

Environmental Defender's Office of North Queensland Inc.



Monthly Newsletter: June 2010

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

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False Cape Update

As many of EDO-NQ's members know, development of a tourism-related resort at False Cape (located a few kilometers south of Cairns) has been a source of considerable controversy in the Cairns area since 1986, when the original application for redesignation of the area to allow development was lodged with the Mulgrave Shire Council (as the Cairns Regional Council was then known).

EDO-NQ helped spearhead opposition to the proposed development, citing among other things, concerns about soil instability, erosion, and water pollution associated with sediments flowing off the site and into the Great Barrier Reef.



Photograph by Steve Nowakowski www.stevennowakowski.com

Notwithstanding EDO-NQ's opposition to the proposed development, and opposition from other groups, the Cairns Council redesignated the area as "Special Facilities" (ie, Tourism) and approved a later development application, with conditions in July 2004. The Commonwealth likewise approved the proposed development, with conditions, under the Environmental Biodiversity and Conservation Act 1999 (Cth) in July 2008. Unfortunately, the concerns expressed by EDO-NQ and others proved prophetic and the developer's work shut down amidst public outcry over erosion, pollution of the Great Barrier Reef by sediments washed offshore, and the death of a worker struck by a large boulder dislodged from the unstable slopes above the proposed development.

These problems led the Commonwealth in July 2008 to suspend for one year its prior approval, and the suspension has been renewed annually since then. In addition, the Cairns Council has now removed the Special Facilities approval for the proposed development and is considering redesignating the area where the property is located from "rural" to "conservation." The developer, Reef Cove Resort Limited, ultimately went into receivership in June 2009 and, since then, the receiver has been seeking buyers for the property.

The Yarrabah Aboriginal Shire Council, which represents traditional owners in the area adjoining the proposed development, has expressed interest in acquiring the property in order to prevent it from being heavily developed and EDO-NQ, in conjunction with the Cairns and Far North Environmental Council (CAFNEC) has been assisting Yarrabah's counsel in connection with that effort. EDO-NQ has provided Yarrabah with a summary of the environmental and safety concerns that eliminate the property's value for commercial development to pass on to the receiver. EDO-NQ will update members on the status of Yarrabah's efforts in future newsletters.

EDO-NQ Supporters Recognised

In past several months, two of EDO-NQ's long-time supporters have been recognized for their service to community and the environment.

In February 2010, long-time EDO-NQ member and environmental activist, Ian Lee, was appointed to serve on the Bowen and Abbott Point Community Consultation Group, which provides community input regarding ongoing efforts to develop a Multi Cargo Facility, Coal Terminal and ancillary facilities near Abbott Point. Ian has been involved with EDO-NQ for many years, going back to 2002 and has focused much of his effort on stopping, or at least mitigating, terrestrial and marine environment impacts associated with the Abbott Point facilities.

In 2005, Ian and his partner, Dympna, received the inaugural Pride of Australia Medal for the Environment awarded by the State of Queensland.

On 5 June 2010, Rowan Silva, was presented with a Queensland Day Award by Steve Wettenhall (QLD MP, Barron River), in recognition of Rowan's commitment to the environment, to local community and to social justice. In 1994, Rowan was one of the small group of lawyers that established EDO-NQ and was actively involved in growing and managing EDO-NQ until 2009. For two years, Rowan served as EDO-NQ's principal solicitor. Subsequently, Rowan served on EDO-NQ's management committee for eleven years, from 1998 to 2009.

Rowan's service to environment and community was hardly limited to EDO-NQ, however. Rowan also worked as a solicitor for Aboriginal Legal Services and Community Legal Services and served as regional director for the Human Rights and Equal Opportunity Commission and Anti-Discrimination Commission in Cairns. In addition, Rowan has served as a volunteer in the Cairns Community Legal Centre's evening legal advice service for many years. Nor has Rowan given up public service since leaving EDO-NQ's management committee. Rowan continues to act as an informal advisor to EDO-NQ's solicitors and to provide input regarding the office's activities and direction. In addition, Rowan currently serves as president of the Cairns State High School Parents & Citizens board.

Our congratulations to both Rowan and Ian for the well-deserved recognition of their efforts and commitment to the community and the environment.

Update on the Draft Queensland Coastal Plan

In conjunction with EDO Queensland, EDO-NQ is continuing to advocate for improvements to the Draft Queensland Coastal Plan. The key issues our office is concerned about are the ease of which the need for a development could be held as an overriding public interest ground, and the number of Marine Development Areas identified as possible locations for future development. These issues create problems by allowing development to override many of the environmental protections contained in the plan.

Patrick Pearlman—New Principal Solicitor

EDO-NQ has a new principal solicitor—Patrick Pearlman, who joined EDO-NQ at the end of March 2010. Patrick fills a void left when Adam Millar left the post in October 2009.

From May 2003 until March 2010, Patrick was a Deputy Consumer Advocate for the Consumer Advocate Division of the Public Service Commission of West Virginia, USA, focusing on telecommunications regulation and policy. From May 1996 through April 2003, Patrick was first a legal advisor to the Public Service Commission of West Virginia, and then a Staff Attorney. During his 14 years with the State of West Virginia, Patrick worked on every significant telecommunications issue before the state commission. Beginning in 2003, Patrick expanded his focus to telecommunications regulation, consumer protection and other public policy issues across the USA. In his roles, Patrick has litigated numerous state and federal court and administrative proceedings and testified as a national consumer advocate before the U.S. Federal Communications Commission and the U.S. Congress.

Before becoming a public advocate in telecommunications matters, Patrick's practice focused on environmental law – which had always been a primary interest. Patrick practiced law for 5 years as an associate in a large law firm's environmental law section, dealing with such issues as air and water pollution, hazardous and solid waste management, groundwater protection, mineral mining and land use and development. Whilst in law school, Patrick clerked for two years with the Environmental Protection Division of the Attorney General of Texas, USA.

Among his outside activities, Patrick has been an active volunteer in many community organizations, a member of numerous environmental and civil rights groups, and an adjunct professor at a local university.

In 1985, Patrick was awarded a Bachelor's Degree in Political Science, with distinction (cum laude), from the University of Michigan, USA. In 1988, Patrick was awarded a Juris Doctor degree from the University of Texas College of Law. In addition, Patrick completed his academic and practical legal training requirements to be admitted as a legal practitioner in Australia in March 2008. Patrick is admitted to practice law in the States of Ohio and West Virginia, USA, several American federal courts – including the Supreme Court of the United States, and has also been admitted to practice law by the Supreme Courts in Queensland and New South Wales.

Until emigrating to Cairns, Patrick lived with his wife of 12 years, Lisa, and his two daughters, Kathryn (11) and Hannah (9) in Charleston, West Virginia, USA. Patrick and his wife first visited Australia in December 1999 – January 2000 and have been working on moving to Australia since 2003. He has been back to Australia several times in 2007, 2008 and again in 2009. Patrick is thrilled to be returning to Australia again – permanently – and is looking forward to pursuing his interests in public advocacy, public policy, community outreach and environmental law with the EDO-NQ.

Contact Us

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

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