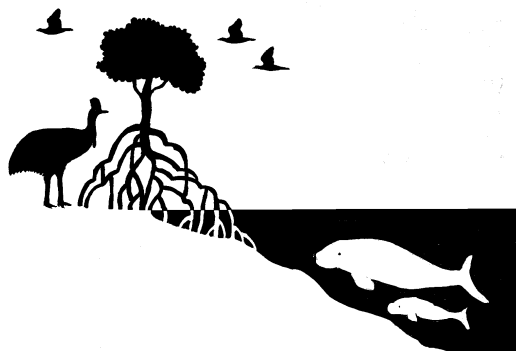


# Environmental Defender's Office of North Queensland Inc.



## Monthly Newsletter: May 2009

*Current matters of public interest environmental law and how they affect  
the community in north Queensland*

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## ***DERM refuses Port Hinchinbrook sea-dumping application!***

**Protecting** north Queensland's unique and precious coast from development and its adverse impacts has been a concern of many conservationists and much of the community in north Queensland for a long time, and remains so. A common sentiment from the north Queensland conservation sector is that more could be done by authorities and decision-makers to strengthen protection through legislation and coastal management plans, and to more strictly rely upon existing coastal management plans.

So, EDO-NQ, its long time clients and supporters the Alliance to Save Hinchinbrook Inc. ("ASH") and many others within the north Queensland conservation community were delighted to hear that the Queensland Government recently relied on the *Cardwell Hinchinbrook Regional Coastal Management Plan* ("CHRCMP") to refuse an application by Port Hinchinbrook Services Pty Ltd ("PHS") for permission to dump sea dredge spoil from the Port Hinchinbrook marina development into the



World Heritage listed Hinchinbrook Channel. The refusal decision was made by the Queensland Government's newly formed Department of Environment and Resource Management ("DERM"), following consultation between the previous Environment Protection Agency and Department of Natural Resources and Water.

The marina development at Oyster Point ("Port Hinchinbrook"), south of Cardwell and adjacent to the World Heritage listed Hinchinbrook Island, has a long and controversial history. It has been the focus of tireless opposition on a wide range of environmental grounds and from a large number of individuals and groups, including the now defunct Friends of Hinchinbrook Inc. and long time clients and supporters of EDO-NQ, the Alliance to Save Hinchinbrook Inc. ("ASH").

The Port Hinchinbrook marina developer has maintained that in order to have its canals accessible and operable throughout the day and night, and in all tides, it is necessary to dredge the canals within the marina and to remove that dredge spoil to another location. To date, the dredge spoil has been removed and dumped on approximately 30 hectares of nearby agricultural land owned by the developer. It is understood that the developer still holds a discharge licence to dredge the Port Hinchinbrook waterways to land disposal; but it is understood that no land disposal sites are currently approved as required. In addition, for many years ASH have raised concerns that the dumping of acidic and saline dredge spoil on 30 hectares of nearby agricultural land has caused the death of much vegetation in the coastal Girramay National Park. It is understood that DERM are continuing their investigation of those concerns.

The developer still holds a discharge licence to dredge the Port Hinchinbrook waterways to land disposal, but land disposal sites must be approved for the purpose and Port Hinchinbrook currently has none approved. Possibilities include developer-owned agricultural land on the western side of the Bruce Highway, and agricultural land south of the present 30-hectare spoil-covered site, where a large proposed golf course is apparently intended to be continuously built up on top of incoming dredge spoil. The spoil is proposed to come not only from existing artificial waterways, but also from a proposed new marina of some 13 to 26 hectares (part of the so-called 'Stage II' proposal).

## ***DEWHA refuses to release audit report on False Cape***

The Commonwealth Department of the Environment, Water, Heritage and the Arts (“DEWHA”) has refused to release to EDO-NQ a copy of the full audit report in relation to the developer’s compliance (or suspected lack of) with Commonwealth development approval conditions without an application under the *Freedom of Information Act 1982* (Cth). This refusal comes despite the long-time and ongoing monitoring of the campaigners, many of whom EDO-NQ represents, and their free sharing of information and results of that monitoring with all levels of government, and all relevant departments and agencies, including DEWHA.



*Photograph by Steve Nowakowski www.stevennowakowski.com*

*EDO-NQ has now lodged a freedom of information application with DEWHA for a copy of the report. A response is due by 25 June 2009.*

## ***Upcoming new planning legislation***



**In late May**, EDO-NQ solicitors Adam Millar and Patrick Vuleta attended the annual Queensland Environmental Law Association conference. Among the many things discussed was an update of the status of the new planning legislation that will replace the current *Integrated Planning Act 1997*. We are not privy to the details, but a draft of the new legislation will be released for public comment “soon”.

Overall, it appears that the new planning legislation aims to promote such things as:

- A greater focus on strategic planning, including taking into account climate change
- Greater consistency in planning schemes through “standard planning scheme provisions”
- A greater focus on achieving innovative planning outcomes rather than simply satisfying the planning process

It sounds promising. However, the real test will be in the details. It will also depend largely on a change in how the planning legislation is implemented in practice. The Queensland Government Director of Planning Reform, Craig Mathisen, acknowledged that operational and cultural changes within the planning system needed to take place before we can get better sustainable development outcomes. EDO-NQ hopes to continue to push for these changes, and more importantly - help the community to push for these changes.

## ***Help for landowners interested in private conservation***

**EDO-NQ is excited to announce the release of a new series of factsheets to help private landowners promote environmental conservation on their land.**

**The efforts of individual landowners** are very important to ensuring our environment is protected to be enjoyed by future generations. Large amounts of land are held privately throughout Queensland, and this land often forms an important network between dedicated conservation areas such as national parks.

There are a number of legal options available for landowners who wish to promote environmental conservation on their land.



These legal options can help ensure that the land's environmental values are protected even after it is sold, and in some cases provide a financial incentive for conservation efforts. However, up until now there has not been a readily accessible and public source of comprehensive and accurate information on these options.

EDO-NQ has addressed this need by preparing a series of factsheets that explains in plain language what each of these options are, how they can be used by landowners, and what benefits and drawbacks each option has.

*The series consists of the following factsheets:*

Overview of Legal Mechanisms for Private Conservation (*Factsheet 1*)

Nature Refuges and Coordinated Conservation Areas (*Factsheet 2*)

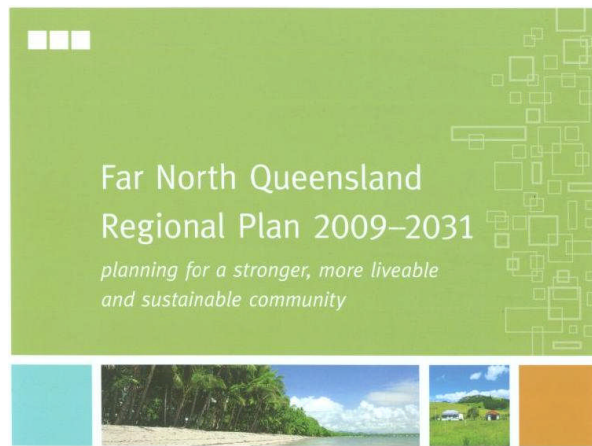
Statutory Covenants (*Factsheet 3*)

Voluntary Declarations under the *Vegetation Management Act 1999* (*Factsheet 4*)

Conservation Agreements and Profit à Prendre Agreements (*Factsheet 5*)

Comparative table of legal private conservation mechanisms (*Factsheet 6*)

**These factsheets are now available for free download from our website at: [www.edo.org.au/edong](http://www.edo.org.au/edong)**



## ***Deciphering the Far North Queensland Regional Plan***

**On Friday 13 February** this year (very auspicious) the Far North Queensland Regional Plan 2009-2031 was released. It is very important for Far North Queensland - as a statutory planning instrument it will take precedence over any other local planning schemes. However, at 182 pages, it makes for fairly dense reading.

EDO-NQ is currently looking into the Regional Plan and working out how it will affect the community of Far North Queensland, for better or worse. We hope to be in a position to advise how the Regional Plan will affect you within the next month or so.

### ***Your feedback wanted***

EDO-NQ is beginning a process of strategic planning and review. We will be focusing on how we can better help protect the environment through public interest environmental law.

As members of the public, your feedback on our services is very welcome. See an area we could improve on? Something you would like us to do?

Let us know!

### ***Receive Our Newsletters (or tell us you don't want to...)***

To receive our newsletters for free each month, please email our administrator, Angela Strain, at [edonq@edo.org.au](mailto:edonq@edo.org.au).

However, if you no longer wish to receive these newsletters, please send an email with "unsubscribe newsletter" in the subject line. Your email address will be removed from our database and we will not send you our newsletters by email.

### ***Our contact details***

To become a member of EDO-NQ, or to receive legal advice on matters of public interest environmental law, please contact us:

### ***Opportunities for law students***

We have opportunities for law students to help our office with the preparation of factsheets and other legal educational materials. This provides law students with an excellent opportunity to gain practical experience in working in the area of public interest environmental law.

We are happy to take volunteers locally who can come into our office in Cairns, or externally working through email contact. Please email Patrick Vuleta at [pvuleta@edo.org.au](mailto:pvuleta@edo.org.au) for more details.

### ***Thank you!***

We extend our sincere thanks to Beth Curley and David Turton who have volunteered their time to EDO-NQ in the past few months. Beth and David drafted factsheets to be published on our websites. These are currently being reviewed by EDO-NQ solicitors and should be published soon.

Your efforts are very much appreciated.

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