

SPECIAL July 2006 BULLETIN - Opportunities to Comment and Legal Changes

What's in this Special Bulletin?

This Special Bulletin outlines important **opportunities to comment** on Queensland climate change policy, five draft Water Resource Plans for Logan, Gold Coast, Moreton, Burdekin and Calliope, and the reporting rules for pollutants in the review of the federal National Pollutant Inventory National Environment Protection Measure. We then outline the host of **recent environmental legal developments** including a fabulous South Australian Bill to set targets for greenhouse gas emission reduction and renewable energy use, changes to the development rules in the SEQ Regional Plan, release of a national coastal protection plan and a myriad of changes "in brief" on climate change, water, pollution, protected areas. We also strongly criticise a new federal Act which changes federal electoral donations and electoral procedures so as to reduce public scrutiny. Achieving a just and ecologically sustainable society will always be a struggle if our electoral systems at all levels lack necessary transparency and accountability.

OPPORTUNITIES TO COMMENT...

Climate change policy – online comments due Friday 18 August 2006

The Queensland Government held the Climate Change Summit on July 25-26 2006 to bring stakeholders and experts from a range of areas together to share their ideas. Suggestions made at the summit, along with public submissions, will be considered by Cabinet after public consultation closes on **Friday August 18**.

Premier Beattie's climate change policy has so far focussed on encouraging the biodiesel industry, subsidising so called 'clean coal' to the tune of \$300 million, and relying on the greenhouse sink effect generated by the phase out of broadscale clearing in Queensland by the end of 2006. EDO says this is not enough and clean coal still produces greenhouse gases and should not be supported instead of the renewable energy industry! In a submission in February 2006 on the Queensland Climate Change Adaptation Project, EDO made points which remain relevant for this opportunity to comment and which readers are welcome to adopt in their submissions:

- the Queensland government must commit to state based greenhouse gas reduction targets (see the draft South Australian Bill discussed in this Bulletin which does this!) and set a state mandatory renewable energy target far in excess of the federal government's measly 2%;
- give climate change policy a regulatory basis to allow for conservation measures to be enforced against industry and government;
- mandate sustainable housing and infrastructure through building design rules including solar panels and energy-efficient air conditioning, and ensure all government buildings are energy efficient and powered by renewable energy;
- ensure the greenhouse impacts of proposed infrastructure (including ports and transport infrastructure) are properly assessed and that demand management alternatives to new infrastructure are given equivalent consideration and assessment;
- ensure the full impacts of greenhouse gas emissions from all new mining projects including new coal mines are properly assessed by an EIS and subject to the imposition of appropriate conditions or refusal of permission; and
- amend IPA to ensure that climate change provisions in the State Coastal Management Plan must be applied by local Councils in assessing development, rather than simply "had regard to".

*To have your say on Queensland's climate change policy go to www.thepremier.qld.gov.au/climatechange.
Draft Water Resource Plans open for comment – Logan, Gold Coast, Moreton, Burdekin and Calliope*

The Queensland government has released five draft Water Resources Plans, for Logan Basin, Gold Coast, Moreton, Burdekin and Calliope, and also indicated its intention to prepare a Resource Operations Plan for the Gold Coast, Moreton and Calliope. Comments on the draft WRPs are due **25 August (Logan), 4 September (Gold Coast and Moreton), 25 September (Calliope) and 29 September (Burdekin)**.

WRPs under the *Water Act* are meant to provide a framework to allocate and manage surface and subartesian water to meet future water requirements, including the protection of natural ecosystems and security of supply to water users. However both the Logan Basin and Burdekin draft WRPs include reserves of unallocated water which the WRPs state could be made available for new dams! Have your say on keeping this unallocated water in the river as environmental flows and supporting alternative, sustainable solutions to the water crisis!

All five draft WRPs and accompanying reports are available from www.nrm.qld.gov.au/wrp/catchments.html.

Pollution National Environment Protection Measure – comments due Friday 15 September 2006

The National Environment Protection Council has commenced the process to make a variation to the National Pollutant Inventory (NPI) National Environment Protection Measure (NEPM). The major changes include the inclusion of reporting requirements for transfers of substances, substance and threshold changes, removing the exemption for aquaculture reporting, and changes to publication requirements.

The changes were to include requirements to report on greenhouse gas emissions, but that has now been excluded by a COAG decision to work on separate uniform legislation later this year. EDO-NSW will be coordinating a submission by **15 September 2006** on behalf of all EDOs, calling for inclusion of greenhouse gas emissions reporting requirements and broadly supporting the other changes.

For more information see www.ephc.gov.au/nepms/npi/npirev2002_intro.html#npi_nepm_variation_2006

NEWS OF RECENT ENVIRONMENTAL LAW AND POLICY CHANGES...

South Australia and the World Heritage Committee take climate change seriously – wake up Queensland!

South Australia has announced proposed legislation which will set the first state level greenhouse emission reduction targets and ensure 20% of the state's electricity comes from renewable energy by 2014. The draft bill also proposes a target of reducing emissions by 60% of what they were in 1990 by the year 2050. EDO heartily congratulates the South Australian government!

In international developments, on 10 July 2006 the UNESCO World Heritage Committee decided that sites affected by climate change could be inscribed on the List of World Heritage in Danger, on a case-by-case basis, and invited a study on alternatives to the Danger List for these sites. EDO urges Premier Beattie to follow South Australia's lead to introduce state targets for reducing greenhouse gas emissions to keep our precious World Heritage Sites, including the Great Barrier Reef, off the World Heritage in Danger List!

See "In Brief" below for recent climate change legal initiatives at the federal level.

The South Australian draft Climate Change and Greenhouse Emissions Reduction Bill is available at: www.climatechange.sa.gov.au/PDFs/FINAL_Bill.pdf

New Act reduces federal government accountability and independence

The *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* (Cth) which partially commenced on 22 June 2006 amends four other Acts to radically change federal electoral donations and enrolment procedures, in a manner which EDO says reduces public scrutiny of donations to politicians and inhibits democracy. The Amendment Act:

- increases the electoral donation disclosure threshold from \$1,500 to \$10,000 indexed to CPI, and fails to address the problem of annual multiple donations to all branches of a party;
- increases the tax deductible contribution/ gift amount to political parties and candidates from \$100 to \$1,500 per year and now allows companies to tax deduct those amounts;

- closes the electoral roll on the third day (down from seven days) after an election is called for people already enrolled who want to update their details, disallows *new* enrolments for Australian citizens over 18 after 8pm on the day the election is called, and removes existing voting rights for prisoners serving less than three years in jail. The early closure of electoral rolls will disenfranchise voters and ends the long convention of people enrolling in the first few days of an election campaign; and
- repeals the rules which required broadcasters and publishers to inform the Electoral Commission of the details of electoral ads shown during the election period, reducing information for scrutinising media independence.

EDO agrees with strong criticisms of this Bill by Democrats Senator Andrew Murray. EDO also criticises the rules surrounding local government elections and State elections in Queensland, which also make it hard for the community to scrutinise business influence on politicians.

Community environmentalists need to advocate for fairer more democratic processes. Achieving a just and ecologically sustainable society will always be a struggle if our electoral systems at all levels lack necessary transparency and accountability.

SEQ Regional Plan update – new Draft Regulatory Provisions and designated Major Development Areas

The SEQ Regional Plan Draft Amendment 1 was open for public consultation from March-April 2006. The draft changes include replacement Draft Regulatory Provisions, changes to the Regulatory Maps to reflect existing urban zoning or committed developments in local planning schemes, and incorporation of the Mt Lindesay/North Beaudesert Study Area Study Report into the SEQ Regional Plan which accommodates an additional 225,000 people or 80,000 urban residential lots in that area.

Major amendments to the Regional Plan, including changes to the Urban Footprint will not be considered until the formal review of the plan in 2009-2010. Consequently, Draft Amendment 1 only includes extensions to the Urban Footprint required to comply with the existing development zonings and approvals.

Changes to the maps and new 'Draft' Regulatory Provisions came into force the day they were released, 2 March 2006, replacing the previous Regulatory Provisions finalised on 30 June 2005. Key changes introduced by the new replacement Draft Regulatory Provisions include:

- exemption from the limitations on material change of use for "local" or "minor" activities (defined);
- exemption from the Draft Regulatory Provisions for non-residential development in a state development area or which is a significant project;
- clarification that further development permits needed to facilitate and existing development approval (including a preliminary approval) are exempt from the Draft Regulatory Provisions;
- removal of the subdivision moratorium in the Mt Lindesay/North Beaudesert Study Area, and new rules which enable landholders in that area with undeveloped land in the Regional Landscape and Rural Production Area to have a grace period of 2 years from 2 March 2006 to apply to subdivide;
- protection for Major Development Areas from inappropriate or premature development *inside* the Urban Footprint, by requiring a structure plan (an integrated land use and infrastructure plan) to be in place before significant development can occur. Structure plans prepared by local government and must be approved by the regional planning Minister (the Premier). On 16 and 27 June 2006 the Premier designated 20 key locations being considered for future residential and economic development as Major Development Areas subject to these new rules.

The finalised Amendment 1 is expected to be released in August 2006, and will be included as an addendum to the SEQ Regional Plan that replaces certain text and maps in the Plan.

For a copy of the new Regulatory Maps see www.oum.qld.gov.au under Regulatory Maps–Interactive maps. For a list of the 20 Major Development Areas, see www.oum.qld.gov.au/?ID=35. For a copy of the new Draft Regulatory Provisions, see www.oum.qld.gov.au/docs/DraftAmendment1/DraftAmendment1_DraftRegulatoryProvisions.pdf.

New National Coastal Protection Plan Launched

On 23 May 2006 the Federal Minister for the Environment and Heritage launched a national plan aimed at protecting Australia's coastal environment, coastal industries and communities. The plan, the *Framework and Implementation Plan for a National Cooperative Approach to Integrated Coastal Zone Management* was developed by the Federal, Northern Territory and all State governments and provides complementary arrangements on national coastal issues such as land and marine based sources of pollution, introduced pest plants and animals, managing the impacts of climate change, and planning for population change.

A copy of the Framework and Implementation Plan for a National Cooperative Approach to Integrated Coastal Zone Management is available on the Department of Environment & Heritage website at www.deh.gov.au/coasts/publications/framework/index.html

In Brief - Changes to Environmental Law and Policy

Climate change

- The Commonwealth **Renewable Energy Electricity Amendment Act 2006** commenced on 30 June 2006, making changes in response to a 2004 review of the Act, including setting time limits for the creation of renewable energy certificates (RECs) and allowing voluntary surrender of RECs to encourage additional generation of renewable energy, clarifying the RECs available for solar water heaters and small generation units, providing increased opportunities for bioenergy, and suspending accreditation for power stations who manipulate their outputs to increase RECs without actually increasing actual renewable energy generation. EDO welcomes these amendments but calls on the Commonwealth government to promote renewable energy generation by increasing the Mandatory Renewable Energy Target from 2% to 10%.
- EDO congratulates federal ALP shadow environment Minister for re-introducing a **Bill to ratify the Kyoto Protocol** to formally bind Australia to the target of 108% of 1990 greenhouse gas emissions. The shadow Minister introduced the *Avoiding Dangerous Climate Change (Kyoto Protocol Ratification) Bill 2006* on 29 May 2006, following lapsing of the 2005 Bill of the same name. Alarming reports from the Australian Greenhouse Office in May 2006 quoted by the shadow Minister note an overall increase in greenhouse gas emissions of 25.1% between 1990 and 2004, excluding the offsets gained from stopping broadscale landclearing in Queensland and New South Wales. EDO urges the federal government to pass the Bill to commit Australia to reduce our climate change impacts, and to properly fund renewable energy sources instead of promoting non-renewable so called 'clean coal' and carbon sequestration, which does not tackle the underlying problem of energy over-consumption.

Water

- July 2006 amendments to the *State Development and Public Works Organisation Regulation* established the **Water Infrastructure Project Board**, which is responsible for developing and implementing four drought contingency projects: the Southern Regional Water Pipeline, Western Corridor Recycled Water Scheme, Tugun Desalination Plant and Regional Water Inter-Connectors.
- The **Mary River Water Resource Plan** (WRP) commenced on 28 July 2006, covering the Mary and its tributaries plus the Burrum, Maroochy, Mooloolah and Noosa Rivers. WRPs under the *Water Act* are meant to provide a framework to allocate and manage surface and subartesian water to meet future water requirements, including the protection of natural ecosystems and security of supply to water users. EDO says the WRP cannot protect natural ecosystems if the river is dammed and calls on the state government to stop the Mary River dam and instead focus on water conservation, recycling and demand management. The Mary Basin WRP is available from www.nrm.qld.gov.au/wrp/mary.html.
- The *Water Regulation* has been amended for the fifth time this year, including to implement **water metering charges** in the Boyne River Basin, to approve self-assessable development codes for bores, to declare the Mulgildie subartesian area (within which all works to take subartesian water will be assessable development, except for stock and domestic purposes) and other minor amendments.

Pollution

- On 22 June 2006 the federal government introduced the *Protection of the Sea (Harmful Anti-fouling Systems) Bill 2006*, which will implement the International Convention on the **Control of Harmful Anti-fouling Systems on Ships**. Once passed the Act will prohibit the application or re-application of a harmful anti-fouling compound (HAFC) on an Australian flagged ship or a foreign ship in an Australian shipping facility, and from 1 January 2008 it will be an offence for a non-compliant ship to enter or remain in any Australian shipping facility.
- Amendments to the federal Act dealing with marine oil pollution commenced on 23 May 2006 and clarify government response powers, nominating the federal government as the lead agency to respond to threats of serious marine pollution. The *Protection of the Sea (Powers of Intervention) Amendment Act 2006* also extends the application of the Act to all ships in the coastal sea which present a threat of significant pollution, and revises penalties for non-compliance with a direction.

Protected areas

- In the latest phase of the SEQ Regional Forest Agreement (SEQRFA) roll-out, 12 new national parks were gazetted by the Queensland government and World Heritage listed Main Range National Park was expanded. The latest forest reserve land transfers add almost 44,000 hectares of forest reserve to the SEQ protected area estate, as part of the government's SEQRFA commitment to convert nearly 407,000 hectare of forests in SEQ to protected areas.
- The federal *Fisheries Legislation Amendment (Foreign Fishing Offences) Act 2006* commenced on 23 June 2006 and imposes custodial penalties for foreign fishing offences in the Australian Fishing Zone, the waters from three to twelve nautical miles offshore. The maximum periods of imprisonment for fault based indictable offences vary from two to three years depending on the offence.
- On 3 August 2006, Queensland's Glass House Mountains became the 32nd entry on the National Heritage List, largely for their aesthetic, geological and inspirational values. Places on the National Heritage List are regulated by the federal EPBC Act, with the federal Environment Minister's approval required for any development likely to significantly impact on their values.

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