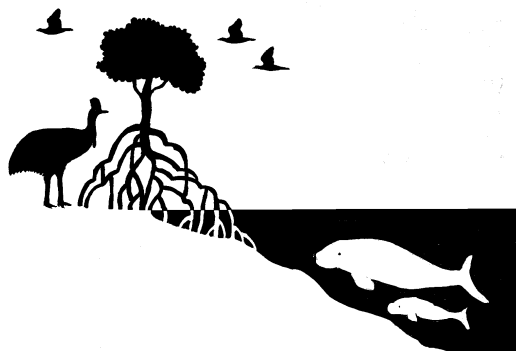


Environmental Defender's Office of North Queensland Inc.



Monthly Newsletter: June 2009

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

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How to make a submission on a significant project

EDO-NQ regularly sends out alerts about upcoming significant projects and the opportunity people have to comment on their Environmental Impact Statement (“EIS”) or Terms of Reference (“ToR”). These alerts usually include the following information:



- Calls for comment on the ToR for an EIS.
- Calls for comment on an EIS.
- Notice of declaration of a significant project and the outcome of the EIS process, including the number of submissions received.

If you wish to write a submission or provide comments on anything you see in these alerts, EDO-NQ encourages you to contact us and we will do our best to help. However, here are a number of steps you may find helpful:

1. Read and annotate the EIS or ToR.
2. Mark all the sections you both agree, and disagree with.
3. Write a list of points you need to follow up, such as where further research is needed. If you need advice on any of these points, we may be able to help.
4. Prepare a structure for the submission, comprising an introduction, and a section for each point in the EIS or ToR you agreed with, and each point you disagreed with. It is usually a good idea to state what you agree with before you state what you disagree with.
5. Try to focus on the issues raised by the EIS or ToR. If specific questions were asked of the public in the EIS or ToR, focus the submission on answering them.
6. In the introduction, briefly introduce yourself, and how the issue affects you or your group. If the submission is on behalf of a group of people, state how many others you are writing on behalf of.
7. Include evidence or case studies about how the issue has affected you or is relevant to you. If you can, collect stories on how the issue is affecting others that support your position.
8. Consider the Government’s position and try to make workable recommendations if possible.

EDO Victoria has published some more comprehensive guidelines for making a law reform submission on their website at http://www.envirolaw.org.au/resources/writing_a_law_reform_submission. However, if you need help with a specific submission, please contact us and we will see how we can help you.

EDOs' opinions of the new planning bill

On 16 June 2009 the *Sustainable Planning Bill 2009* was introduced to the Queensland Parliament. We expect this bill to become legislation around September. When it becomes legislation, it will replace the *Integrated Planning Act 1997* as Queensland's main planning legislation.



Overall, the *Sustainable Planning Bill 2009* does not change the core of the *Integrated Planning Act 1997*. By and large, it seeks to clarify and streamline the legislation. That said, there are a few notable new additions. The most relevant from the environmental perspective are that climate change will be a factor to be taken into account when making decisions and local councils will be able to prohibit certain types of development outright.

However, there are several changes EDO has advocated before in the past which did not make it into the new Bill:

1. there is no extra time for public consultation, so community groups may still find it difficult to comment effectively;
2. there is no mandatory requirement for environmental information to be included with development applications, so the burden is still on the public and local government to seek such information; and
3. developers still have the power to refuse to supply information during the assessment of their application, which can make it difficult for environmental impacts to be properly assessed.

As we noted in last month's newsletter, the Queensland Government is hoping that cultural changes will be enough to improve the quality of decision making. While EDO-NQ appreciates the argument, we are concerned that the new *Sustainable Planning Bill 2009* does not include the substantial changes in the law which will be necessary to promote truly sustainable outcomes.

Thank you!



EDO-NQ extends its thanks to Naomi Wakelin. Naomi has been our project officer for the past four months and during that time has been a great help in preparing law reform submissions and community legal education materials. Naomi now leaves to complete her studies and we wish her the best of luck for the future.

EDOs' comments on the new draft bilateral agreement

On 19 June, EDO-NQ and EDO-QLD (“EDOs”) commented on the draft bilateral agreement between the Queensland and Commonwealth governments. In a nutshell, the draft bilateral agreement provides for all projects assessed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (“EPBC Act”) to have their environmental impact statements (“EIS”) conducted under Queensland EIS legislation.



This has some benefits for the environment. The largest is that to receive “accreditation” under the EPBC Act, Queensland EIS legislation had to be reformed to comply with the stricter EPBC Act standards. As a result, since the first bilateral agreement was implemented in 2004, Queensland EIS processes have improved.

However, the arrangement is not perfect. The EDOs have serious concerns that there are fundamental problems with the EIS processes in Queensland which have not been resolved by the draft bilateral agreement. To the contrary, by supporting the current EIS process in Queensland, the draft bilateral agreement helps to entrench these flaws and prevent further reform.

The EDOs highlighted the following problems that need improvement in its submission to the Commonwealth:

1. EIS for large projects are overseen by the Coordinator-General under the *State Development and Public Works Organisation Act 1971*, an office which is not subject to the same directive to achieve ecologically sustainable development which the Commonwealth Minister for the Environment under the EPBC Act is. The EDOs recommended that the Draft Bilateral Agreement be amended to allow the Department of environment and Resource Management greater control over the EIS process for large projects.
2. There are three different EIS processes in Queensland, which creates needless complexity. The EDOs recommended that the Draft bilateral Agreement should not be entered until the EIS process for major projects be assessed only under either the *Environmental Protection Act 1994* (“EP Act”) or *Integrated Planning Act 1997* (“IPA”).
3. The Draft Bilateral Agreement does not meet benchmark standards of transparency prescribed by the EPBC Act. The EDOs recommended that the Draft Bilateral Agreement should be amended to reflect the required standard, as well as the strong public interest in releasing information on matters of national environmental significance.
4. The Draft Bilateral Agreement weakens enforcement of the EPBC Act by allowing the circumvention of the prohibitions on the provision of false or misleading information. The EDOs recommended that the EP Act and IPA be reformed to make provision of misleading information an offence.

EDO-NQ hopes that the Commonwealth will take its recommendations into account when negotiating the bilateral agreement.

Your feedback wanted

EDO-NQ is conducting 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!

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 for more details.

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.

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.

Contact us

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

Suite 1, Level 1, 96-98 Lake Street
CAIRNS QLD 4870
Ph : 07 4031 4766; Fax: 07 4041 4535
Email: edonq@edo.org.au