

Government to refrain from passing Commonwealth legislation or taking other action that might seek to override the Act and facilitate the development of a nuclear facility in Victoria.

It is worth noting that legislation has been introduced or enacted in other states seeking to, amongst other things, prohibit the construction or operation of nuclear facilities. Please see the *Nuclear Facilities Prohibition Act 2007* (Qld), the *Uranium Mining and Nuclear Facilities (Prohibitions) Bill 2006* (Tas) and the *Nuclear Facility (Prohibition) Bill 2007* (SA).

### UPDATES IN WATER LEGISLATION \*

#### **Critical Water Infrastructure Projects Bill**

The *Water Amendment (Critical Water Infrastructure Projects) Bill 2006* was introduced to the Legislative Assembly on 19 December 2006. The Bill proposes to amend the *Water Act 1989* to facilitate critical water infrastructure projects.

The Bill confers power on the Premier to make a “critical water infrastructure project” order on the recommendation of the Water Minister, after the Minister has consulted with the Treasurer and the Planning Minister.

Once a project is declared to be a critical project, the Planning Minister becomes the responsible authority, rather than the Local Council, under the *Planning and Environment Act 1987* for any planning scheme relating to a project area. The Bill also provides that, where a facilitating authority exercises the power for the purposes of a critical water infrastructure project, s 3(3) of the *Land Acquisition and Compensation Act* would not apply where there is any inconsistency with Part 7B of the *Water Act*. This means that water authorities can compulsorily acquire land without having to first amend the relevant planning scheme.

The Bill ensures that a “facilitating authority” specified in an order would be able to carry out construction of works for a critical water infrastructure project, to operate these works, and to enter into any relevant agreements. The power granted to a facilitating authority is not restricted, and extends to any function outside its district for the purposes of a critical water infrastructure project without the approval of the Minister. Unless otherwise stated, a facilitating authority is the owner of the works relating to the project.

While arguably the same result could have been achieved through the existing provisions in the *Planning and Environment Act 1987*, the Bill streamlines the processes and seeks to ensure that critical water projects, such as the “goldfields super pipe” that brings Bendigo and Ballarat into the Goulburn catchment can be facilitated without administrative delay.

### DISCUSSION PAPER ON PROPOSED REGULATORY CHANGES TO PROMOTE INDUSTRIAL WATER RE-USE \*

Under the Victorian Government White Paper *Our Water Our Future* Actions 5.42 and 5.43, the Environment Protection Authority (EPA) and the Department of Human Services (DHS) were

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As part of the first phase of the review, in February 2006, a Discussion Paper (A Framework for Alternative Urban Water Supplies) was released providing recommendations for the safe and sustainable use of rainwater, stormwater, greywater and treated sewage in urban areas.

As part of the second phase of the review, the State Government released a further discussion paper, *A Framework for Alternative Urban Water Supplies: Industrial Water*, which provides recommendations for the safe and sustainable use of industrial water. Submissions on the discussion paper were due on 16 March 2007.

The recommendations for regulatory changes included the following:

1. The reuse of industrial water for industrial processes (eg cooling, material washing) will not be regulated where the reuse of industrial water is exclusively for an industrial process (on-site or off-site), although the workplace risks must be assessed and managed in accordance with the normal occupational health and safety framework and environmental risks should be managed through the *Environment Protection Act 1970*.
2. New legislation is proposed to manage environmental and health risks in relation to the non-industrial reuse of industrial water (on-site or off-site), which sets out appropriate assessment process and allows for controls to be imposed based on the level of risk.
3. During the (current) review of the *Environment Protection (Prescribed Waste) Regulations 1998*, consideration will be given to the definition of industrial water and to development of guidelines to provide guidance on managing environmental and health risks for non-industrial uses.
4. Amendments are recommended to the *Industrial Waste Management Policy (Prescribed Waste) 2000* and existing guidance to ensure consistency with the proposed changes to the *Environment Protection (Prescribed Waste) Regulations 1998*.

## WESTERN AUSTRALIA

### EXEMPTION FROM EXPENDITURE CONDITIONS AND PLAINT FOR FORFEITURE\*

*Grange Resources Ltd & Horseshoe Gold Mine Pty Ltd v George Francis Lee and Warwick John Flint* ([2006] WAMW 8)

*Application for exemption from expenditure conditions – Plaintiff for forfeiture – Mining Act 1978 (WA) s 98, s 102, Mining Regulations 1981 (WA) reg 31.*

#### Facts

Messrs Lee and Flint (“the plaintiffs” or “objectors”) lodged complaints for the forfeiture of three mining leases held by Grange Resources Ltd (“Grange”), namely M52/743 (“Horseshoe”), M52/180 (“Green Dragon”) and M52/165 (“Thaduna”).

Grange had lodged an application for exemption from expenditure conditions in respect of the Thaduna lease. The relevant expenditure year was from September 2003 to September 2004. The plaintiffs objected to the application for exemption.

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