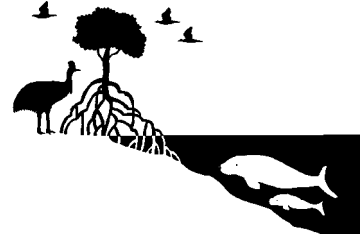


# Environmental Defender's Office Of Northern Queensland Inc.



## **EDO ALERT- YORKEYS KNOB RESIDENTS ASSOCIATION WIN THEIR APPEAL!!**

On 1<sup>st</sup> April 2005, His Honour Judge White handed down his decision in favour of the Appellants, Yorkeys Knob Residents Association. His Honour set aside the preliminary approval and development approval that had since been made.

As you may be aware the EDO-NQ has been representing the Yorkeys Knob Residents Association (YKRA) who sought to challenge the preliminary approval given to the development of South Beach at Yorkeys Knob. Kirsty Ruddock of the EDO-NQ appeared as Solicitor/Advocate for the YKRA. The development approval given last year was for 90 apartments (40 with dual key capacity) comprising of four storeys (with a rooftop fifth level) that extended 60 metres along Wattle Street, and 130 metres along Kempton Street, together with retail and restaurant facilities along Sims Esplanade.

The YKRA challenged the approval on the basis of ecological sustainability including the importance of vegetation and wetland on the site, and the height, density, bulk and general aesthetics of the development. The development proposal required the removal of 14 significant trees, and development next to a wetland that YKRA claimed contained some local environmental significance.

His Honour Judge White found that the Constrained Development area that existed over most of the area required special attention to ensure the residential amenity of the area was not affected. Further he said that while the Council did have the ability to grant a dispensation in relation to height, given the nature and extent of adjacent and surrounding land uses, the height allowed was too great. In particular, the design of the development had 130 metres in length of buildings of 12.7 metres in height that was be visible and of course to local residents. The adjoining area of Kempton Street, had no bulky blocks, and therefore the development was not within the reasonable expectation of the residents in the area.

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His Honour found the land had some ecological value, but found that the propositions in the Strategic Plan relating to ecological sustainability could not be looked at in isolation and therefore there was no conflict with these provisions. He also accepted that the car park on the adjacent road reserve adjacent to the beach area would be built, as submitted by the Council, in a way to ensure that the vegetation in that area was preserved.

As a result of the decision, the developer will need to lodge a new development application with the Council if he wishes to build on the site.

The case has empowered local communities to have some say in the development that occurs in their area. It is an important precedent for North Queensland about what is acceptable in relation to development and its effect on amenity for local residents.

A big thank you to the members of the YKRA who gave the EDO-NQ tremendous support and assistance in running this appeal, and in particular their Environmental Sub-Committee Convenor, Pam Bigelow.

For more information contact Kirsty Ruddock, EDO-NQ, Ph (07) 4031 4766 or [kruddock@edo.org.au](mailto:kruddock@edo.org.au).

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