

Changes to the Waste Management & Pollution Control Act and NT environmental licensing scheme

In response to recent incidents involving water pollution at a number of ports throughout the Northern Territory, the government has announced a number of reforms to the Waste Management and Pollution Control Act and the Northern Territory environmental licensing scheme. Changes to the legislation involve an increase in fines for offences under the Act. A stricter licensing regime for high risk activities in port facilities is also to be implemented. Activities approved under the licensing regime will be subject to specific conditions and performance requirements and licenses are to be reviewed at regular periods.

Introduction of new native vegetation laws

The Northern Territory government has announced that new native vegetation legislation will be in place before the end of 2010. There is no existing native vegetation legislation in the Northern Territory and it is proposed that the Act will seek to balance the protection of biodiversity values against broad-scale clearing and the maintenance and extension of pastoral properties in the Northern Territory.

Review of Environmental Impact Assessment

In 2008, the NT Government referred the task of reviewing the NT EIA process to the Environmental

Protection Authority, an independent statutory body. The NT Environmental Assessment Act has not been substantially reviewed since its commencement almost 28 years ago. The Act was modeled upon the Commonwealth Environment Protection (Impacts of Proposals) Act 1972 which was repealed over ten years ago, and replaced by the Environment Protection and Biodiversity Conservation Act 1999.

The EPA released a discussion paper, "*Review of the environmental impact assessment procedures of the Northern Territory*" followed by a period of public consultation. 29 recommendations have been made by the EPA, including that the current Environmental Assessment Act be replaced with a new Act which is grounded on an integrated governance framework. In addition to this, the EPA recommended that the principles of ecologically sustainable development be firmly established as the guiding principles for decision-making in drafting a new Act for the Northern Territory. A strategic assessment approach, involving a consideration of the cumulative impact of projects, public participation and a whole-of-government approach as key elements, was also recommended.

A copy of the EPA's Final Advice on Improving Environmental Assessment in the Northern Territory was provided to the government on 16 April 2010. The EPA is currently awaiting a response from the government.

Tasmania

Gunns20 case dropped

The 'Gunns20' case settled at the end of January 2010, a few days before Tasmanian forestry company Gunns Limited was due to go to trial against the remaining four defendants.

Gunns' original writ and statement of claim,¹ dated 13 December 2004, claimed injunctions (including interlocutory injunctions), plus over \$6.3 million in general, aggravated and exemplary damages against twenty defendants. These original defendants included:

- The Wilderness Society Inc;
- Doctors for Native Forests Inc;
- Huon Valley Environment Centre Inc;
- various individuals, most of whom Gunns alleged had worked or volunteered for one of these organisations;
- the parliamentary leader of the Australian Greens party; and
- the parliamentary leader of the Tasmanian Greens party.²

Two days after the date of Gunns' original writ and

¹ <<http://www.gunns20.org/node/28>>.

² <<http://www.gunns20.org/node/74>>.

NELR recent developments

statement of claim, on 15 December 2004, the Commonwealth received from Gunns, and notified for public comment, Gunns' first pulp mill referral under the EPBC Act. This referral proposed to establish a bleached Kraft pulp mill at one of two locations: at Long Reach (near Bell Bay in the

Tamar Valley); or near Hampshire (in north west Tasmania).³

During the Gunns20 case, the breadth and quantum of Gunns' claim was progressively reduced, through interlocutory proceedings and discontinuance/settlement of the company's claims against some defendants.

At Gunns' 2009 AGM, company representatives stated that its legal costs in relation to the case amounted to some \$2.8 million. The company's final costs at settlement are not public.

³ <http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=1914>.

The defendants' website says that during the case, Gunns:

- paid defendants over \$1.3 million in settlements and costs awards (presumably in addition to the \$2.8 million of Gunns' costs revealed at its 2009 AGM); and
- obtained \$205,000 in settlements from The Wilderness Society Inc and limited undertakings about future protests from five defendants.⁴

Source: This piece relies on <<http://www.gunns20.org/node/185>> which contains links to media reports, court documents and other information about this landmark case.

The author's search of ASX announcements and the media releases at Gunns' website found no release regarding the conclusion of the case.

⁴ <http://www.gunns20.org/>



Editor's Note:

Kudelka cartoon, reproduced courtesy of Jon Kudelka <<http://www.kudelka.com.au>>. First published in The Mercury 30 January 2010. See also later in this edition, Adam Beeson, 'The Gunns 20 Case: A Brief History'.