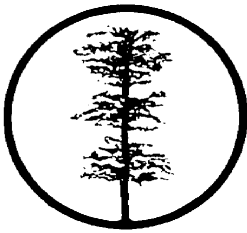


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28th February 2006

Climate Change Adaptation Project
Natural Resource Sciences
Department of Natural Resources and Mines
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By email: climatechange.adaptation@nrm.qld.gov.au

Dear Sir/Madam,

EDO Submission on Climate Smart Adaptation Discussion Paper

We refer to the above matter and welcome the opportunity to provide comments on ways the Queensland Government and Queenslanders themselves can prepare for and adapt to climate change and its environmental, social and economic impacts.

The Environmental Defenders Office (Qld) Inc. (EDO Qld) and Environmental Defender's Office of Northern Queensland Inc. (EDO-NQ) (EDOs) are community legal centres which specialise in public interest environmental law in Queensland.

The EDOs commend the Government's recognition of the human contribution to global warming and the very real threat this issue poses to Australia. This is particularly so for Queensland where our iconic World Heritage areas are under threat. There is strong scientific evidence of the severe impacts global warming will present to the Great Barrier Reef (ranging from at best recoverable loss, or under the worst case scenario a collapse in coral populations from which re-establishment is highly unlikely) and also to the Wet Tropics (including serious threats to biodiversity, because of the many local endemic species with restricted climatic ranges).

We also commend the development and implementation of policies such as the *Queensland Greenhouse Strategy*, the aim of which is reducing greenhouse gas emissions, a large contributor to climate change, however we believe the measures contained in the *Strategy* do not go far enough - particularly in relation to the mining and use (burning) of coal. We note that comments received on the *Climate Change Smart Adaptation Discussion Paper* will shape the development of a *Queensland Climate Change Adaptation Action Plan* during 2006, which is intended to complement the existing *Queensland Greenhouse Strategy*.

The Premier acknowledged "climate change and the serious nature of its consequences" in a Ministerial Statement to Parliament on 16 February 2006, and called upon all levels of government to "take greater action ... on addressing climate change". The Climate Smart Adaptation Discussion Paper and ensuing Action Plan are that opportunity. Our comments on how to further strengthen and ensure the effectiveness of the Action Plan are overleaf.

EDOs comments on the *Climate Smart Adaptation Discussion Paper* (“Paper”)

While the Paper is a welcome development in state climate change policy, alarmingly, it does not mention the contribution that mining and burning of coal makes to greenhouse gas emissions, a major factor in climate change and global warming. There are also indications that the ensuing Action Plan will not be backed up with regulatory force, but rather be a policy document recommending voluntary actions to stem climate change.

The EDOs submit that the Paper and ensuing Action Plan must:

1. Ensure government sets and commits to greenhouse gas reduction targets.
2. Ensure the Action Plan is enforceable, by giving it regulatory underpinning which allows conservation measures to be enforced against industry and government. Local Councils should be required to reflect the Action Plan in their planning schemes, by amending them if necessary and incorporating the requirements in the development of new planning schemes. The Action Plan is unlikely to produce the necessary changes in behaviour without regulatory force.
3. The Paper does not link in with the Queensland Development Code (made under the *Building Regulations*) nor refer to the changes to that Code which will take effect on 1 March 2006 mandating greenhouse efficient hot water systems and energy efficient lighting in all new homes. The Action Plan must complement the Queensland Development Code and should improve the Code by mandating sustainable housing and infrastructure through building design rules including solar panels and energy-efficient air conditioning.

Lessons may be learned from the NSW BASIX system where all new homes and renovations are assessed against the BASIX design tool which aims to ensure each new residential dwelling meets NSW Government targets of 25% reduction in greenhouse gas emissions. The assessment enables people to choose certain options such as air conditioning for their homes on the basis that they are required to adopt more energy efficient cooling and heating systems. Similarly, installation of a swimming pool would entail a requirement to offset the energy use by making up efficiencies in dwelling design.

4. Mandate energy efficiency in government buildings through targets, and increase the Mandatory Renewable Energy Target (MRET) for energy generation in Queensland.
5. Ensure the greenhouse impacts of proposed infrastructure (including ports and transport infrastructure) are properly assessed and that demand management alternatives to new infrastructure are given equivalent consideration and assessment.
6. Ensure the full impacts of greenhouse gas emissions from new coal mines are properly assessed under the *Environmental Protection Act 1994* (Qld) (“EP Act”), including through the imposition of appropriate conditions or refusal of permission.

We are concerned that mines which entail large greenhouse gas emissions have not being appropriately assessed through the EP Act. Two recently approved coal mines in Central Queensland which will involve the mining, transport and use of 48 million tones (Mt) of coal will emit 121-162Mt in carbon dioxide equivalent¹. Considering that Australia’s annual greenhouse emissions are about 550 Mt of carbon dioxide equivalent, these coal mines will comprise about 25% of Australia’s annual greenhouse gas emissions. Despite those

¹ Calculated using the methodology of the Australia Greenhouse Office – *Australian Greenhouse Office Factors and Methods Workbook*, AGO, Canberra August 2004.

incredibly large emissions, the proponents of the mines were not required to undertake an Environmental Impact Statement (EIS) under the EP Act².

The EDOs submits that the EP Act needs to be amended to require *all* mining projects to undertake an EIS to ensure that greenhouse gas emissions are considered in assessing such projects, and that mines which will create large emissions are either refused or appropriately conditioned to ensure those impacts are minimised.

7. Provisions of the State Coastal Management Plan (“State Plan”) under the *Coastal Management and Protection Act 1995* (Qld) address climate change issues. Section 2.2.4 of the State Plan deals with storm tides, cyclone effects and related inundation and recognises these as ‘coastal hazards’. The State Plan requires that the associated risks of coastal hazards are minimised, including by carefully considering development in coastal risk areas and wherever possible retaining those areas undeveloped. The State Plan is treated as State Planning Policy for the purposes of the *Integrated Planning Act 1997* (Qld) (“IPA”), meaning it must be taken into account by an assessment manager (usually the local Council) when assessing development applications. For some specific development applications listed in Schedule 2 of the *Integrated Planning Regulation 1998* (Qld) the Environmental Protection Agency is a concurrence agency applying the State Plan (or a relevant Regional Coastal Plan). The State Plan is also to be considered a State Interest under sections 2.1.4, Schedule 1 (section 18) and 2.6.7 of IPA, meaning that the Planning Minister can require the State Coastal Plan to be reflected in local planning schemes and must also consider the State Plan prior to designating land for community infrastructure. The EDOs request the Planning Minister ensures that the details of the provisions of the State Plan (or any relevant Regional Coastal Plan) are clearly and thoroughly implemented in local planning schemes as part of the process of doing the state interest check on draft local planning schemes.

It is also not enough that the State Plan must be merely “had regard to”. The approval of a development at East Point, Mackay and the confirmation of this approval by the Planning and Environment Court demonstrates that the principles to minimise coastal hazards are not being reflected in land use and planning decisions. Expert evidence adduced during the court hearing showed the serious threat that is posed by development occurring on the coast where the risks associated with these hazards are not adequately taken into account. The State Plan should be given an elevated status under IPA so that its provisions must be *implemented*, rather than simply had regard to.

Should you have any further queries please do not hesitate to contact us on the numbers listed above.

Yours faithfully,



Jo-Anne Bragg
Principal Solicitor
EDO Qld



Kirsty Ruddock
Principal Solicitor
EDO-NQ

² One of the proponents did voluntarily prepare an EIS, but the other was merely required by the EP Act to prepare an Environmental Management Plan which described the environmental values like to be affected by the project and the potential adverse and beneficial impacts on those values.