

**ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.
ENVIRONMENTAL DEFENDERS OFFICE OF NORTHERN QUEENSLAND INC.**

BULLETIN

June / July 2002

WPSQ BAYSIDE STOPS RESIDENTIAL DEVELOPMENT NEAR WETLAND

In a Judgement handed down in June 2002, the Wildlife Preservation Society of Queensland Bayside Branch (WPSQ) was successful in preventing a residential estate being constructed beside a wetland at Wellington Point. The owners of the land currently operate a turf farm beside Hilliards Creek and had appealed to the Planning and Environment Court against the Redland Shire Council's refusal of their application to build a residential estate on the land. WPSQ joined the Council in resisting the appeal on the grounds that the proposed residential estate will not only have unacceptable detrimental impacts on the koala habitat of the area but also on the adjacent significant wetland.

Evidence from experts called on behalf of the Council and WPSQ was considered compelling by Judge Alan Wilson QC who determined that the proposed development would adversely affect the koala habitat values of the site. The proposal had incorporated a "buffer zone" along the creek of between 30 to 40 metres, in which an equestrian trail and various recreational facilities would be built. The Judge again accepted the evidence of experts called on behalf of the Council and WPSQ and determined that a buffer of at least 40 metres would be required, and that no recreational facilities or disturbance of any kind would be acceptable in that zone. The Judge concluded that the proposal conflicted with the Council's Strategic Plan and State Planning Policy No. 1 of 1997 (Conservation of Koalas in the Koala Coast), and dismissed the appeal. The appeal ran for six days in November 2001.

Congratulations to the Redland Council, Simon Baltais and all the members of WPSQ for their success in this case. Special thanks to barrister Steve Keliher, then EDO solicitor Rob Stevenson, and expert witness Lynn Roberts.

*For more information about this case contact EDO Qld at edoqld@edo.org.au For a copy of the judgement, see <http://www.courts.qld.gov.au/qjudgement/default.htm> and then look under the case name *Stariha v Redland Shire Council & WPSQ Bayside Branch (Qld) Inc. June 2002*.*

BACK TO GO FOR KENMORE HILLS DEVELOPER GREYMOUTH PTY LTD

You might recall that this matter concerns a 5 hectare area of bushland in Kenmore Hills. A 32 lot development was approved by the Brisbane City Council over the land. Ruth Cordiner, a member of the Mirbelia Street Action Group appealed to the Planning and Environment Court against the approval, and the appeal was part heard by the Court in March. During preparation for that hearing, barrister Chris McGrath for Ms Cordiner identified a possible serious defect with respect to the validity of the two development applications. The defect was that each application was possibly 'piecemeal' as it could not stand alone without the other.

Recently the developer successfully sought a further adjournment to lodge a fresh single application for the same development. The developer was apparently concerned that the original development applications might in fact be defective. The fresh application must go through the IDAS process, including the public notification process. This represents a setback to the developer, and gives the Action Group a fresh opportunity to convince Council to reject the application.

For more information contact Jo Bragg at EDO Qld. EDO Qld are solicitors for Ms Cordiner and the Mirbelia Street Action Group in this appeal.

EDO-NQ BIODISCOVERY SUBMISSION TO QUEENSLAND GOVERNMENT

EDO-NQ along with regional, State and national environmental groups drafted a submission to the Queensland Government addressing concerns with the Queensland Biodiscovery Policy Discussion Paper. The submission was written in consultation with the Aboriginal and Torres Strait Island Commission Cairns Regional Office. EDO-NQ called for a further period of consultation with stakeholders and traditional owners and asked the Queensland Government to ensure that any permitting system that sought to deal with the state's biological resources, have as its primary object the protection and conservation of those resources. That object would be in keeping with the Convention on Biological Diversity to which Australia is a party. The submission also sought a full and proper environmental impact assessment regime for the permitting system.

For a copy of the submission or further information, please contact Matt Patterson at EDO-NQ on (07) 4031 4766

NEWS ON FLYING FOX REFERRAL

An assessment report has been notified for EPBC Referral No 2002/571 – Operation of electric grid by Lychee farmer Bosworth to cull Spectacled Flying Foxes in North Queensland. A copy of that report is not on the internet however any person is entitled to a copy under s93(3) Environment Protection and Biodiversity Conservation Act 1999 (Cth).

The Federal Minister for Environment and Heritage has 30 business days from the date the Minister receives the assessment report (not known) to make a decision whether or not to approve the culling of the spectacled flying fox.

For a copy of the report contact the Secretary, Department of Environment & Heritage c/o Referrals section EPBC Act, Environment Australia facsimilie (02) 6274 1789

I CAN SEE CLEARLY NOW.... LAND CLEARING AND LAW REFORM PAPERS AVAILABLE

Among the many excellent speakers at this EDO Network conference (held 4 & 5 July in Sydney) were Dr John Williams of CSIRO, Dr Carl Binnings of Greening Australia and Dr Barry Traill. EDO Lawyers Jo Bragg, Mark Parnell (SA) and Jeff Smith (NSW) also presented useful papers covering property rights and law reform options.

If you are concerned about land clearing but did not make it to the conference, why not get hold of the papers.

Contact Lucy Sharman, Education Coordinator, Environmental Defender's Office (NSW)(02) 9262 6989 email lucy.sharman@nsw.edo.org.au

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Environmental Defenders Office (Qld) Inc.

4th Floor, 243 Edward Street, Brisbane 4000. Ph: (07) 32100275, Fax: (07) 32100253, email: edoqld@edo.org.au

Environmental Defender's Office of Northern Queensland Inc.

PO Box 854N NORTH CAIRNS 4870. Ph: (07) 4031 4766, Fax: (07) 4041 4535, email: edonq@edo.org.au

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