

# BULLETIN

## September 2002

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### **Changes to Queensland Vegetation Codes in Murray Darling**

Recently released salinity hazard maps for the Murray Darling Basin (MDB) have shown many areas of the basin are at strong risk of salinisation. In response, the Queensland State government has tightened State vegetation codes (gazetted 12 September 2002) which are used to assess applications for the clearing of vegetation on freehold and leasehold land.

Two principle changes within the policies are evident. Firstly, subject to four exceptions including sustainable harvesting for fodder, no land clearing is allowed in certain catchments in the MDB. The catchments specified comprise Moonie River, Condamine River, Balonne River and Weir River. Secondly, in all eleven catchments (including the above four) an additional requirement has been added to the performance requirements contained in the codes for assessment of land clearing applications. That performance requirement states that *salinisation of ground and surface water is prevented*. The old performance requirement that *the landscape is protected from salinity and waterlogging* still applies.

The aforementioned changes are a step forward in the 'war'<sup>1</sup> against salinity, however, the amended State codes on land clearing have been described by environmentalists as inadequate, 'a mere pop gun' approach. The new provisions in both codes do not extend to limiting land clearing in many Queensland catchments, even other high priority areas identified by the National Land and Water Audit. It is important to note that many modes of land clearing (e.g. clearing of re-growth on freehold land) are not included within the legislation and are therefore not limited.

*For a copy of the new codes see the DNRM website [www.nrm.qld.gov.au/vegetation/pdf/](http://www.nrm.qld.gov.au/vegetation/pdf/) and look under freehold and leasehold respectively. For more information contact Jo Bragg at EDO Qld.*

### **Declaration Sought Regarding Whether a Development Application in Cassowary Habitat is "Minor"**

On 16 September 2002, EDO-NQ represented Kuranda EnviroCare (KE) in an urgent application to the P&E Court to clarify whether Mareeba Shire Council (MSC) should be deciding a development application which it had earlier deemed to be "minor" under its transitional planning scheme. KE alleged that the application for a material change of use and reconfiguration of over 140 hectares of tropical rainforest forming part of the Kuranda EnviroLink Wildlife Corridor, known as cassowary habitat bordering the Wet Tropics World Heritage Area near Kuranda, should have triggered referral coordination under Section 6.1.35C of IPA. The referral coordination process is similar to an environmental impact statement.

Following argument before Judge White, the declaration application was withdrawn by consent of the parties with costs in favour of MSC. Since then MSC has refused the development application. The Department of Local Government and Planning is now working with MSC to develop protocols which will help govern future decisions regarding the "minor" nature of development proposals under IPA.

*For further information about this case contact Matt Patterson at EDO-NQ on (07) 4031 4766.*

### **Court of Appeal overturns Planning and Environment Court Decision in Stradbroke Hotel Case**

The Planning and Environment Court approved a redevelopment of the Stradbroke Island Hotel, Point Lookout, despite numerous breaches of the development control plan (DCP). Friends' of Stradbroke Island Associations Inc. plus other groups and individuals opposing the redevelopment appealed that Court's decision, on issues of law, to the Court of Appeal.

The Court of Appeal found that the proposed development was in significant breach of standards contained in the DCP. Breaches were with respect to site coverage, vegetation retention, building height, boundary clearance and building form. The Court of Appeal held that the Planning and Environment Court, Judge Quirk, did make an error of law interpreting the DCP. The Court of Appeal found that the

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<sup>1</sup> Premier Peter Beattie announced that the State was at war with the salinity crisis.

DCP controls are minimum standards that must be met unless the developer satisfies the Council or the Court that the proposed development achieves a more sensitive and desirable design solution than if it were to comply with each of the development standards. Rather than being sent back to the Planning and Environment Court for a rehearing, the Court of Appeal orders had the effect of rejecting the proposed development.

For a copy of the decision *Stradbroke Island Management Organisation Inc. & Ors v Redland Shire Council & Ors* [2002] QCA 277 go to <http://www.courts.qld.gov.au/qjudgment/>

### **John Williams Launches Freshwater Theme**

Dr John Williams did a fantastic job of launching EDO Qld's *freshwater* theme at the AGM held on 10<sup>th</sup> September 2002. For those of you who missed out, you can view notes from Dr Williams' speech on salinity on our website at [www.edo.org.au/edoqld](http://www.edo.org.au/edoqld).

The management committee for EDO Qld was also elected at the AGM – many thanks to Lesley King (Chair), Rob Stevenson (Treasurer), Chris Greenaway (Secretary), James Whelan, Poh-Ling Tan and Liz Baker for agreeing to donate their time and energy to the EDO over the next year.

### **International Developments - the World Summit on Sustainable Development**

The World Summit on Sustainable Development (WSSD) was held in Johannesburg from 26 August to 4 September 2002, a ten year review of the 1992 Rio U.N. Conference on the Environment and Development. Reinvigorating global commitment to sustainable development and reviewing progress from the Rio Conference was the objective of the WSSD, and poverty and development was a prominent focus. Key points of contention included the Kyoto Protocol and time bound targets for natural resource degradation and biodiversity loss. Prime Minister Howard was notably absent, as was U.S. President Bush, but federal Environment Minister Dr Kemp made particular commitments to energy efficiency, air pollution, sustainable agriculture and forestry, marine biodiversity and illegal fishing. While these are not binding in domestic legislation, they could be useful for advocacy purposes. For more information on the outcomes of the WSSD visit <http://www.johannesburgsummit.org>.

### **National Developments - Draft Bilateral Agreement under the Environment Protection and Biodiversity Conservation Act ("EPBC Act") Released**

A second draft Assessment Bilateral agreement between the Commonwealth and Queensland governments has been released for public comment under the Commonwealth EPBC Act.

The proposed Bilateral provides that a package of three State environmental impact statement (EIS) processes will be accredited under the EPBC Act and will substitute for Commonwealth assessment of actions that have, will have, or are likely to have a significant impact on a matter of national environmental significance within Queensland.

The principal benefits of the proposed Bilateral are to reduce potential duplication of assessment processes, however, EDO has concerns with the control given to the Department of State Development in relation to "significant projects". The motivations of the Department may be to favour economic development over the objects of the EPBC Act – the protection of the environment and the conservation of biodiversity. Also, it is not clear how actions affecting threatened species and migratory species that do not require planning approval and are not mining or large development projects will be catered for under the package of EIS processes.

Barrister Chris McGrath is preparing a submission on the proposed Bilateral for EDO. For a copy of the submission contact EDO on 3210 0275 or [edoqld@edo.org.au](mailto:edoqld@edo.org.au). Public comments on the proposed Bilateral must be received before 4 October 2002.

For more information contact barrister Chris McGrath or EDO Qld. For a copy of the draft bilateral see [www.ea.gov.au/epbc/assessmentapprovals/bilateral/draft/qlddraft.html](http://www.ea.gov.au/epbc/assessmentapprovals/bilateral/draft/qlddraft.html).

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