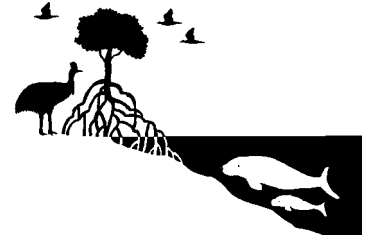


Environmental Defender's Office Of Northern Queensland Inc.



2 December 2004

Senator the Hon. Ian Campbell
Minister for Environment and Heritage
Parliament House
Canberra ACT 2600

Dear Minister

RE ACCESSING DOCUMENTS FOR PUBLIC COMMENT UNDER EPBC ACT

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 are also undertaken by EDO-NQ.

Recently we received a number of calls from residents of Magnetic Island who were seeking to access preliminary documentation lodged by Juniper Holdings no. 7 Pty Ltd in accordance with s.93 of the *Environment Protection and Biodiversity Conservation Act* 1999 (EPBC Act) in relation to a development at Radical Bay on Magnetic Island. The development has been declared a controlled action in relation to the Great Barrier Reef World Heritage area. The public documentation, which numbered some four volumes of material, was made available by the proponent to members of the public at two locations in Townsville. Members of the public were advised they were unable to copy any documents from these materials in order to consider the matter further and develop appropriate submissions during the twenty days which they had to comment.

The reason that the proponent was unwilling to provide copies is because the EPBC Regulations did not require them to do so. Regulation 16.04 of the EPBC Regulations states that the proponent only has to give two copies of the material to at least one local or regional library for the area and a State government department responsible for environmental protection, and ask them to display the materials publicly. It does not require the proponent to give copies of these documents to those who inspect them.

The lack of ability to have access to the documents lodged under EPBC Act seems contrary to the spirit of the legislation which aims to encourage transparency and better assessment of decision making in relation to matters of national environmental significance. The proponent is unwilling to change their position on providing access, and members of the public who live on Magnetic Island are left with little option but to travel to Townsville and take the time to inspect the four volumes of documents, and hope that their inspection will enable them to transcribe all of the relevant information in order to comment on the proposal.

There appears to be some inconsistencies between the requirements for access under the EPBC Act and planning and environment matters throughout Australia including Queensland. The *Integrated Planning Act 1997 (Qld)* (IPA) governs the assessment of developments within Queensland. IPA at s.3.2.8(1) requires the assessment manager to keep each application and supporting material available for inspection and purchase from the time the assessment manager receives the application until the appeal period ends for the decision about the application. This enables members of the public to easily inspect and copy at a reasonable cost the relevant documents relating to any development application.

The current situation with the development at Radical Bay shows the difficulties that members of the public have in assessing documents in order to provide considered submissions under the EPBC Act. We trust that when you are next reviewing the EPBC Regulations that you will consider this difficulty, and whether there should be further requirements imposed on proponents to enable members of the public to obtain copies of the relevant documentation submitted in accordance with the EPBC Act at a reasonable cost.

Yours faithfully
EDO-NQ

Kirsty Ruddock
Solicitor