



EDO BULLETIN

July 2007

In this issue:

- Updates of EDO court cases
- Environmental law and policy reform
- News, events, tips and opportunities for funding and public comment

Contents:

<i>Climate Change Appeal reminder</i>	1
<i>Other cases of interest</i>	1
<i>Qld Climate Policies</i>	2
<i>Community Education & Events</i>	2-3
<i>Environmental Law & Policy Changes</i>	3
<i>Opportunities to Comment</i>	4
<i>Useful news</i>	5
<i>EDO farewells</i>	5

REMINDER - CLIMATE CHANGE APPEAL QCC v Xstrata

Don't forget: the first ever climate change appeal to be heard by the Queensland Court of Appeal is on 9 August 2007. Please see our February Bulletin for details of the case: *QCC v Xstrata*. EDO members are welcome to attend the hearing.

For more information about the appeal, see <http://www.envlaw.com.au/greenhouse.html> or contact Anita O'Hart of EDO Qld.

OTHER CASES OF INTEREST

Fisherman ordered to pay \$50,000

The Federal Court has ruled that a fisherman pay \$50,000 worth of fines and costs for fishing inside a marine protected area.

The Court found that the skipper of an Australian commercial fishing vessel contravened the *Environment Protection and Biodiversity Conservation Act 1999* by fishing within the Mermaid Reef Marine National Reserve in Western Australia. During the two day period in which the contraventions took place, the Federal Court was told that the vessel had caught more than 450 kg of the commercially-sold crustacea known as 'scampi'.

The EDOs applaud the Commonwealth Government for enforcing the commonwealth legislation to ensure that pristine marine reserves are protected.

California sues local government for urban sprawl

California's Attorney General Jerry Brown has filed suit against San Bernardino County, in what could be the next battleground against global warming - holding cities and counties accountable for greenhouse gas emissions caused by poorly planned suburban sprawl.

The California lawsuit argues that the 1970 California Environmental Quality Act requires greenhouse gases to be regulated like any other type of pollution. Sixteen states, the District of Columbia, Puerto Rico and Guam have similar laws, but no other state has used these laws to sue over global warming.

If the case is successful, the California cities and counties could be forced to take steps to limit sprawl, promote compact development, require builders to design energy-efficient houses that offer solar power, and encourage less driving, more mass transit and use of alternative fuels.

San Bernardino County officials say they addressed global warming after the attorney general's office filed criticisms, but no regulations require them to do so in growth planning. "The state's making an example of us to send a message to everyone else in California," says spokesman David Wert.

This case is being watched closely by other States in the USA who have been combating climate change – including New York, Massachusetts and Washington. EDO solicitors are also keeping a close eye on this case to see if its principles can be applied here in Australia to help combat climate change.

LAW REFORM CLIMATE POLICIES FOR QUEENSLAND

Comments made on Queensland's ClimateSmart 2050 Climate Strategy

Early in July EDO Qld lodged a submission on the Premier's new *Climate Smart 2050 Climate Strategy*. In our comments EDO Qld acknowledges that the Strategy contains several positive initiatives, but these are under-funded and will have minor impacts on greenhouse gas emissions compared with the continued huge financial support for the coal industry, the failure to properly invest in the renewable energy sector, and the failure to ensure all transport, mining and infrastructure projects are assessed for their climate change impacts. We also criticised the Strategy's carbon reduction targets as being too low and lacking regulatory force, and the renewable energy target for including non-renewable but low-emission technologies.

Read EDO Qld's full comments at <http://www.edo.org.au/edoqld/edoqld/new/ClimateSmart2050Comments.pdf>.

ClimateSmart Adaptation Plan 2007-2012

In early June 2007 the Premier also released the *ClimateSmart Adaptation Plan 2007-12*. The Adaptation Plan is a staged strategy with a range of short, medium and long-term policies to enable Queensland to prepare for and lessen the impacts of climate change.

The Adaptation Plan contains 62 actions, with associated deadlines, including the need for climate change to be part of government and business decision making. The Adaptation Plan was developed following public submissions on the Adaptation Paper, which EDO was critical of in our February 2006 Bulletin.

While the EDO welcomes the Adaptation Plan as a step in the right direction, the plan is far short of what is required to effectively manage and adapt to

climate change.

The EDO submitted to the State Government during the public consultation period that the Adaptation Action Plan must be enforceable, by giving it regulatory underpinning which allows conservation measures to be enforced against industry and government. The EDO also submitted that local Councils be required to reflect the Action Plan in their planning schemes. Sadly, the Action Plan does lack regulatory teeth. Some of the promising actions outlined in the action plan are:

- Explore ways of incorporating climate change in the terms of reference for environmental impact statements and other relevant assessment processes.
- Integrate climate change considerations and new projections into decisions about water infrastructure, water-quality management of dams and reservoirs, water planning and water-quality improvement programs.
- Contribute to the development of a Queensland Local Government Climate Change Management Strategy.
- Review the effectiveness of existing planning tools in addressing the increased risks from climate change, including the *State Planning Policy 1/03: Mitigating the Adverse Impacts of Flood, Bushfire and Landslide, State Coastal Management Plan*, local government planning schemes.
- Work with the Great Barrier Reef Marine Park Authority to implement joint initiatives that address climate change in the Reef region.

The Adaptation Plan is available from www.nrw.qld.gov.au/climatechange/pdf/climatesmart_plan.pdf

and the Strategy is available from www.thepremier.qld.gov.au/library/pdf/climate/ClimateSmart_2050.pdf.

COMMUNITY EDUCATION AND EVENTS

Internship Opportunity by 31 July: The Big Switch Community Organisers

Are you passionate about climate change? Looking to be part of the solution? Here's your opportunity to gain first-hand experience and training as an environmental activist and community organiser working on the planet's most pressing environmental challenge.

Queensland Conservation is recruiting six Big Switch interns in 2007. The Big Switch is a campaign to inform and engage individuals, businesses and groups in actions to significantly reduce greenhouse gas emissions. The campaign involves Greenpeace, GetUp! and

Australia's Conservation Councils.

The Big Switch Internships are voluntary, part-time (10-15 hrs/wk) and last two months - August/September, October/November and December/January. Interns will inform and mobilise community members and groups and coordinate the Brisbane Walk Against Warming and be actively supported and trained by the Change Agency. Applications are invited by July 31.

For full details including selection criteria, email james@thechangeagency.org or call on 0431 150 928.

Sea Change 2007 Coastal Conference Sunshine Coast 20-22 August 2007

This coastal planning and management conference at Marcoola Beach on the Sunshine Coast from 20-22 August 2007 will explore policies to address the environmental, social and economic impacts of rapid growth and development on coastal Australia.

The conference is targeted at local and state governments, coastal research organisations and private sector representatives - which means it would probably benefit from attendees with a community perspective!

For more information about the conference, see www.seachangetaskforce.org.au

ENVIRONMENTAL LAW AND POLICY - Recent Changes

South Australia legislates first greenhouse targets

On 3 July 2007, the South Australian *Climate Change and Greenhouse Emissions Reduction Act 2007* came into force.

It is the first Australian legislation to contain binding targets for greenhouse gas emissions – a 60% reduction so that emissions are at or less than 40% of 1990 levels by 2050 - and also includes a target for renewable energy generation and consumption of 20% by 2014.

South Australia puts Queensland to shame, as we have only a non-binding target of 60% greenhouse reduction by 2050 based on 2000 levels, and a non-binding, renewable *and low emission* target of 6% by 2015 and 10% by 2030 and beyond.

New Bill proposed for Cape York Peninsula

On 7 June 2007 the Premier introduced into Parliament the *Cape York Peninsula Heritage Bill 2007*.

The Bill provides for areas on the Cape to be declared areas of “international conservation significance”, but does not set out any legal consequences of any such declaration being made. It creates a new class of protected area, “national park (Cape York Peninsula Aboriginal Land)” and includes new provisions relating to management of such protected areas. The Bill also has implications for pastoral development on the Cape.

Special provisions concerning land clearing applications are included in the Bill. In addition to the purposes for which vegetation clearing applications are currently permitted to be made under the *Vegetation Management Act 1999*, the Bill provides that certain development applications involving land clearing for a “special indigenous purpose” may be made.

The Natural Resources Minister may be satisfied that certain developments are for a “special indigenous purpose” either if the development is minor and on certain indigenous land, or if the development is in a declared “indigenous community use area” and also satisfies certain economic and ecological criteria.

The Bill provides that the Governor in Council (the Governor on advice of the executive council of State Cabinet) may declare land in the Cape York Peninsula Region as an “indigenous community use area” if certain consultation occurs and if the Minister is satisfied that the land has the potential to support agricultural, animal husbandry, aquaculture or grazing activities.

Once a valid application is made, the application will still need to be assessed against a new proposed “Code for clearing vegetation for special indigenous purposes”.

For more information contact Jo Bragg at EDO Qld.

North Stradbroke Island water extraction EIS required

Water extraction from borefields on North Stradbroke Island and the eastern pipeline to feed that water into the water grid has been declared a state significant project for which an environmental impact statement (EIS) is required. Under the state development laws which apply to state significant projects, the only opportunities for the community to have their say on a project are comments on the EIS terms of reference and EIS itself. There are no appeal or review rights.

Moreton Island management plan amendments

Moreton Island’s management plan has been amended to include beach safety zones and vehicle go-slow zones, which will begin in September 2007. 4.4km of Moreton’s drivable beaches will be closed to traffic and 5.3km will have 30km/h zones, including 3.3kms of critical roosting sites where a bypass track will have to be used between half and high tide to protect shorebirds.

The management plan is available from www.epa.qld.gov.au.

LAW AND POLICY Changes continued**Water targets and tanks now compulsory for new homes outside SEQ**

From 1 July 2007, local governments throughout Queensland must require new homes to have rain-water tanks and meet water saving targets of 70 kilolitres a year for detached houses and 42 kilolitres per year for terrace and townhouses.

Amendments to the building laws passed in December 2006 have been in effect in SEQ since 1 January 2007 and came into effect for the rest of the state on 1 July 2007.

Want to find out more about recycled water?

A discussion paper (not open for public comment) Using Recycled Water for Drinking Purposes was released by the National Water Commission in June 2007 and is available from <http://www.nwc.gov.au/publications/docs/RecycledWaterForDrinking.pdf>. The paper is an overview of the national and international experience with direct and indirect potable re-use and is designed to assist communities when they are considering the option of drinking recycled water. The paper will complement national guidelines for the use of recycled water for drinking, due to be completed by the end of 2007.

OPPORTUNITIES TO COMMENT

The following Government initiatives are currently open for public comment:

Reminder!**Carbon capture and storage discussion paper.**

Comments due 3 August 2007

The Queensland government has released a discussion paper on geosequestration – the capture and underground storage of carbon dioxide (CO₂) produced from burning coal and other fossil fuels for electricity generation. This discussion paper invites comment on a proposed legislative model to regulate geosequestration under the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act). The discussion paper is available from www.nrw.qld.gov.au/mines/legislation/pdf/carbon_dioxide_discussion_paper.pdf, and comments are due by 3 August 2007. Comments can be faxed to 3238 3188, emailed to ccsleg@dme.qld.gov.au or posted.

Mineral Resources Act review
Comments due 17 August 2007

The *Mineral Resources Act 1989*, Queensland's main mining legislation, is under review. A discussion paper has been released for public comment by 4:30pm on 17 August 2007, and is available from: www.nrw.qld.gov.au/mines/legislation/pdf/mra_discussion_paper.pdf. Comments will inform amendments to the Act, and a draft Bill will also be subject to consultation prior to tabling in Parliament. Submissions can be sent by fax to 3238 3188, email to minlegreview@dme.qld.gov.au or by post.

EDO's quick look over the discussion paper has revealed no mention of greenhouse gases and only two references to climate change in the entire document. EDO will make a submission calling for companies to be made responsible for the greenhouse gas emissions generated from coal mined in Queensland, and encouraged to avoid, reduce or offset those emissions. We will also call for public notification of mining lease applications to be made available online.

Gulf Fisheries Assessments: Public comment by 3 August 2007

The current export approval for the Gulf of Carpentaria's Line Fishery will soon expire, and the fisheries require EPBC Act assessment for ongoing export accreditation. The Queensland government has provided reports on the fishery, which will form the basis of the assessments for EPBC Act accreditation.

Public comment is invited on the proposal to re-accredit the fishery under the EPBC Act for export.

Comments on the Line Fishery are due 3 August 2007.

For more information, see <http://www.environment.gov.au/coasts/fisheries/qld/line/submission-jul07.html>.

Whale seismic guidelines released for public comment by 31 August 2007

Revised guidelines released for public comment by 31 August 2007 provide new parameters for minimising the risks to whales from sounds generated by seismic survey operators searching for new oil and gas fields.

The previous guidelines stipulated that seismic survey activity could not occur if whales were within 3km of the area – this has been reduced to 2kms in the new policy statement.

Other changes are to poor-visibility operating provisions, adaptive measures and planning seismic operations around habitats and whale migration times.

The *Policy Statement on the Interaction between off-shore Seismic Exploration and Whales* is available from:

www.environment.gov.au/epbc/publications/seismic/draft-seismic-guidelines.html.

USEFUL NEWS

Water resources report released

On 2 July 2007 the National Water Commission launched the findings of the second stage of the Australian Water Resources 2005 ("AWR 2005") assessment, a baseline assessment of water availability, water use and river and wetland health for Australia in 2004-05.

The assessment contains useful facts and figures, including on consumptive water use for 2004-05: 65% by agriculture (of which 91% was for irrigating crops and pastures), 11 % by households, 11% by water supply industry, 7% by other industries, 3% by manufacturing and 2% by mining. Household water use decreased 8% from 2000-01 to a level of 103kL per person, and 16% of households reused or recycled household water.

AWR 2005 also provides a number of recommendations to improve future water resource management in Australia. For an overview of the report see:

www.nwc.gov.au/publications/newsletter/nwc_newsletter_AWR2005_special_edition.html or download the full report at www.water.gov.au/publications/index.aspx?Menu=Level1_9#level2.

Tree clearing figures for Queensland 2004-2005 released

Queensland's Statewide Land and Tree Survey (SLATS) data for 2004-2005 has finally been released and the report will shortly be available from <http://www.nrw.qld.gov.au/slats/report.html>.

The figures show a reduction of 27% on land clearing from the 2003-2004 year, with total clearing for 2004-2005 at 351,000 hectares, the lowest rate of woody vegetation clearing since data collection began. 94% of woody vegetation clearing in 2004-2005 was for pasture, and the top three regions for woody vegetation clearing were the Brigalow Belt, Mulga Lands and South East Queensland.

EDO NEWS

We temporarily farewell **Larissa Waters**, who is on unpaid leave for 5 months

Goodbye and thank you to law graduates **Ms Clare Quinn** and **Ms Leilani Kuhn** who have worked hard at EDO Qld for 4 and 5 weeks respectively as part of their practical legal training.

Good luck to **Nicole Leaney** who has been an invaluable asset as a solicitor with EDO-NQ. She is unfortunately leaving EDO-NQ in late August 2007 to take up a position at the Gold Coast.

Good luck also to **Leah MacDonald** who has also proven to be invaluable to EDO-NQ in the short time she has been with us. She also leaves at the end of August 2007 to have her first child with her husband. Both Nicole and Leah will be sadly missed members of the EDO-NQ team, and we wish them the very best of luck with all of their future endeavours.

EDO-NQ is advertising for applicants for the Solicitor and Accounts Administrator positions, which are soon-to-be-vacant. Applications close at 5pm on Tuesday 31 July 2007. Contact EDO-NQ if you would like a copy of the Position Profile and/or Selection Criteria sent to you.

MEMBERSHIPS

A reminder that EDO membership is valid for each financial year - so it's time to renew your membership - or join for the first time!

If you have not yet received your form for 2007-2008, you will do so very soon.

Your donations are also welcome, to supplement the base funding that EDO receives from the Commonwealth and State Community Legal Service Funding Programs, and project funding from Queensland EPA .

To subscribe free to the monthly joint EDO-Qld and EDO-NQ Bulletin, email edoqld@edo.org.au or edonq@edo.org.au
To subscribe free to the EDO NSW Bulletin, (covering Cth and NSW issues) please send an email to edonsw@edo.org.au

Environmental Defenders Office (Qld) Inc.

9th Floor, 193 North Quay (corner Herschel St), Brisbane 4000.

Ph: (07) 3211 4466, Fax: (07) 3211 4655, e: edoqld@edo.org.au

Environmental Defender's Office of Northern Queensland Inc.

1st Floor, 96-98 Lake St, Cairns 4870. Ph: (07) 4031 4766, Fax: (07) 4041 4535, e: edonq@edo.org.au

THIS BULLETIN IS PRINTED ON 100% RECYCLED PAPER.