

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

**BULLETIN – March/April 2002**

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**Spectacled Flying Fox Update**

Last year Carol Booth successfully sought an injunction against lychee farmer Rohan Bosworth to stop his use of an electric grid to kill spectacled flying foxes on his lychee farm. However he can overcome the effects of that decision if he gains an approval for the *action* under the *Environment Protection and Biodiversity Conservation Act 1999* and Bosworth has applied for such an approval. Environment Australia decided on 27 March 2002 to assess, by Preliminary Documentation, Rohan Bosworth's referral application to operate his electric grid in the 2002 lychee season to kill 5,500 Spectacled Flying Foxes. Public submissions are due 14 May 2002.

*For more information about this case contact Carol Booth, ph 0402 701 276; email support@qccqld.org.au*

**Appeal to the Qld Fisheries Tribunal**

The Hemmant and Tingalpa Action Group has appealed to the Fisheries Tribunal against a decision by the Department of Primary Industries to grant a permit under s51 *Fisheries Act 1994* to destroy marine plants on the proposed Master Butchers industrial estate at Hemmant. The issues in the case include, (amongst others), legal standing, the extent of contamination of the site, the definition of *marine plants* under the Fisheries Act and the value of the marine plants proposed to be destroyed.

EDO Qld are solicitors for the group, with Stephen Keliher their barrister.

*For more information, including hearing dates, contact Jo Bragg at EDO Qld.*

**Judicial Changes**

Justice Jim Thomas, of the Appeal Division of the Supreme Court, retired 22 March 2002. He served as a Justice for 20 years and is particularly remembered by environmentalists for his lone dissenting judgment in the *Central Queensland Speleological Society v Central Queensland Cement* (1989), a case seeking to prevent destruction of ghost bat habitat. In that judgment he held that the Speleological Society did have adequate legal standing to allow the case to be heard.

Justice Thomas is acknowledged for his devotion to justice and the care with which he applied his vast legal knowledge. For more information on his career, see the next EDO Newsletter.

There is a new appointment to the Land and Environment Court of New South Wales. Dr. Nicola Pain, former director of EDO Sydney, was appointed as Judge and began 18 March. Her experience in environmental law is extensive. Dr. Pain has been a solicitor, a policy manager and a lecturer, as well as holding several management roles with the EPA of NSW. She will be a great asset to the Court.

**Wet Tropics Logger's Custodial Sentence Upheld by Court of Appeal**

On 22 February 2002, the Court of Appeal upheld a custodial sentence of one year, imposed upon Mr. Brett Dempsey by the Cairns District Court on 10 December 2001, for the destruction and removal of 25 trees in the Wet Tropics World Heritage. The Court of Appeal was not persuaded by Mr. Dempsey's lawyers' arguments that his plea of guilty was not given sufficient regard and noted the significant environmental harm resulting from the actions of Mr. Dempsey. The Court of Appeal emphasised the important deterrent effect of a custodial sentence in cases of environmental harm motivated by prospects of financial gain, where offenders might take the risk of a financial penalty in light of the potential profits recoverable from such actions.

*For more information, please contact Jo Cull at EDO NQ*

## **New Laws for Genetically Modified Organisms**

Some readers may be aware that a Commonwealth legislative regime for the regulation of genetically modified organisms (GMOs) in Australia commenced on 21 June 2001, with the commencement of the *Gene Technology Act 2000* (Cth) and the *Gene Technology Regulations 2001* (Cth). The legislative regime governs a wide variety of dealings with GMOs. Specifically, it prohibits all dealings with GMOs unless the dealing is authorised by a GMO license, is a notifiable low risk dealing, is a dealing included in the GMO Register or is an exempt dealing.

For constitutional reasons, States and Territories agreed to pass legislation consistent with the Commonwealth Act and Regulations so as to ensure a nationally consistent scheme of GMO regulation. The *Gene Technology Act 2001* (Qld) commenced operation on 1 January 2002. A copy of this Act can be downloaded at [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au).

*For information as to the impact of the above legislation on attempts by local governments in Queensland to declare themselves GMO free, please contact Joanna Cull or Matt Patterson at EDO-NQ on (07) 40314766.*

## **Recreation Areas Management Act**

A review of the *Recreation Areas Management Act 1988* (RAM) occurred this year, with the submission deadline in early March. The RAM Act controls activities on: Fraser Island, Morton Island, Green Island, and Inskip Peninsula. John Sinclair of Fraser Island Defenders Organisation submitted that there were many problems with managing Fraser Island under the RAM Act, and that it should be managed as a World Heritage site instead of a RAM area. His submission can be found at <http://www.fido.org.au/RAMReview.html>. EDO QLD Management Committee member, Rob Stevenson, also made a submission. He noted that the present Act is not strict enough for management of areas with a high conservation status. His submission can be viewed at <http://www.edo.org.au/edoqld/index.html>.

*For more information contact EDO Qld on 07 3210 0275*

## **Staff Changes at EDO Qld**

A warm welcome to our new second solicitor Larissa Waters who joined EDO Qld in April. Larissa, who is currently completing her Masters Degree in Environmental Law, left private practice at a large city firm to pursue a career in public interest environmental law.

Also many thanks to Sarah Fallon, our volunteer intern from Wisconsin U.S.A. for her help during the past several months. Sarah, who assisted on litigation and research is returning home to begin law school.

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