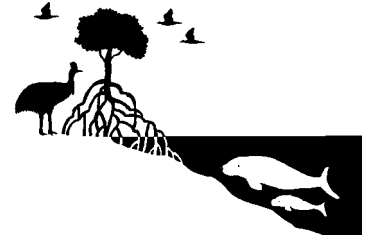


# Environmental Defender's Office Of Northern Queensland Inc.



6 December 2004

Chief Executive Officer  
Cairns City Council  
P.O. Box 359  
Cairns Q 4870

By facsimile (07) 4044 3022

Dear Sir,

## **RE PROPOSED AMENDMENTS TO LOCAL LAW No. 24- VEGETATION PROTECTION**

I refer to the above matter and your request for submissions on the amendments to Local Law no. 24 (Vegetation Protection).

As you maybe aware, the Environmental Defender's Office of Northern Queensland is a Community Legal Centre that specialises in environmental law and is located in Cairns, servicing an area from Mackay north. The EDO-NQ was incorporated in October 1996 in recognition of the need of special protection because of North Queensland's internationally recognised biologically diverse environment, encompassing two World Heritage areas, the Great Barrier Reef and the Wet Tropics Rainforests. We provide legal representation, advice and information to members of the public on environmental law. We also conduct law reform activities contributing to the conservation, protection and enhancement of the environment.

In general, many of the amendments proposed to Local Law no. 24 are positive changes. We note that you have increased the penalties for unauthorised damage to protected vegetation and made prosecutions for damage to protected vegetation easier in some cases. The Council has also proposed increased powers in relation to approvals of work, and introduced new property vegetation management programs.

The EDO-NQ is however concerned by some of the proposed amendments. In particular, it appears that some of the provisions in the previous local laws that applied to submissions have been removed. In section 12(3) of the existing Local Law, submissions that are not properly made may be considered by the Council in considering a vegetation protection order. This provision appears to have been removed from the new proposed section 12 which only requires the Council to consider properly made submissions. Allowing members of the public to comment on submissions is an important part of the Local Law which enables members of the community to be

involved in decision making about their area. Submissions from members of the public should not be unnecessarily excluded if their submissions still have some merit, and we would ask that the previous s.12(3) be re-instated into the Local Law. The amendments to section 14 also have made various changes including not requiring the Council to advise persons who lodged a submission about the making of a protection order. The amendment of s.15 also means that person who made submissions on a protection order would not be notified of its revocation. We are concerned that persons who have gone to the effort of making submissions about a protection order will not be notified individually of the making or revoking of that order by the proposed amendments to s.14 and 15. We therefore are of the view that s.14 and 15 should be amended to require the Council to notify those who made submissions also, as otherwise they may not receive notice of these decisions.

There are also still some significant gaps in the Local Law which mean that it does not apply to all protected vegetation across the Cairns region. The Local Law does not apply to vegetation that is damaged by work approved under a development application (see s.22(a)). The EDO-NQ is concerned that the Council is not required to assess in detail the effect of any approval of a development application on protected vegetation. The Local Law sets out a detailed procedure for appropriately assessing the effects on protected vegetation of any approved works. This should also be incorporated into the development application process if protected vegetation will be affected by a development. In particular, it would be useful to use some of the options available under the Local Laws including vegetation management plans for particular areas. These provisions could be used to protect vegetation by management and ensuring that appropriate replanting occurs as part of the development of mature trees of the same species as those removed.

Another area in which the Local Laws is deficient is the protection of threatened vegetation through stop work orders. At present, the stop orders apply only to work being done that threatens protected vegetation. However there are no protections in place where there may be potentially vegetation that is at risk in the Cairns area that could meet the criteria of protected vegetation. Townsville City Council has a similar Local Law (Local Law no. 52 (Vegetation Management) 2003) that enables a stop work order to be made regarding vegetation that is not currently protected, if the Council has obtained a report to identify the area as one that should be protected, and its protection is consistent with the objects of the local law.

Thank you for considering our submission.

Yours faithfully  
**EDO-NQ**

**Kirsty Ruddock**  
**Solicitor**