

**ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.
ENVIRONMENTAL DEFENDERS OFFICE OF NORTHERN QUEENSLAND INC.**

BULLETIN

May 2006

What's in this Bulletin?

Check out the EDO Qld's website for the Commonwealth assessment process that applies to the proposed **Mary River Dam**. Don't miss the **Environment Day Film night at Tank Centre Cairns on 5 June** or the Students of Sustainability conference in mid-July. EDO Qld held 3 successful workshops for community litigants recently and the EDOs' Community Litigants Handbook will be launched on 25 July 2006 by the Attorney-General, Mrs Linda Lavarch in Brisbane. We **congratulate the State EPA** for securing a court order requiring Ipswich Council to review the way it manages sewerage.

Did you know that a number of planning schemes have recently come into force, including for the following shires, Kolan, Kilcoy, Burdekin, Bendemere and Redland Shire? The **IPA Review Options paper** will now not be released until August, a disappointing delay. Public comment is invited on listing of the Orange Roughy as endangered (due 14 June 2006), the draft Mackay-Whitsunday Regional Coastal Management Plan (due 16 June 2006), the draft Cook Shire Planning Scheme (due 11 August 2006) and an ALP discussion paper on coastal growth.

There is information on an important native title determination recognising **native title holders rights over the Grey Peak national park** but with other users' rights to access the areas unaffected. EDO NQ says goodbye to solicitor Tracey White and will soon be advertising for a locum solicitor, and EDO NSW is seeking a Programs Director.

COMMUNITY EDUCATION & EVENTS

Mary River Dam

There has been outspoken community opposition to the recently proposed Mary River Dam and to the proposed dam for Rathdowney. The community and EDO says that extra dams are not the solution to the water crisis in South-East Queensland. The Mary River contains the only remaining major spawning ground of the 180 million year old Queensland lung fish species, a species of international importance. The Burnett River was the only other major spawning ground for the lung fish however its major lungfish spawning areas were destroyed by Walla Weir and the controversial Paradise Dam.

On 28 May 2006 Jo Bragg outlined the Commonwealth assessment process that will apply to the proposed Mary River Dam to a gathering of over 150 people at the Sunshine Coast University. Dr Bob Brown addressed the audience on campaigning issues and Professor Jean Joss outlined the international importance of the Queensland lung fish.

For a copy of EDO materials on the Commonwealth assessment processes applying to the proposed Mary River Dam, but also useful for the Rathdowney Dam- see our website www.edo.org.au/edoqld

Film Night at Tanks Centre 5 June

The EDO-NQ, in conjunction with the Australian Conservation Foundation (ACF), The Wilderness Society (TWS) and the Cairns and Far North Environment Centre (CAFNEC) are holding a film night at the Tanks Art Centre on Monday 5 June to celebrate World Environment Day. The evening will kick off at 7.00pm with musician Jane Modric performing until 7.30pm when the film, a documentary entitled "The Human Race" will commence. Tickets are \$10 each (children under 12 are free) which includes a raffle ticket. Food by "Flavours of India" will available for purchase with all profits from the night going to EDO-NQ and CAFNEC.

To purchase tickets or for more information contact EDO-NQ on 4031 4766 or ACF on 4031 5760.

Community Perspective & Greenhouse issues at QELA conference

On 18 May, Jo Bragg attended the Queensland Environmental Law Association Conference on the Sunshine Coast and presented a paper "Community Litigants in the Planning and Environmental Legal System". The paper examined outcomes achieved by community litigants, impediments to community litigants launching appeals, such as the overwhelming rate of development and lack of legal aid, and proposed improvements to the Court processes. Barrister Stephen Keim S.C. gave an inspiring paper on the urgent need to address Climate change issues and Dr John Cole of the Queensland EPA also gave a very useful paper that focussed on Climate Change.

For a copy of conference papers contact the Queensland Environmental Law Association or contact EDO Qld for a copy of Jo Bragg's paper.

Community Litigants Workshops Run! and Handbook to be launched soon...

EDO Qld ran three successful workshops for community litigants on 25 and 31 May and 1 June 2006 with thirty people in total representing various community groups attending. Attendees heard from EDO staff solicitors and experienced barristers Mr. Stewart Ure, Mr. Chris McGrath and Mr. Steve Keliher who kindly donated their time to help workshop participants better understand the way the Court operates.

We plan to run similar workshops later in the year and repeat them biannually as there is a high demand for this type of information.

Don't forget! The Community Litigants Handbook by Anita O'Hart on behalf of EDO Qld and EDO NQ will be printed soon and formally launched on 25 July 2006 by Attorney-General Linda Lavarch. To put your name down for a copy (\$30) please telephone Bronwyn at EDO Qld or contact EDO NQ.

EDO-NQ speaks on proposed new Aluminium refinery

EDO-NQ Solicitor, Kirsty Ruddock recently spoke about pollution laws and state development at a forum in Townsville about the proposed Chalco Aluminium refinery. The public forum was convened by locals who are concerned about pollution and health impacts on nearby residents in Townsville if the refinery goes ahead. The community also expressed concerns about the state of Queensland's pollution controls and their enforcement by the EPA. Two other sites in Gladstone and Bowen are also being considered.

Students of Sustainability Conference in Brisbane 9-15 July 2006

The annual Students of Sustainability Conference is being held this year in Brisbane at the University of Queensland on 9-15 July 2006. The conference is not just for students but everyone concerned about indigenous, environmental and social issues. The conference brings together a wide range of speakers and includes open space sessions to encourage attendee participation and discussion. For more information about the conference phone 0409 570 559 or go to www.studentsofsustainability.org, and to register online visit www.studentsofsustainability.org/index.php?q=register.

COURT CASE NEWS

Case update from EDO-North Qld

Hillslope Development case - *SOS & CAFNEC v Reef Cove Resort Ltd & Cairns City Council*

As you may recall from the March/April Bulletin the EDO-NQ were awaiting the decision of the Planning & Environment Court in relation to an application by Reef Cove Resort Ltd to strike out the first ground of SOS & CAFNEC's application in this matter. SOS & CAFNEC are seeking declarations that the approvals granted to Reef Cove Resort by the Cairns City Council in relation to a tourist and residential development at False Cape are invalid. Judge White handed down his decision on 2 June 2006 striking out the first ground of SOS & CAFNEC's application and denying the use of expert evidence. This is a disappointing result, however the remaining grounds of SOS & CAFNEC's application still stand and the final hearing of the matter has been tentatively set down to commence on 7 August 2006.

Cassowary case - Community for Coastal & Cassowary Conservation v Johnstone Shire Council & Cavanah

No judgement has been handed down in this matter yet but we expect Judge White to make a decision shortly.

For more information about EDO-NQ cases contact us on (07) 4031 4766 or edonq@edo.org.au.

Other cases of interest

EPA Secures Court Order for Sewerage Review

On the 12 May 2006 the Environmental Protection Agency (EPA) secured a court order requiring the Ipswich City Council to review the way it manages sewerage. The EPA filed the court order in the Brisbane Planning & Environment Court after extensive investigations, assisted by the Council, into a significant sewerage spill from the Bognuda Street pump station into Clear Water Gully at Bundamba between 20 January and 1 February 2005. The order requires the Council to conduct a full audit of the operation and maintenance of its sewerage system and risk assessment procedures. The order also requires the Council to provide the EPA with measures they intend to implement to reduce the risk of sewerage overflows. Once approved by the EPA these measures must be implemented. The EDO's commend the EPA and the Ipswich City Council for working together to protect our waterways and environment from future sewerage spills.

LAW REFORM NEWS

Integrated Planning Act Review- options paper delayed till August

We are awaiting the release of a public options paper by Minister Desley Boyle. The options paper was due for release in June but now will be released in August after the Minister gains Cabinet approval. A number of key reform points, such as reinstating environmental impact assessment statements to be lodged with the development application and reintroducing the power for planning schemes to prohibit development are supported by both the community environmental sector and the local government association. So the EDOs are surprised that the process is being delayed.

For more information contact Jo Bragg or Anita O'Hart at EDO Qld.

NEWS OF RECENT AND FORTHCOMING LEGAL CHANGES

Five IPA Planning Schemes Commence

EDO has not analysed these schemes – what's your opinion?

The **Redland Shire** Planning Scheme commenced on 30 March 2006. Planning Minister Desley Boyle changed the draft scheme submitted by Redland Shire Council by altering the proposed designation of a number of areas from emerging urban communities to rural non-urban. The changes to the draft scheme were after a concerted campaign by Community for Responsible Planning and other community groups such as the Wildlife Preservation Society Bayside Branch, concerned to protect koala habitat from development pressures.

The **Kolan Shire** Planning Scheme commenced on 26 April 2006. The plan aims to preserve the rural nature of the Shire and intends to protect good quality agricultural land from sub-division and other inappropriate uses that threaten the sustainability of the local agricultural industry. Future residential development will be focussed mainly around the township of Gin Gin.

Kilcoy Shire's Planning scheme has also commenced as of 28 April 2006. The plan aims to protect viable agricultural land from sub-division and concentrate residential growth within the township of Kilcoy rather than spread throughout the rural areas of the Shire. Development close to dams and waterways will be assessed for impacts on the South East Queensland region's drinking water supply.

The **Burdekin Shire** Planning Scheme commenced on 3 May 2006. The scheme identifies land for future residential purposes but protects good quality agricultural land from subdivision and from other non-farming

purposes. It provides for an increase in aquaculture development but also contains a number of provisions to protect the Shire's natural areas, including the reef and wetlands. The Council has developed a number of user guides to assist members of the community to better understand how the scheme operates.

Finally, the **Bendemeere Shire** Planning Scheme has also commenced. The plan protects significant forestry areas within the Shire and incorporates strict weed management plans and controls to ensure the long term survival of a number of unique flora and fauna habitats. The plan also identifies land suitable for residential development, while protecting agricultural land from urban sprawl.

Native Title recognised over Grey Peaks National Park near Cairns

On 24 April 2006 the Federal Court in Cairns made a consent determination recognising the Mandingalbay Yidinji People's native title rights over more than 3100 hectares of land south-east of Cairns. The Thompson State Forest and Grey Peaks National Park. This is only the second time in Queensland that native title rights have been recognised over a national park. The determination allows the Mandingalbay Yidinji People to camp, hunt, fish, gather, use the natural resources, protect significant places and perform ceremonial activities according to their traditions and customs. They are not able to own, occupy or control the area and agreements have been made with a number of organisations to allow continued access to manage the area and maintain essential community infrastructure. The general public's right to access the area also remains unaffected. The determination also recognises the group's exclusive native title rights over two areas in Trinity Inlet and one area on Red Bank Creek. This means they can possess, occupy, use and enjoy these areas according to their traditional laws, except in relation to water.

OPPORTUNITIES TO COMMENT...

The following discussion papers are currently open for public comment:

Draft Mackay- Whitsunday Regional Coastal Management Plan – comments due 16 June 2006

Remember the Draft Mackay – Whitsunday Regional Coastal Management Plan is currently open for public comments. The plan is important as it will guide the future development of the coastal areas within the plan's boundary. The EDOs encourage interested people to read and make submissions on the draft plan. The consultation period ends on 16 June 2006.

Cook Shire Draft Planning Scheme open for Public Feedback – comments due 11 August 2006

Cook Shire Council released their Draft Planning Scheme for public display on 17 May 2006 after the draft was approved by the Minister for Local Government & Planning on the 9 May 2006. The public have until the 11 August to lodge submissions and have a say in the future of their region. Submissions must be in writing and can be lodged at the Cook Shire Council Office, faxed to (07) 4069 5744 or emailed to anugent@cook.qld.gov.au.

A copy of the Draft Planning Scheme is available on the Cook Shire Council website at www.cook.qld.gov.au/ or by contacting the Council on (07)4069 5444.

Listing of Orange Roughy as an Endangered Species – comments due 14 June 2006

The Federal Minister for Environment & Heritage has received expert advice from the Australian Government's Threatened Species Scientific Committee recommending the listing of the Orange Roughy as an endangered species. This will be the first time a commercially targeted fish has been unambiguously recommended for listing. The Orange Roughy is caught primarily in the Southern and Eastern Scalefish and Shark Fishery off the south-east coast of the mainland and around Tasmania. The recommendation follows the severe decline in numbers of this slow maturing fish that can live up to 150 years. The Minister has extended the 3 month public consultation period and invites further public input until the **14 June 2006**.

A copy of the advice provided to the Minister is available from the Department of Environment & heritage website at www.deh.gov.au/biodiversity/threatened/index.html.

Meeting the Challenge of Coastal Growth – Federal ALP Discussion Paper

On 5 May 2006 the Shadow Minister for the Environment & Heritage, Anthony Albanese, and the Shadow Parliamentary Secretary for Environment & Heritage, Jennie George, launched the discussion paper *Meeting the Challenge of Coastal Growth*. The discussion paper outlines the ALP's ideas and policies for a national strategy for protecting Australia's coasts and beaches. Comments and feedback are currently being sought on the discussion paper.

A copy of the discussion paper is available at www.anthonyalbanese.com.au or by phoning (02) 6277 4031.

EDO NEWS

EDO NQ farewells Tracey White and will shortly seek locum solicitor

The EDO-NQ will shortly be seeking applicants for the position of Solicitor in their Cairns office. The position will be for twelve months (September 2006 to September 2007) while the current solicitor is on maternity leave. If you are interested in assisting the EDO for 12 months as a lawyer, please contact Kirsty Ruddock, Principal Solicitor at the EDO-NQ on 4031 4766 or by email at edong@edo.org.au for more information.

The EDO-NQ would also like to farewell Tracey White who has been employed as Project Solicitor for the past twelve months. Tracey is leaving the ED) to take up a position with P&E Law in their new Cairns office. We thank Tracey for her enormous contribution and wish her all the best in her new role.

EDO NSW seeks Programs Director

The Environmental Defender's Office NSW in Sydney is seeking dynamic, self-motivated candidates for the position of Programs Director. For the position descriptions and selection criteria visit www.edo.org.au/edonsw/site/jobs_volunteer.php. Applications close on **12 June 2006**.

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