

Environmental Defender's Office of North Queensland Inc.



Monthly Newsletter: February 2011

*Current public interest environmental law matters affecting
the community in Northern Queensland*

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How We Can Help You (and You Can Help Us Help You)

Environmental issues are complex. They raise issues requiring specialised expertise and often impact entire communities – not just two people. Another problem is the administrative and judicial processes for airing concerns regarding environmental matters are less than transparent. Many members of the public lack both the requisite knowledge needed to frame the issues, as well as the financial resources needed to act on their concerns.

Environmental Defenders Offices (“EDOs”) around Australia, like us, address these problems by providing free legal advice to the public on matters of public interest environmental law. “Public interest environmental law” is a mouthful but it’s a simple idea: legal issues that broadly impact the environment (as opposed to one or two individuals).

EDO-NQ can assist individuals and community groups with questions or concerns arising out of environmental matters by providing:

- Quick phone advice on defamation or simpler environmental law matters.
- Written advice - by letter or email - on more complex matters, including matters relating to mining disputes, property development and pollution.
- Advice on private conservation measures, such as covenants and nature refuges.
- Advice to unrepresented litigants in federal or state court.
- Representing individuals or community groups in court in select matters.

While your EDOs provide a wide-range of services without charge, we need the public’s financial support too because while we work without fee, the experts we need in litigation do not. As noted in last month’s newsletter, experts are expensive. A little help from our members and supporters can go a long way in helping us win the cases we bring on the public’s behalf. So if you can afford it, please consider donating to our litigation fund online (via “GiveNow”) or over the phone—it’s tax deductible too.

EDO’s Margaret Thorsborne Receives the Order of Australia

Margaret Thorsborne is a life member of EDO-NQ. Now she’s an Officer of the Order of Australia (“AO”). The Governor-General honoured Margaret with an AO on Australia Day for her tireless conservation work. The citation accompanying Margaret’s award reads:

“For distinguished service to conservation and the environment through advocacy roles for the protection and preservation of wildlife and significant natural heritage sites in Australia, as a supporter of scientific research, and to the Wildlife Preservation Society of Queensland.”

The AO is given for distinguished service of a high degree to Australia or humanity at large. EDO-NQ congratulates Margaret on an outstanding achievement and applauds the Governor-General for recognizing Margaret’s lifetime of work on behalf of the environment.

Developer Abandons Attempt to Develop Scenic Cairns Hilltop

A scenic hilltop overlooking Cairns has been spared from development after Roy and Alma Lavis (principals of leading North Queensland construction company, CEC) withdrew their appeal of Cairns Regional Council's refusal to approve a proposed residential development on the 13+ hectare property. Council rejected Lavis' development application in a 25 September 2009 decision and Lavis' appeal to the Queensland Planning & Environment ("QPE") Court soon followed.



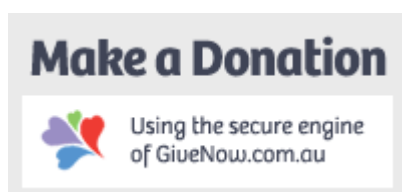
Local community activists' group, Cairns Hill and Habitat Protection Inc. ("CHHP), which had lodged submissions with Council opposing the proposed development, elected to co-respond in support of Council's decision. EDO-NQ initially provided informal advice and assistance to CHHP as an unrepresented litigant but formally undertook representation of CHHP in the QPE Court in mid-2010.

Throughout the pre-trial period, Council remained steadfast in its opposition to the proposed development, primarily on visual amenity, town planning and ecological grounds. The appeal was scheduled to be heard starting on 23 February 2011 and EDO-NQ was in the process of preparing testimony on behalf of CHHP when the Lavis' withdrew their appeal on 8 February 2011 (*Kingfisher Investments v Cairns Regional Council*, P&E Appeal No 253/2009).

The Lavis' decision to dismiss their appeal is a great result for local residents represented by CHHP. It's a great result for Council – which sought to ensure that its planning scheme protections for the region's hills would be enforced. And it's a great result for residents throughout the region who likewise seek to conserve the scenic vistas for which the area is renowned.

In an email to members, CHHP was unstinting in its praise of EDO-NQ's efforts, expressing "special thanks to the team at the Environmental Defenders Office (EDO) in Cairns who provided invaluable advice and their own hard work to help this happen". Council also deserved credit for the principled stand it took on this matter - particularly the councillors who voted, 6:5, against approval of this development (Crs Lesina and Forsyth, who moved to refuse the development, and Crs Cooper, Leu, Pyne and Schier, who voted against it).

Fundraising



EDO-NQ is now supported by GiveNow, where donations are accepted on our behalf free of charge. If you wish to donate directly to the Save Taylor Point Campaign visit <http://www.givenow.com.au/savetaylorpoint>

All donations are tax deductible.

GasLand Screens to Packed Theatre

The independent American documentary film *GasLand* played to a full house at the JUTE Theatre in Cairns on 21 January 2011. Over two hundred people packed JUTE to witness the harmful human and environmental impacts associated with natural gas production in the United States depicted in the film, particularly the dangers of hydraulic fracturing (or "fracking") by which hard-to-reach gas deposits are extracted.



A 30-minute Q&A session with Patricia Julien (Mackay Conservation Council) and Patrick Pearlman (EDO-NQ) followed the movie.

As described in informational materials provided in conjunction with the film, fracking is virtually the same methane gas mining process that is being used to develop Coal Seam Gas ("CSG") deposits in Australia - primarily in southern Queensland. Fracking involves injecting a mix of chemicals, sand and water underground in order to fracture rock formations and release gas trapped in the rock. Many chemicals in the fracking fluid are toxic and these chemicals, as well as naturally-occurring chemicals deep in the earth, remain underground to contaminate aquifers and bore wells that supply water for domestic and agricultural uses long after the well has played out. Fracking in rural America has resulted in chronic sickness and high financial costs from having to import drinking water, with farmers seeing livestock sicken and die from drinking polluted water. Similar harms have been observed in Queensland's CSG production zone.

GasLand was presented by EDO-NQ, in partnership with the Cairns and Far North Environmental Centre, Australian Conservation Foundation, and End Credits Film Club. EDO-NQ thanks the volunteers who helped with screening *GasLand*, as well as everyone who came out on a rainy night to see the film. EDO-NQ will continue to cover the CSG issue in future newsletters, fact sheets and other materials.

More information regarding CSG production, and ongoing efforts to regulate it, is available on EDO-NQ's website.

EDO-NQ Meets with Premier Anna Bligh

EDO-NQ's principal solicitor (Patrick Pearlman), as well as the Australian Conservation Foundation (Dr Suzanne Jenkins) and the Cairns and Far North Environmental Centre (Ellen Webber) met with Premier Anna Bligh on 23 February 2011 to discuss matters affecting their organisations and the region. Among the issues discussed with the Premier:



- ACF urged the Premier to assist in speeding up the creation of a World Heritage Area on Cape York and to add Shelburne Bay to the list of properties scheduled to be transferred to traditional owners in 2011;
- CAFNEC proposed that the Premier expedite development and adoption this year of a Cassowary Response Strategy for the Wet Tropics, similar to the Koala strategy in place in South-east Queensland; and
- EDO-NQ urged the State to carefully consider the role prior development in coastal areas played in contributing to the massive economic losses caused by recent flooding and Cyclone Yasi before finalizing the State's draft Coastal Plan. EDO-NQ offered the proposed development at Ella Bay (9km north of Innisfail) as a case study for inappropriate coastal development;
- EDO-NQ also sought Premier Bligh's support for the EDO-NQ proposal submitted (jointly with our sister EDO in Brisbane) in June 2010 for the State to provide \$180,000 annually in legal aid for individuals and groups (not just EDOs) engaged in public interest environmental litigation, similar to legal aid programs established by the Commonwealth and New South Wales governments.

All three organisations look forward to working with the Premier and State Government toward realisation of these and other initiatives during 2011.

Environmental Defenders Refute Calls to Reduce 'Greentape'

EDO-NQ and the Environmental Defenders Office of Queensland ("EDO Qld") made a joint submission in response to the Department of Environment and Resource Management's ("DERM") "Greentape Reduction" discussion paper. DERM's discussion paper is premised on the notion that both industry and government are overburdened by current environmental regulation and called for comments to address ways to reduce this purported burden by removing unnecessary regulations.



In response to DERM's call for comments, EDO-NQ and EDO Qld challenged the basic premise underlying DERM's discussion paper. The Queensland EDOs' key point was that DERM must retain its function as a regulator, and the EDOs made clear that they are wary of shifting from government oversight to a self-regulating industry. Instead, the EDOs suggested that if industry or agencies are overburdened by environmental regulations, then providing better funding for DERM is preferable to abandoning or weakening environmental regulation.

The Queensland EDOs also recommended using third party assessors to increase the rigour of the environmental assessment process while reducing the regulatory burden on DERM. The EDOs noted that a crucial problem with the existing environmental assessment process is that all information is provided by industry, which clearly is biased toward industry. Rather than continue this fundamentally flawed approach, EDO-NQ and EDO Qld argued that a better approach would be to have DERM approve a list of auditors giving greater control over the assessment process to DERM, while industry and developers would retain some flexibility in choosing experts.

The EDOs also argued that any move away from government regulation must be matched by increased public involvement. If government oversight is reduced, they argued, then the general public must be given greater access to information and better opportunities to challenge industry proposals. Greater public participation, the EDOs noted, would have the added benefit of providing additional information to DERM and balancing the pro-development bias built into the current system. A copy of the EDOs' joint submission can be viewed on our website.

Contact Us

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

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