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Legislative Changes and Proposed Legislative Changes...

VIC - Resources Legislation Amendment (Fracking Ban) Bill 2016

Status: Passed the Legislative Council 7 March 2017; Awaiting Assent.
Relevance: VIC
Industries: Energy and Resources
Keywords: Petroleum; Gas; Fracking
The Bill can be accessed here.

The Resources Legislation Amendment (Fracking Ban) Bill 2016 passed through the Upper House of the Victorian Parliament without amendment on 7 March 2017.

The Resources Legislation Amendment (Fracking Ban) Bill 2016 will:

- permanently ban all onshore unconventional gas exploration and development, including hydraulic fracturing (‘fracking’) and coal seam gas; and
- extend the moratorium on conventional onshore gas exploration and development to 30 June 2020.

The Bill amends the Petroleum Act 1998, the Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014 and the Mineral Resources (Sustainable Development) Act 1990 to implement the permanent ban of fracking and the exploration and production of all forms of unconventional gas, including coal seam gas.

The main purposes of the Bill are:

- to amend the Mineral Resources (Sustainable Development) Act 1990:
  o to prevent the exploration and mining of coal seam gas;
  o to ban hydraulic fracturing; and
  o to enable the Minister to pay for the surrender of certain mining licences, exploration licences, and retention licences for coal seam gas.

- to amend the Petroleum Act 1998:
  o to ban hydraulic fracturing;
  o to impose a moratorium on petroleum exploration and petroleum production in the onshore areas of Victoria until 30 June 2020; and
  o to enable the Minister to pay for the surrender of certain exploration permits, retention leases and production licences.

- to make consequential amendments to the Resources Legislation Amendment (BT BTEX Prohibition and Other Matters) Act 2014.

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NSW - Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017

Status: Commences 10 March 2017 (except Division 2 of Part 2 which commences 7 April 2017)
Relevance: NSW
Industries: Waste; Recycling
Keywords: Environmental Waste; Pollution; Contamination
The Regulation can be accessed here.

The object of the Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017 is to make provision with respect to the following matters in connection with the container deposit scheme established by the Waste Avoidance and Resource Recovery Act 2001:

- the beverages and containers that are excluded from the operation of the scheme;
- the refund amount payable for containers;
- the classes of persons prescribed as material recovery facility operators;
- fees for applications and approvals under the Act;
- the matters that the Minister may consider in determining whether an applicant for a Scheme administration agreement is a fit and proper person;
- the approval of collection point arrangements (including applications for approval, variation, suspension and revocation of approvals and the administrative review of decisions relating to applications and approvals);
- claims for refund amounts for containers processed by material recovery facility operators (including the methodology for determining the amounts payable, the circumstances in which refund amounts are not payable and the manner of making claims for refund amounts); and
- matters required to be included in reports prepared by the Scheme Coordinator.

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NSW - Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016

Status: Commence 16 March
Relevance: NSW
Industries: Planning
Keywords: Water Management; Planning
The Amendment Regulation can be accessed here.

The Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016 published 16 December 2016, commencing 16 March 2017, makes miscellaneous amendments to the Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002 as a result of a review of the HRS Trading Scheme Regulation by the Minister for the Environment. The HRS Trading Scheme Amendment Regulation:
- increases the thresholds at which all sectors of the Hunter River are considered to be in “flood flow” for the purposes of the tradeable emission scheme established by the principal Regulation;
- requires discharge licence holders, as a precondition to the use of credits in the scheme, to nominate an authorised discharge point to which those credits are assigned (as discharge licence holders may be authorised to discharge saline water into the Hunter River catchment from multiple authorised discharge points specified either in the one discharge licence or in multiple discharge licences);
- enables the Environment Protection Authority (EPA) to apply proceeds from auctions or sales of credits that exceed the costs of the scheme in any year towards the costs of the scheme in future years;
- repeals spent provisions of, and makes other amendments in the nature of statute law revision to, the principal Regulation; and
- requires another review of the principal Regulation as soon as possible after 10 years from the commencement of this Regulation.

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QLD - Declaration of an Approved Wildlife Trade Operation - Queensland Coral Reef Fin Fish Fishery

The Wildlife Trade and Biosecurity Branch, as Delegate of the Minister for the Environment and Energy under considered in accordance with Section 303FN of the Environment Protection and Biodiversity Conservation Act 1999 an application from the Queensland Department of Agriculture and Fisheries to harvest fish or invertebrates from the Queensland Coral Reef Fin Fish Fishery.

On 8 March 2017 the Wildlife Trade and Biosecurity Branch declared the operations for the harvesting of specimens that are, or are derived from, fish or invertebrates, other than specimens of species listed under Part 13 of the EPBC Act taken in the Queensland Coral Reef Fin Fish Fishery, as defined in the management regime for the fishery made under the Queensland Fisheries Act 1994 and the Queensland Fisheries Regulation 2008, to be an approved wildlife trade operation, in accordance with Subsection 303FN(2) and paragraph 303FN(10)(d), for the purposes of the EPBC Act.

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The Native Vegetation Regulations 2017 will commence 1 July 2017 repealing the Native Vegetation Regulations 2003.

The changes to the Native Vegetation Regulations 2017 allow for the clearance of native vegetation for activities that are routinely carried out by South Australians, such as building new homes, managing farms, upgrading or establishing new infrastructure, or making recreational trails. The Regulations seek to balance the requirements for vegetation clearance with the need to protect and restore the remaining native vegetation in South Australia.

Over time the current Regulations have become increasingly complex as new permitted activities were added, often with varying approaches to assessment and approval processes. Also, data on the clearance of vegetation undertaken under the Regulations clearly showed that the majority of applications were for very small patches or small numbers of trees (see below). Such small clearances are considered to pose a very low risk to the conservation of native wildlife, or to issues such as salinity or erosion.

Changes to the Regulations include:

- Inclusion of the mitigation hierarchy as a guiding principle for all clearance activities, which encourages proponents to consider all options for avoiding or minimising clearance, thereby reducing the impact (and where appropriate the required subsequent Significant Environmental Benefit).
- Requirements for Significant Environmental Benefits have been aligned with the requirements in the Native Vegetation Act 1991 to increase consistency and remove potential for confusion.
- Increased clarity on permitted activities:
  - Intent of activities has remained largely unchanged, however, updated definitions (e.g. for infrastructure) improve clarity on what can be cleared;
  - New activities: clearance for cultural activities by Aboriginal people; recreational trails; vehicle access tracks (greater than 5 m wide); and minor clearance;
  - Removal of clearance for fence posts;
  - An activity for maintaining existing agriculture, forestry or farming management (consistent with the previous 10 years of management) has combined three existing Regulations and requires a management plan
  - Clearance for road safety purposes has been incorporated into the roadside vegetation management activity.
- New risk assessment pathway, combined with the addition of the minor clearance activity, ensures the level of in the clearance approval process is commensurate with the level of potential impact of the clearance.
- Currently a range of agencies self-assess Regulated clearance through Standard Operating Procedures, formal Delegations or a Memorandum of Understanding.
review of the Regulations (and associated policies and guidelines) provides an opportunity to establish a single approach to reduce complexity in the system. In particular, the new Regulations do not refer to Standard Operating Procedures, however, the same functions will continue through formal Delegations to be developed with each partner agency.

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**NSW – Environmental Planning and Assessment Amendment (ePlanning) Regulation 2017**

| Status: Submissions on the Draft Regulation Close on 15 March 2017 |
| Relevance: NSW |
| Industries: Planning, Development |
| Keywords: Online Lodgement, Development Applications, Documents, Planning Portal |

The NSW Department of Planning and Environment is exhibiting a *draft Environmental Planning and Assessment Amendment (ePlanning) Regulation 2017* which if made will support online development applications across NSW.

The Amendment Regulation will attempt to streamline standards for online submissions that would remedy the current delays in applications due to the variations in document requirements.

Key changes proposed include:

- standardising the documents required to lodge applications for development so that people know what they need to provide up front. Currently, there are many variations in document requirements for development applications, which can cause delays in preparing and determining applications.
- replacing written consent with legally enforced declarations by applicants that they have permission from land owners to submit a development application
- new requirements for councils to make and consult on Development Control Plans and Contribution Plans, which will result in better access to planning information online

The draft Regulations will set up a state-wide lodgement system which will require all applicants to lodge complying development applications and development applications on the NSW Planning Portal, which currently provides information on planning and zoning controls.

If made, the Regulation will amend the *Environmental Planning and Assessment Regulation 2000*.

Other key documents are available [here](#).

Submissions close on **15 March 2017**.

Submissions can be made online here:

The Heritage Bill 2016 is set to repeal the *Heritage Act 1995* and amend the following legislation:

- Borrowing and Investment Powers Act 1987;
- Building Act 1993;
- Casino Control Act 1991;
- Cemeteries and Crematoria Act 2003;
- Criminal Procedure Act 2009;
- Delivering Victorian Infrastructure;
- Major Sporting Events Act 2009;
- Major Transport Projects Facilitation Act 2009;
- Melbourne City Link Act 1995;
- Mineral Resources (Sustainable Development) Act 1990;
- Planning and Environment Act 1987;
- Tourist and Heritage Railways Act 2010;
- Valuation of Land Act 1960; and the
- Victorian Civil and Administrative Tribunal Act 1998.

The Bill proposes to continues the effect of the *Heritage Act 1995*, with some refinements, to include higher level protection for places and objects of State-level cultural heritage significance, reduce regulatory burden, simplify key statutory processes and provide clarity and certainty for all users of the Act. The purposes of the Bill are:

- to provide for the protection and conservation of the cultural heritage of the State;
- to establish a Victorian Heritage Register for the registration of places and objects of State-level cultural heritage significance;
- to establish a Heritage Inventory for the recording of archaeological sites and approved sites of archaeological value;
- to establish a Heritage Council to perform functions in relation to cultural heritage;
- to establish a Heritage Fund to provide for the conservation and management of cultural heritage;
- to provide for the management of places included in the World Heritage List; and
• to create offences and other enforcement measures to protect and conserve cultural heritage.

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QLD - Fisheries (East Coast Trawl) (TED Requirement) Amendment Management Plan 2017

Status: Commenced 1 March 2017
Relevance: QLD
Industries: Fisheries; Primary Industry
Keywords: Sea Turtles
The Amendment Management Plan can be accessed here.


The purpose of the Amendment Management Plan is to provide greater protection for sea turtles and to reduce the ecological risks that have been attributed to trawling by ensuring that turtle excluder devices (TEDs) used in the East Coast Trawl Fishery in Queensland follow best practice.

Overlap of escape hole flaps on TEDs in excess of 380 mm when stretched can significantly impact sea turtle mortality. The current legislation requires the measurement of the overlap of double flaps to be taken when the flap material is not stretched. This results in a stretched measurement that is almost double the overlap recommended as best practice design. A non-stretched measurement is also difficult to enforce because the material can be compliant when first installed but over time it can distort and stretch, resulting in an overlap greater than 380 mm.

Maintaining best practice is important to ensure ongoing Federal Government accreditations and international export approvals. The enforcement of a stretched flap overlap measurement is necessary to retain United States (US) export accreditation. Fisheries that export wild caught prawns to US markets must use TEDs that are comparable in effectiveness to those required in the US in order to retain export accreditation.

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Open for Comment...

QLD – Consultation Open for Whitsundays Plans of Management NEW

The Great Barrier Reef Marine Park Authority is seeking comment on proposed amendments to recreational and tourism use in the Whitsundays area of the Great Barrier Reef Marine Park.

Public comment is sought on proposed amendments to the Whitsundays Plan of Management 1998, which outlines the activities that can occur in the Whitsundays in more detail than the Reef-Wide zoning plan.
Great Barrier Reef Marine Park Authority, General Manager, Simon Banks stated that the proposed amendments sought to protect the plant, animal, habitat and heritage values of the unique destination, while ensuring flexibility for people to enjoy the World Heritage Area. Mr Banks went on to state:

'The Whitsundays makes up one per cent of the Marine Park’s total area and receives more than 40 per cent of total Reef visitors, making it one of Queensland’s most important tourism destinations... Commercial and recreational use in the Whitsunday region has evolved since the Whitsundays Plan of Management was last amended nine years ago... We recognise it is a multiple-use area and the Whitsundays Plan of Management is a key tool in protecting the biodiversity of the region, as well as its beauty, to make sure we can all continue to appreciate it... Updating the plan continues to ensure effective management of this spectacular area and we’re keen to have as much input as possible into these proposed amendments.’

The proposed amendments to the Whitsundays Plan of Management 1998 are as follows:

- Updating the Plan’s values, issues and management strategies to reflect new information and future trends;
- Removing reef walking as a permitted activity;
- Further protecting seabirds at significant sites by extending no-access times for vessels and aircraft during key nesting periods;
- Offering greater flexibility with specific superyacht anchorages, more motorised water sports areas, additional scenic flight opportunities and private moorings;
- Enhancing access for cruise ships and vessels greater than 70 metres with two new anchorages near Hamilton Island and Dent Island as well as an expanded anchorage at Funnel Bay; and
- Updating descriptions of management settings from ‘buffer style’ to coordinate based for greater ease of use.

The proposed amendments to the Whitsundays Plan of Management 1998 will include consequential amendments to the Great Barrier Reef Marine Park Authority Regulations 1983. The Exposure Draft can be accessed here.

The Great Barrier Reef Marine Park Authority invites the public to make comments in connection with the amendment of the Plan and/or the amendment of the Regulations by 5pm on Friday, 7 April 2017. Copies of the proposed amendment of the Plan and amendment of the Regulations may be obtained here or from 2 – 68 Flinders Street, Townsville, Qld 4810.

**WA – Consultation on Draft Joint Management Plan**

The Department of Parks and Wildlife Western Australia is seeking public comments on the draft management plan for the Parks and reserves of the south-west Kimberley and north-west Pilbara.

The draft joint management plan covers Kurriji Pa Yajula (formerly Dragon Tree Soak) Nature Reserve, Walyarta Conservation Park and the Eighty Mile Beach coastal reserves. The creation of these new parks and reserves and the preparation of a management plan are commitments under the Western Australian Government's Kimberley Science and Conservation Strategy.
The reserves will be jointly managed with the area's traditional owners, the Karajarri, Nyangumarta and Ngarla peoples.

The draft Management Plan can be downloaded here.

Written submissions may be posted to:

Planning Branch
Department of Parks and Wildlife
Locked Bag 104
Bentley Delivery Centre WA 6983

Submissions close 31 March 2017.

 NSW - Consultation on Proposed Amendments to the Environmental Planning and Assessment Act 1979 NEW

The Department of Planning and Environment NSW is seeking your feedback on proposed amendments to the Environmental Planning and Assessment Act 1979.

in 2016, the Department undertook extensive consultation with planning stakeholders to devise improvements to the Environmental Planning and Assessment Act 1979 (the EP&A Act). As a result of this consultation, a number of amendment proposals have been developed, including:

- enhancing community participation: establishing a new part of the Act that consolidates community consultation provisions, and requiring decision-makers to give reasons for their decisions;
- completing the strategic planning framework: through local strategic planning statements, up to date Local Environment Plans and more consistent and workable development Control Plans development pathways: improvements to the various development pathways and preventing the misuse of modifications;
- state significant development: through better environmental impact assessment and more effective conditions of consent;
- clearer building provisions: simplified and consolidated building provisions, allowing conditions on construction certificates and ensuring consistency with development approvals;
- elevating the role of design: through a new design object in the act, and a Design-Led Planning Strategy; and
- improving enforcement: with the introduction of enforceable undertakings in compliance actions.

The public consultation period closes 31 March 2017.

The draft Bill can be accessed here.

A guide on the Bill can be accessed here.

Responses may be made:
online using the submission form [here](#); or

by mail to:

Planning legislation updates 2017
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

**NSW - Draft New England North West Regional Plan Open for Comment** *(NEW)*

The Department of Planning & Environment NSW is seeking comment on the Draft New England North West Regional Plan.

The draft Plan represents the next significant step in developing a regional plan that will help to meet the needs of the New England North West communities over the next 20 years.

The draft Plan will guide strategic planning across the New England North West over the next 20 years, covering council areas of Armidale, Glen Innes Severn, Gunnedah, Gwydir, Inverell, Liverpool Plains, Moree Plains, Narrabri, Tamworth Regional, Tenterfield, Uralla and Walcha.

The draft Plan will work with local councils to deliver the goals outlined in the Plan:

- A growing and diversified agricultural sector;
- A diversified economy through the management of mineral and energy resources, including renewable energy generation;
- Communities resilient to change, with housing choice and services that meet shifting needs and lifestyles;
- Prosperous urban centres with job opportunities; and
- Protected water, environment and heritage.

Comments close **20 March 2017**.

To make a submission click [here](#) or you can write to the Director Regions, Northern, Locked Bag 9022, Grafton NSW 2460.

The Draft Plan can be accessed [here](#).

**TAS - Marine Plant Draft Management Plan 2017**

The Department of Primary Industries, Parks, Water and Environment Tasmania is seeking comment on its draft Marine Plant Fishery Management Plan, which has been developed to supersede existing management arrangements for harvesting marine plants.

The Tasmanian marine plant fishery encompasses the taking of cast kelp, other cast seaweeds and introduced marine plant species including Undaria pinnatifida.
Stakeholders are invited to make written submissions to the Department by 5:00 PM on Monday, 3rd April 2017. The submissions will be considered in the final preparation of the management plan and addressed in a report to the Minister.

The draft management plan (the Fisheries (Marine Plant) Rules 2017) and Marine Plant Policy Paper which explains the proposed arrangements can be downloaded here and here. Alternatively, hard copies of the documents can be collected from the Licensing and Fisheries Monitoring Section at the Department of Primary Industries, Parks, Water and Environment located on the 1st floor of Tasplan House, 1 Franklin Wharf, Hobart or by contacting the Department on 03 6165 3028.

Responses must be in writing. To register a submission, please write to:

The Secretary  
Attention: Greg Ryan  
Wild Fisheries Management Branch  
Department of Primary Industries, Parks, Water and Environment  
GPO Box 44  
HOBART TAS 7001

Or by email to:

greg.ryan@dpipwe.tas.gov.au

WA – EPA Seek Feedback on Tyre Resource Recovery Facility

The Environmental Protection Authority WA (EPA) is seeking feedback on a Tyre Resource Recovery Facility, which is being proposed Elan Energy Matrix Pty Ltd (Elan).

Elan is proposing to develop a Tyre Resource Recovery Facility, at Lot 60, 9 Fargo Way, Welshpool in the City of Canning. The Proposal involves processing of shredded end of life tyres using a Thermal Conversion Unit (TCU) to recover char, steel wire and oil.

A Public Environmental Review Document (PER) has been prepared by Strategen Environmental in accordance with Western Australian Government procedures and is released for public review.

The PER describes the proposal, examines the likely environmental effects and the proposed environmental management procedures associated with the proposed development.

Copies of the PER are available for download from www.epa.wa.gov.au or the proponent's website at www.elanem.com.au

The EPA prefers submissions to be made online.

Alternatively, submissions may be:

Posted to:
The Chairman,
Environmental Protection Authority,
Locked Bag 10,
East Perth WA 6892; or

Delivered to:

The Environmental Protection Authority,
Level 8, The Atrium,
168 St Georges Terrace, Perth,

If you have any questions on how to make a submission, please call the OEPA on 6145 0800 or email: info@epa.wa.gov.au


CTH – Consultation on Eligibility for Exemption from Cost Recovery Fees for Environmental Assessments

The Department of the Environment and Energy has released a consultation paper on the definition of ‘small business’ and eligibility for exemption from cost recovery fees for environmental assessments under the Environment Protection and Biodiversity Conservation Act 1999.

The Department is seeking comments on the preferred method for determining which businesses should be exempt from cost recovery fees.

The consultation paper sets out that nine mining projects and ten infrastructure developments have received the small business exemptions since 2014, and questions whether all of these were plausible.

Currently, fee exemptions are granted via a self-assessment process where businesses prove that they have an aggregated annual turnover of less than $2 million. The consultation paper offers five options for determining whether the fee exemptions should be granted, one of which include maintaining the status quo.

The policy rationale for the exemption from fees for small businesses (and individuals) is that:

- small businesses have lower revenue than large businesses, which means they will be disproportionately impacted by cost recovery fees;
- cost recovery fees may provide a disincentive for small businesses and individuals to refer their project to the Minister; and
- the cost to the Government of increasing compliance to investigate non-referred projects would potentially be greater than the cost to the Government of granting exemptions to small businesses and individuals.

The definition of small business for the purpose of cost recovery is specified at Regulation 5.12A in the Environment Protection and Biodiversity Conservation Regulations 2000. It is linked to the definition of small business entities under section 328-110 of the Income Tax

Assessment Act 1997 (ITAA 1997) (other than section 328-110(4)) and relates to businesses that have aggregated turnover of less than $2 million in the current or prior year (Commonwealth of Australia, 2016). A proposal to amend this section of the ITAA 1997 is currently before Parliament to increase the aggregated turnover threshold to less than $10 million.

Given the proposed increase in the aggregated turnover threshold it is sensible for the Department to:

- consider the implications of a revised ITAA 1997 definition;
- re-examine the public value intent of the fee exemption policy;
- identify existing policy outcomes; and
- explore alternative options for a new definition of small business.

The call for public comments is open from **Wednesday 1 March 2017** until **Tuesday 28 March 2017**.

Please submit your comments to:

environment.protection@environment.gov.au

The consultation paper can be accessed [here](#).

**NSW – Status and Issues Papers Released for Eight Water Resource Plans**

The NSW Department of Primary Industries - Water has released status and issues papers for eight water resource plans.

Each plan must meet the minimum requirements of the *Commonwealth Water Act 2007* and Basin Plan. Each plan:

- Describes all water rights in the plan area.
- Demonstrates how compliance with the Sustainable Diversion Limit (SDL) prescribed in the Basin Plan will be assessed and maintained.
- Includes a Water Quality Management Plan.
- Provides for environmental watering.
- Addresses risks to water resources identified in a risk assessment.
- Explains how essential human needs will be met in extreme events.
- Takes account of Aboriginal people’s water dependent cultural values and uses.

Status and issues paper have been released for:


Comments can be emailed to: murrumbidgee.sw.wrp@dpi.nsw.gov.au

Or posted to:
DPI Water PO Box 829,  
Albury NSW 2640

- Barwon-Darling Watercourse surface water (SW12) Water Resource Plan  

  Comments can be emailed to: barwondarling.sw.wrp@dpi.nsw.gov.au

  Or posted to:
  
  DPI Water, PO Box 68,  
  Armidale NSW 2350

- Namoi & Peel surface water (SW14) Water Resource Plan  

  Comments can be emailed to: namoi.sw.wrp@dpi.nsw.gov.au

  Or posted to:
  
  DPI Water PO Box 68,  
  Armidale NSW 2350

- Lachlan Alluvium (GW10) Water Resource Plan  

  Comments can be emailed to: lachlan.gw.wrp@dpi.nsw.gov.au

  Or posted to:
  
  DPI Water PO Box 829,  
  Albury NSW 2640

- Gwydir Alluvium (GW15) Water Resource Plan  

  Comments can be emailed to: gwydir.gw.wrp@dpi.nsw.gov.au

  Or posted to:
  
  DPI Water PO Box 829,  
  Albury NSW 2640

- New South Wales Border Rivers Alluvium (GW18) Water Resource Plan  

  Comments can be emailed to:
  
  nswborderrivers.gw.wrp@dpi.nsw.gov.au
Comments are open until **31 March 2017**.

**QLD – Submissions Open on End of Waste Codes**

The Queensland Department of Environment and Heritage Protection is inviting submissions about whether there is any particular waste or resource for which an end of waste code should be prepared under s160 of the *Waste Reduction and Recycling Act 2011*. Submissions are invited to ensure that the department’s resources are targeted towards the development of EOW Codes for which there is strong industry demand.

EOW Codes specify outcomes that need to be achieved in order for a waste to be deemed a resource. A waste producer may supply a waste as a resource under an EOW Code provided they have registered with the department and can comply with conditions of the Code. The form for registering under an EOW Code will be made available on this site when EOW Codes are in place.

Submissions can be made to the chief executive about any particular waste or resource for which an end of waste Code should be prepared.


Submissions can be emailed to: ISRS.Consultation@ehp.qld.gov.au

Or posted to:

Industry Sector Regulation and Support  
Department of Environment and Heritage Protection  
Level 8, 400 George Street  
GPO Box 2454  
Brisbane QLD 4001

**QLD – Discussion Paper on Container Refund Scheme Released The Queensland**

Department of Environment and Heritage Protection has developed a discussion paper in consultation with the Implementation Advisory Group on the implementation of a Container Refund Scheme for Queensland.

The scheme will start on **1 July 2018**, to tackle litter and plastic pollution and improve recycling.
Under the scheme, anyone who returns an empty eligible drink container to an approved container refund point, will receive a 10-cent refund. A network of container collection points, including permanent depots and reverse vending machines, will be set up across the state to receive the empty containers.

The discussion paper outlines implementation issues and approaches for Queensland, and is available here:


Feedback and ideas on the questions raised in the discussion paper can be provided via the online survey here:


Or by email to:

waste.paper@ehp.qld.gov.au

Or by post to:

Queensland Container Refund Scheme
Department of Environment and Heritage Protection
GPO Box 2454
BRISBANE QLD 4001

Submissions are open 20 March 2017.

More information on the Container Refund Scheme is available here:


NT – EIS for Tellus Holdings’ Salt Mine and Waste Storage Facilities Open for Comment

Tellus Holdings Ltd has released an environmental impact statement (EIS) for the Chandler Facility within the Maryvale Station Pastoral Lease, approximately 120 km south of Alice Springs and 15 km from the Titjikala community in the Northern Territory.

If approved the Chandler Facility will be an underground rock salt mine and complementary waste storage, recovery and permanent isolation facility.

Capital expenditure for the proposed facility is estimated to be around $676 million.

It is estimated that the facility would export up to 750,000 tonnes of salt product per annum. The facility would also provide for the storage, recovery and permanent isolation of up to 400,000 tonnes of waste per annum, although average volumes are expected to be significantly less than this amount (year one 30,000 tonnes, average 340,000 tonnes per annum).
Comment on the EIS is until **31 March 2017**.

Comments can be made attention to Lisa Bradley by email to: eia.ntepa@nt.gov.au

Or by post to:

NT Environment Protection Authority  
GPO Box 3675  
Darwin NT 0801

**NSW – Development and Modification Applications**

The DPE has invited public comment on various applications to develop or modify the following projects:

- **Brandy Hill Quarry Extension** (10 March 2017) – comments should be sent to the DPE by **9 April 2017**. For further information, see:  

- **Modification to Project Application - Koondrook-Perricoota Forest Flood Enhancement Project** (10 March 2017) – comments should be sent to the DPE by **31 March 2017**. For further information, see:  

- **23 York Street, Tahmoor (Saddlers Rest Pty Ltd) Planning Agreement** (7 March 2017) – comments should be sent to the DPE by **4 April 2017**. For further information, see:  

- **Orica Kooragang Island Remediation Project** (2 March 2017) – comments should be sent to the DPE by **31 March 2017**. For further information, see:  

- **Nevertire - Nevertire Solar** (23 February 2017) – comments should be sent to the DPE by **24 March 2017**. For further information, see:  

- **M2 Motorway Signage - Conversion of Existing Signage to Digital Signage - M2 Motorway - The Hills LGA** (22 February 2017) – comments should be sent to the DPE by **23 March 2017**. For further information, see:  

- **M2 Motorway Signage - Conversion of Existing Signage to Digital Signage - M2 Motorway - Hornsby LGA** (22 February 2017) – comments should be sent to the DPE by **23 March 2017**. For further information, see:  

- **Coraki Quarry - Coraki Quarry - MOD 2** (22 February 2017) – comments should be sent to the DPE by **23 March 2017**. For further information, see:  

Comments should be sent to the DPE using the online form, which is available via each respective further information link.

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In Other News...

SA – Riverine Recovery Funding Available for Wetland Management

From now until 18 April 2017, eligible community groups, individuals and organisations can apply for funding of between $5,000 and $20,000 (plus GST) for projects that will build relationships with broader community stakeholders interested in wetland management. Projects will promote the environmental objectives of the Riverine Recovery Project and leave a lasting legacy of knowledge, information and understanding of wetland management and riverine recovery.

Applications can be made using this link.

More information can be found here.

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NSW – Nations Second Largest Solar Farm Opens

Australia’s second largest solar farm and the first with technology to track the sun in order to capture maximum power from its energy has opened in NSW.

The 56 megawatt (MW) Moree Solar Farm uses a horizontal single-axis tracking system, which allows solar panels to follow the sun throughout the day to maximise the farm’s energy output.

Minister for Energy and Utilities, Don Harwin, stated that the opening of the plant highlights the NSW Government’s commitment to the growth of the renewable energy sector. Mr Harwin went on to state:

‘Under this Government’s watch over the past six years, the share of renewable energy generation in NSW’s supply mix has more than doubled...This solar farm will generate enough clean energy to power 15,000 average NSW homes each year, which is a welcome boost for our state’s energy security. The project cements NSW’s national leadership in large-scale solar, with 210 megawatts between Moree, Broken Hill and the state’s largest solar farm in Nyngan...Whilst we currently have a surplus of supply, the Government won’t be complacent and wants to see more investment across the state....Renewables played an important role during the state’s heatwave on February 10. At the time of peak demand they provided 27% of NSW’s total energy generation.’
The solar farm is led by Fotowatio Renewable Ventures and has been funded with assistance of a $102 million grant from Australian Renewable Energy Agency and $47 million in debt financing from the Clean Energy Finance Corporation.

Fotowatio Renewable Ventures, Managing Director, Cameron Gamsworthy stated that feeding energy back into the grid was a significant step in the project's development and went on to say:

'It’s absolutely a major milestone. We're now generating clean, renewable energy for the country...We are looking forward to getting the project fully commissioned over the course of the next month.'

The farm's 222,000 panels are expected to have a life of 30 years, and the company hopes the project will be at full capacity in a month's time.

The media release can be found here.

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VIC – EPA to Host PFAS Summit

Environment Protection Authority Victoria (EPA) will next month host a summit of international experts and regulators on the environmental regulation of per-and polyfluorinated alkyl substances (PFAS).

EPA Executive Director of Knowledge Standards and Assessment, Tim Eaton said EPA Victoria was taking a lead role in the development of a nationally-consistent approach to the environmental regulation of PFAS. Mr Eaton went on to state the following:

'EPA is coordinating the summit on behalf of the Heads of EPAs Australia and New Zealand (HEPA) and the Australian Government Department of Environment and Energy. We’ll also be leading the development of a PFAS National Management Plan...Such a plan will help provide national consistency on how to ensure good environmental practices are applied to all PFAS contaminated sites across Australia...PFAS are of emerging global concern because they are persistent in the environment and resistant to normal environmental breakdown. A nationally-consistent approach to regulation will increase certainty for government, community and industry’

The summit will be held in Melbourne on 4th and 5th of April to establish a series of recommendations to inform the development of the National Management Plan.

PFAS are a group of manufactured chemicals called per-and polyfluorinated alkyl substances (PFAS) that have historically been used in firefighting foams and other industrial and consumer products for many decades. The two most well-known PFAS are PFOS (perfluorooctane sulphonate) and PFOA (perfluorooctanoic acid). These two chemicals have been manufactured and used since the mid-20th century.

Due to their wide use, and persistence in the environment, PFAS can be found in soil, surface water and groundwater in urban areas at low concentrations. Certain PFAS are being phased
out around the world because they are not naturally broken down in the environment and may potentially pose a risk to human health and the environment.

The body of evidence continues to grow with regard to the human health impacts of PFOS and other PFAS. Commonwealth Government enHealth Guidance Statements from June 2016 advise that ‘research has not conclusively demonstrated that PFAS are related to specific illnesses, even under conditions of occupational exposure’.

A live stream of the summit will be available at www.epa.vic.gov.au/pfas on Tuesday, 4 April, from 9am–12.30pm (AEST).

NSW – Orica Plan Remediation Project on Kooragang Island

As referred to in the article titled ‘NSW – Development and Modification Applications’ in the ‘Open for Comment’ section of this alert, Orica plan to contain arsenic contamination on Kooragang Island.

Orica have prepared an Environmental Impact Statement which set out that it is seeking a development consent to install a cap and containment remediation system at its Kooragang Island Facility to address on-site arsenic contamination located in a small area in the north-western portion of the Facility.

The proposed remediation system is designed to prevent, to the extent practicable, further off-site migration of arsenic and in so doing, address the objective of Management Order 20131407 issued under the Contaminated Land Management Act 1997. Previous tasks completed to meet the requirements of the Management Order and to support the final design of the Proposal include detailed site investigations, the identification of feasible remediation technologies, hydrogeological modelling and groundwater monitoring. The outcomes of these investigations are detailed in the Remediation Action Plan, which has previously been submitted to the NSW Environment Protection Authority for approval. The Kooragang Island Remediation Program seeks approval to implement the proposed remediation works specified within the Remediation Action Plan.

The cap and containment system involves the installation of a low permeability cut-off wall to a depth of approximately 12 metres below ground level and integration of a low permeability capping system. The Project is located independently from existing site operations and therefore does not require altering the existing approvals.

More information relating to the Remediation Project can be accessed here.

SA – EPA Approves Topsoil for Power Station Ash Dam

The South Australia EPA has given approval to Flinders Power to begin applying topsoil across the Port Augusta power stations ash dam as part of a plan to rehabilitate the site.
Work on applying topsoil will begin immediately so that it is in place in time for native vegetation to be established in the coming months.

The EPA had previously granted approval to Flinders Power for building access roads on the ash dam and for applying topsoil in trial areas, which proved successful.

Flinders Power has prepared a rehabilitation plan and engaged a range of technical specialists to ensure a sustainable design that achieves long-term dust and water management.

EPA Chief Executive, Tony Circelli stated that the rehabilitation is an important step in site closure for the protection of the environment and community. Mr Circelli went on to state the following:

‘Ensuring that the rehabilitation of this site is managed in the best possible way for the community is a priority, and long-term management and monitoring of the rehabilitation work is a requirement of all approval parties – EPA, Native Vegetation Council, the independent site contamination auditor...The proposal will provide a stable separation layer between the ash and the final surface, by spreading topsoil across the 220ha ash dam area and planning over six tonnes of native vegetation seeds.” he said. Seeds have been sourced from existing local vegetation and similar sites within SA and soil is being sourced from within the Flinders Power site.’

The media release can be accessed [here](#).

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**SA - Autumn Prescribed Burn Season Begins**

The Minister for Sustainability, Environment and Conservation, Ian Hunter has notified the South Australia public that the first prescribed burn of autumn is planned for Wednesday at Kellidie Bay Conservation Park on the Eyre Peninsula. The burns are taking place earlier in the season than usual because of record summer rains promoting vegetation growth.

Weather permitting, the burn will begin at 12:30pm Wednesday in the park on the west coast of the Eyre Peninsula.

This autumn, 54 prescribed burns are planned, covering about 10,500 hectares of landscape, including 450 hectares in the Mount Lofty Ranges.

An new interactive prescribed burns map can be accessed [here](#).

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**QLD - Solar Future for Public Housing in Queensland**

The Queensland Government has commenced a trial to deliver electricity savings for some of the community’s most vulnerable electricity customers will be rolled out in four Queensland locations.
Minister for Energy Mark Bailey said the Government was trialling innovative ways to enable public housing tenants in detached government-owned houses to access the benefits of rooftop solar power. Mr Bailey went on to state the following:

'The trial will be undertaken in Woodridge, Rockhampton, Cairns and Lockhart River and collectively will deliver up to six megawatts of new solar PV on up to 4000 new solar rooftops across Queensland...Up to 2000 eligible public housing tenants managed through Logan City’s Woodridge Housing Service Centre will be able to enter into a solar power purchase agreement which allows them to receive cheaper power from solar...Under this arrangement, eligible tenants will purchase cheaper solar power from a solar PV system installed at the premises, as well as power from the electricity grid.’

More information regarding the project can be accessed here.

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TAS - Changes to Salmon Industry Regulation

The Tasmanian Government is changing the environmental regulatory framework around the farming of salmon in Tasmania.

The changes are focused on future-proofing the industry, now worth over $700 million, by ensuring that environmental regulations keep pace with industry expansion, and support community and market confidence that this is achieved in an environmentally sustainable way. The changes are being introduced in a staged process.

Steps to undertake the legislative amendments to transfer the responsibility for environmental regulation of salmonid aquaculture to the EPA are currently underway. This process involves changes to a number of pieces of legislation including:

- Environmental Management and Pollution Control Act 1994;
- Marine Farming Planning Act 1995;
- Living Marine Resources Management Act 1995; and
- Inland Fisheries Act 1995 (IFA).

More information on the proposed changes can be accessed here.

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CTH - Gas Development Required to Meet Future Energy Demand

The Australian Energy Market Operator (AEMO) has released news on the projected decline in gas production which could result in a shortfall of gas-powered electricity generation (GPG) impacting New South Wales, Victoria and South Australia from the summer of 2018-19, according to information provided in the Australian Energy Market Operator’s (AEMO) 2017 Gas Statement of Opportunities Report (GSOO).
The GSOO report, intended to assess the adequacy of gas infrastructure, reserves and resources to meet demand in eastern and south-eastern Australia to 2036, outlines that gas producers have forecast annual production to decline by 122 PJ, from 600 PJ in 2017 to 478 PJ in 2021. Based on this information, AEMO advises additional production will be required to meet the needs for GPG and residential, commercial and industrial gas consumers.

AEMO Chief Operating Officer, Mike Cleary stated the following:

'At a time when LNG export is dominating demand and supply of gas in eastern states, strategic national planning of gas development has never been more critical for maintaining domestic energy supply adequacy across both gas and electricity sector. The 2017 GSOO highlights the increasing interdependencies between gas and electricity, and supply and demand, and the need for the Australian energy industry to have a holistic "single energy view" to ensure long-term planning is carried out in the interests of consumers... Gas and electricity markets can no longer be viewed in isolation, as the overall convergence of energy markets in eastern and south-eastern Australia demands a single energy view from a national perspective. It requires holistic planning across the entire supply chain to enable investment decisions to be made in the long-term interests of consumers’

Victorian also recently released its Gas Planning Report, which raised the issue of potential gas supply shortfalls over the next five years.

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In the Courts...

SA - Corporation of the City Of Adelaide V Circelli (Deputy Chief Executive of the Environment Protection Authority)

Full Court of the Supreme Court of South Australia
February 2017

Extract from Judgment and commentary – The link to transcript can be found at the end of summary

In 2012 the appellant (Corporation of the City of Adelaide) was convicted by a Judge of the Environment Resources and Development Court of two counts of contravening a condition of an environmental authorisation. The original decision can be accessed here.

The City of Adelaide recently appeal the decision of the Environment Resources and Development Court which convicted the Council for not properly capping its closed Wingfield landfill, however the Supreme Court of South Australia rejected the appeal.

The Supreme Court upheld the Environment Resources and Development Court decision that the council was guilty of two breaches of its licence for failing to cap the landfill by October 31, 2012. The City of Adelaide licence allowed the use of fill excavated from development sites for the capping, but it argued using fill would involve the disposal of waste in contravention of other legal requirements.
However, the Supreme Court agreed that the use of waste fill was specifically envisaged and permitted under the EPA licence and that a landfill cap is required to prevent pollution of water, vermin access and uncontrolled release of gas and odour.

The appellant (City of Adelaide) operated a waste or recycling depot at Wingfield pursuant to a 2007 environmental authorisation subject to conditions. Condition 6 required it to construct a cap on areas of the land in accordance with a capping plan prepared in 2003 and specifications contained in the condition. Condition 7 required completion of the cap by 31 October 2012 and at least 20% of the capping to be completed each year commencing from the date of the licence. Condition 8 provided that, if the appellant did not wish to implement the capping design referred to in condition 6, the appellant must develop a capping design specification to the satisfaction of the Environment Protection Authority; after approval, implement the specification; complete the construction of the cap by 31 October 2012 and ensure that at least 20% of the capping was completed each year from the commencement of the licence.

On 17 October 2008, the appellant informed the Authority that it intended to lodge alternative capping designs and on 19 December 2008 and 15 September 2010 it proposed alternative capping designs for 15 ha of the site.

Subsection 6(5) of the Wingfield Waste Depot Closure Act 1999 (SA) provided that an environmental authorisation must not be granted so as to authorise the use after 31 December 2004 of the land as a depot for the reception or disposal of waste. This prohibition was subject to subsection 6(6) permitting authorisation of use as a depot for the reception of waste for recycling or waste transfer purposes.

The appellant advanced two defences, namely that the relevant condition of the environmental authorisation was invalid as contrary to section 6 of the Wingfield Waste Depot Closure Act 1999 (SA) or alternatively condition 6 had been superseded by steps taken pursuant to condition 8.

In respect of the appellant’s first defence, the Judge held inter alia that clean fill and building rubble brought to the site to construct the cap would not have comprised waste. In respect of the second defence, the Judge held inter alia that the obligation under condition 6 was not superseded by the appellant’s indication that it did not wish to construct the cap in accordance with the 2003 capping plan or the lodgement of alternative capping designs but only on implementation of an alternative capping design.

The appellant advanced two defences, namely that the relevant condition of the environmental authorisation was invalid as contrary to Section 6 of the Wingfield Waste Depot Closure Act 1999 (SA) or alternatively condition 6 had been superseded by steps taken pursuant to condition 8.

Honourable Justice Blue rejected the defence (Lovell and Hinton JJ agreed) and stated:

‘On the proper construction of conditions 6, 7 and 8, the Council’s obligations to construct a cap on the 15 ha ARR area became governed exclusively by condition 8 (and not condition 6) on 9 October 2008 when the Authority approved the 15 ha
Specification pursuant to condition 8. The Authority’s contention that conditions 6 and 7 continued to apply in respect of the 15 ha ARR area should be rejected. Conversely, the Council’s contention that condition 6 ceased to apply to the 15 ha ARR area on an earlier date should be rejected, as should its contention that condition 6 ceased to apply to the balance of the Land at any point.’

Justice Blue stated that in conclusion the:

‘Council was not in breach of conditions 6 and 7 by its failure to cap the 15 ha ARR area other than the two hectares capped in 2010/2011. While the Council was in breach of condition 8 by reason of that failure, it was not charged with a breach of condition 8... Conversely, the Council was in breach of conditions 6 and 7 by its failure to cap the balance of the Land over the period 1 November 2007 to 31 October 2011. The Judge was correct to reject the Council’s second defence.’

The Chief Executive of the EPA South Australia, Tony Circelli, stated that:

‘The Supreme Court rulings send a message to industry that the EPA will vigorously pursue breaches of licence conditions through the courts if necessary’

The full transcript of the Court’s Judgment can be found here

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VIC - EPA Fines Gembrook Company for Illegal Food Waste Dumping

A Gembrook potato growing and process facility has been fined more than $7,700 by the Environment Protection Authority Victoria (EPA) for illegally dumping industrial waste at a Cockatoo property.

After a thorough investigation EPA Southern Metro Manager, Marleen Mathias, stated that the food waste had come from Mountain Harvest Foods Pty Ltd. Ms Mathias went on to state:

‘Once onsite, EPA officers found rotting and odourous waste that included potato cakes, sweet potato and other vegetables. The company confirmed the waste had been deposited on the land because it was not collected by its waste management contractor...The company has then taken it into its own hands to take the waste, which contained liquid oils, and illegally dumped it at the Cockatoo property where it was to be fed to cattle...The waste was not suitable to be deposited at the farm and once it was deposited it became disposal of an industrial waste at a site not licensed to accept waste of that kind. Waste of this nature must be taken to a facility that is licensed or permitted to receive it, which in this case clearly hasn’t happened.’

Ms Mathias also said that Mountain Harvest Foods Pty Ltd had now conducted training for its entire staff regarding waste that was allowed to be taken for feeding to cattle and how it should be transported. Ms Mathias went on to state:

‘Mountain Harvest has also engaged an environmental consultant to audit its environmental management plan focusing on waste management procedures in an
attempt to prevent any potential future non-compliance with the Environment Protection Act 1970,’

If Mountain Harvest Foods Pty Ltd were to breach the requirements of the Environment Protection Act 1970 again, it could be fined up to $777,300 if prosecuted before the courts.

Yours Faithfully,

Workplace Enviro Australia Pty Ltd

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