, such an authority is subject to the NVC Act's provisions.

The Act also provides for property agreements between landholders and the Government. Property agreements, unless expressly stated, do not operate to exclude development consent requirements for clearing native vegetation protected land. These agreements are enforceable and, once registered, become binding on successors in title to the relevant land.

Under the Act, the Director General of the Department of Land and Water Conservation can cause stop-work and remedial orders to be issued to prevent and remedy contravention of the NVC Act. Failure to comply with an order is an offence under the Act and incurs a maximum penalty of \$110,000 and an \$11,000 daily penalty (the maximum penalties provided for offences under the Act).

The Act makes specific provision for corporate offences and establishes that directors and managers of corporations are potentially liable for the same offences unless they can establish certain statutory defences. The most practical defence is exercising due diligence to avoid the contravention. Appeal is available to the Land and Environment Court.

NSW Coastal Policy 1997

The 1997 NSW Coastal Policy focusses on the need to reconcile the rapid population growth currently being experienced in coastal areas with the need to conserve what remains of valuable ecosystems. The policy's central focus is the ecologically sustainable development of the NSW coastline.

This focus is reflected in a large number of strategic actions relating to coastal planning and management, including identification and facilitation of potential opportunities across all industry sectors for the sustainable use and development of coastal resources and future residential development. It also requires development proposals to conform with specified design and planning standards to control height, setback and scale to ensure

public access and that beaches and foreshore open spaces are not overshadowed.

The definition of the coastal zone adopted for the 1997 policy has been expanded from the 1990 Coastal Policy, to include coastal estuaries, lakes, lagoons, islands and rivers. The policy applies to both urban and non-urban areas along the NSW coast outside the Greater Metropolitan Region. In urban areas, the policy applies to all new developments and publicly owned lands. The policy, however, has no impact on the existing use rights of residential (or other) developments, nor does it apply in the urban areas of the Sydney, Newcastle, Illawarra and Central Coast regions.

The 1997 Coastal Policy is Government policy and all New South Wales State Government agencies and local councils are obliged to take account of it when preparing their own policies and programs. The Coastal Council will monitor and review implementation of the Coastal Policy. A range of mechanisms exist to remedy non-compliance with the policy, including the ability to "call-in" development proposals under s.101 of the *Environmental Planning and Assessment Act 1979* for determination by the Minister for Urban Affairs and Planning, and the use of stop work and conservation powers by the Minister for the Environment under the *National Parks and Wildlife Act* and *Threatened Species Conservation Act*. The EPA may also issue and enforce licences and, if necessary, prosecute under the *Environmental Offences and Penalties Act*.

SOUTH AUSTRALIA

Water Resources

Following a lengthy review by the South Australian Department of Environment and Natural Resources (now the Department for Environment, Heritage and Aboriginal Affairs), the new *Water Resources Act 1997* came into operation on 2 July 1997.

This Act is a significant reform of the supply and management of South Australian water resources. The Act repeals the *Water Resources Act 1991* and the *Catchment Water Management Act 1995* and implements a comprehensive regime for managing of water resources and catchments.

Since the Act came into operation, three new catchment water management boards have been established for the River Murray, Onkaparinga River and Northern Adelaide and Barossa catchment areas. These boards complement the existing Torrens and Patawalonga Catchment Water Management Boards that were established under the now repealed *Catchment Water Management Act 1995*.

The Act provides that a person must not take water from a prescribed watercourse, lake or well or take water from a prescribed surface water area unless authorised under the Act. Nor can a person take water from a water course, lake or well or surface area that is not prescribed, in contravention of a water plan that applies to the water.

Furthermore, a person must not conduct works in relation to a well, dam, wall or other structure affecting water and in certain other situations unless authorised by a permit or water licence, nor may a person undertake a range of activities which can affect water resources contrary to a water plan, such as taking or removing streamside vegetation.

The Act provides for licensing and allocating water from prescribed water courses, lakes and wells to users, and sets up a framework of water planning whereby a State Water Plan ("South Australia - Our Water, Our Future" signed by the Minister for the Environment in 1995) is made and Catchment Water Management Plans, which must be consistent with the State Plan, are developed by catchment water management boards. The local councils must act in accordance with these plans.

In addition to the preparation of Catchment Water Management Plans for these areas, Water Allocation Plans are now being prepared for all prescribed water resources in South Australia. As required by the provisions of the *Water Resources Act 1997*, the preparation of these plans is being undertaken by the SA Department of Environment and Natural Resources (now the Department for Environment, Heritage and Aboriginal Affairs) in consultation with the community.

New Departmental Structure for the SA Department of Environment and Natural Resources

In January 1998, the South Australia Department of Environment and Natural Resources announced a new Departmental structure and name. The Department has been amalgamated with the South Australian Department of State Aboriginal Affairs to form the new Department for Environment Heritage and Aboriginal Affairs (DEHAA). The Chief Executive of DEHAA is John Scanlon.

The Department is to be restructured around 6 main divisions:

- Corporate Strategy and Business Services;
- State Aboriginal Affairs;
- Environment Protection Agency;
- Environment Policy;
- Heritage and Biodiversity; and
- Resource Information.

It is anticipated that the restructure will be implemented by the end of May 1998.

Disposal Criteria For Contaminated Soil

In November 1997, the South Australian Environment Protection Authority released a Technical Bulletin on disposal criteria for contaminated land. The Bulletin sets out guidelines for complying with the general environmental duty under section 25 of the *Environment Protection Act 1993*. It includes a definition of the categories of Contaminated Soils, the principles for the Remediation of Contaminated Sites, and principles for the Transportation of Contaminated Soils.

EPA Releases Two New Information Sheets on Noise and Burning on Domestic Premises

In March and April 1998, the SA EPA released two new information sheets on noise and burning on domestic premises. These information sheets follow on from those released at the end of 1997 relating to the assessment procedure for contaminated sites, the pollution prevention fund and the disposal and use of detergents. Copies of the information sheets can be obtained by contacting the Information Officer, EPA on phone 08 8204 2004.

Draft Stormwater Pollution Prevention Code of Practice for Industrial, Retail and Commercial Premises

Following the release of the Stormwater Codes of Practice for Local, State and Federal Government and the General Community in 1997, the South Australian EPA has released its Draft Stormwater Pollution Prevention Code of Practice for Industrial, Retail and Commercial Premises. The primary role of the Draft Code is to assist industry in South Australia achieve the general environment duty under section 25 of the *Environment Protection Act 1993*. The Code will ultimately be linked with an Environment Protection (Water Quality) Policy. Submissions on the draft Code of Practice close on 31 July 1998.

The Adelaide Planning Strategy

In January 1998 a new Planning Strategy was released for metropolitan Adelaide to guide development. In particular, "...it seeks to guide and coordinate State Government activity in construction and the provision of services and infrastructure which influence the development of South Australia". Further, the Planning Strategy aims at integrating economic, social and environmental actions, and "reaching outcomes which are mutually beneficial and reinforce each aspect".

The new Planning Strategy represents current State Government objectives for development, namely to:

- achieve an economic growth rate which will provide jobs for all who want to work;
- provide one of the most attractive business environments in the Asia Pacific region;
- encourage enterprises which are responsive to international demand;
- provide effective investment mobilisation;
- attract the region's most productive and innovative people;
- achieve effective infrastructure, and encourage sustainable use of natural resources.

Key priorities of the new Planning Strategy include:

- protecting water and air quality;

establishing environmental protection standards and policies;
regulating waste management and reducing waste production;

- protecting the coast;
- developing innovative, convenient and safe public transport;
- improving opportunities for cycling, and
- reducing the demand for fringe growth.

Importantly, the new Planning Strategy has a section dealing with the State Government's goals and priorities for the management and use of natural resources, and another section considering the issue of urban renewal and growth.

Environment Protection (Vessels on Inland Waters) Policy

On 8 January 1998, the *Environment Protection (Vessels on Inland Waters) Policy, 1998* became an authorised environment protection policy under the *Environment Protection Act, 1993 (SA)*. The Policy seeks to regulate the discharge of waste from boats, yachts, ships and other vessels.

The Policy makes it an offence for:

- vessels of particular types to be used unless all waste brought onto, or produced on, the vessel is stored in a container from which it cannot escape and the vessel is fitted with a suitable toilet that is connected to a holding tank (subject to a limited exception);
- owners or persons in charge of other vessels to use their vessels unless they ensure that no garbage grinder is brought onto or kept on the vessel. Any container used to store waste on the vessel must be sealed, and any portable toilet must provide for waste portable toilets that do not retention and must be in working order;
- provide for waste retention and garbage grinders to be brought onto or kept on the vessel.

A person who intentionally or recklessly contravenes any of the above mandatory provisions of the Policy will be guilty of an offence and liable for a fine of up to \$30,000.
A person who otherwise contravenes any of

the above mandatory provisions of the Policy will be guilty of an offence and liable for a fine of up to \$4,000.

Water Resources Act 1997

This Act is a significant reform of the supply and management of South Australian water resources. The Act repeals the Water Resources Act 1991 and the Catchment Water Management Act 1995 and implements a comprehensive regime for managing of water resources and catchments.

The Act provides that a person must not take water from a prescribed watercourse, lake or well or take water from a prescribed surface water area unless authorised under the Act. Nor can a person take water from a water course, lake or well or surface area that is not prescribed, in contravention of a water plan that applies to the water.

Furthermore, a person must not conduct works in relation to a well, dam, wall or other structure affecting water and in certain other situations unless authorised by a permit or water licence, nor may a person undertake a range of activities which can affect water resources contrary to a water plan, such as taking or removing streamside vegetation.

The Act provides for licensing and allocating water from prescribed water courses, lakes and wells to users, and sets up a framework of water planning whereby a State Water Plan ("South Australia - Our Water, Our Future" signed by the Minister for the Environment in 1995) is made and Catchment Water Management Plans, which must be consistent with the State Plan, are developed by catchment water management boards. The local councils must act in accordance with these plans.

VICTORIA

New Waste Regulations

New Environment Protection (Prescribed Waste) Regulations commenced on 22 July 1998, replacing the earlier Environment Protection (Prescribed Waste) Regulations 1987 and Environment Protection (Transport) Regulations 1987, which expired on the same date.

The Regulations designate various categories of waste as prescribed wastes, for the purposes of the *Environment Protection Act 1970* and associated regulations, and establish a system of controls over the management of these wastes.

Key elements of the new regulations include:

- a schedule of prescribed waste and prescribed industrial waste, based on the earlier list in the 1987 regulations, but brought up to date and made to be compatible with the proposed National Environment Protection Measure (NEPM) for the Movement of Controlled Waste Between States and Territories;
- requirements that certain industrial waste producers supply information to the EPA, including annual summaries of the type and quantity of waste transported from their premises and its destination, whether it was transported for storage, treatment, disposal, re-use, recycling or for recovery of energy and the type and quantity of waste disposed of on their premises.;
- requirements for the transport of prescribed industrial waste, including a tracking system based on transport certificates, broadly similar to the scheme under the former regulations but now requiring waste receivers to advise the waste producers of receipt of their waste. The waste producers become responsible for ensuring that their waste is received by an appropriate receiving facility.
- exemptions from the transportation requirements and those sections of the *Environment Protection Act* requiring licensing, works approvals and financial assurances of schedule 4 premises. Exemptions are intended principally to encourage waste re-use, recycling or energy recovery from waste; and
- an accreditation system for waste producers who have a management system to ensure waste is consigned and transported to a waste receiver in a way which does not result in an unacceptable risk of damage to the environment.

The stated objectives of the new regulations are to:

- meet community expectations by providing an appropriate level of protection to the environment;