



ENVIRONMENTAL DEFENDERS OFFICE  
(QLD) INC.

ENVIRONMENTAL DEFENDER'S OFFICE OF  
NORTHERN QUEENSLAND INC.



## BULLETIN – JULY 2003

### What's in this Bulletin?

As well as informing you on key EDO-NQ Court cases, this month's issue discusses the Premier's response to the EPA's refusal to permit dredging for canal estates in Far North Queensland, and outlines new federal and state government proposals about aquaculture, biodiscovery and zoning in the Great Barrier Reef. We note the opportunities for public comment on these proposals, detail upcoming EDO workshops on environmental law, and outline what you can do to encourage finalisation of the landmark Cth/Qld plan for land clearing laws in Queensland!

### **Back to the Old Days for Qld Government? Premier Beattie Overrides EPA Decision and Allows Canal Estates in Far North Queensland**

Bulletin readers will recall from last month's edition the application before the Environmental Protection Agency (EPA) for approval to dredge in both the general use and the estuarine conservation zone of the Trinity Inlet/Marlin Coast Marine Park, regulated by the *Marine Parks Act 1982*, the *Marine Parks Regulation 1990* and the *Marine Parks (Trinity Inlet/Marlin Coast) Zoning Plan 2001*.

The EPA's laudable rejection of the application resulted in outcries from certain sectors of the community, particularly some residents from the Trinity Park area. As a result Premier Beattie flew to Cairns and announced in a Press Release issued on 9 July 2003 that he would introduce "specific amendments" to allow the proposed development to proceed.

EDO-NQ and EDO(Qld) are very concerned at the proposal to introduce special legislation to deal with an issue that in our view should be judicially determined. The passage of special legislation would by its nature engender a lack of confidence in Queensland government decision making processes and has already created dangerous expectations in some sectors of the North Queensland community that the Premier may be able to intervene to allow other developments, which hinge on obtaining Queensland government approvals, to go ahead.

*For further details contact Joanna Cull of EDO-NQ on (07) 40314766 or email [jcull@edo.org.au](mailto:jcull@edo.org.au)*

### **Land Clearing Victory Hangs in the Balance!**

*By Louise Matthiesson, land clearing campaigner at The Wilderness Society*  
Right now the fate of Queensland's native bushland rests in the hands of the

Federal Liberal Party.

In May the State and Federal Governments put forward a joint proposal (see EDO May 2003 Bulletin) that would phase out broadscale land clearing in remnant (or mature) bushland in rural Queensland by 2006. It would also provide \$150 million to assist landholders affected by the changes. However, the two Governments are yet to make a final decision about whether to follow through and implement the plan.

The State Labor Government seems committed, despite the National Party's declared opposition to the new controls, but the Federal Liberal Party is wavering - undecided. In the next few months the Liberals must make a choice. Will they stick with the original proposal that would protect up to 20 million hectares of remnant bushland, or will they cave in to demands from rural lobby groups and allow millions more hectares to be cleared?

To keep the pressure on the Liberal Party, the Wilderness Society has launched a state wide postcard campaign, sending messages of support and encouragement to your local Liberal Government representative, urging them to stick with the plan and protect Queensland's beautiful native bushland.

This could be the single biggest action ever to protect nature in Australia.

You can help make it happen by asking your friends and workmates to sign a postcard to send to their local Liberal Government representative. If you'd like us to send you some postcards, along with an explanatory brochure, contact Ian Gittus on 3846 1420 or [ian.gittus@wilderness.org.au](mailto:ian.gittus@wilderness.org.au).

Alternatively, write a letter direct to the Prime Minister to show just how strongly you feel about this issue. In your letter, tell him:

" I strongly support your proposal to phase out broadscale land clearing in rural Queensland, because it will protect our rivers, farms and wildlife for future generations.

" I urge you to implement the proposal as quickly as possible.

" I would also like to see proper protection for bushland in urban areas, and important areas of regrowth."

Send your letter to: Prime Minister John Howard, Parliament House, Canberra ACT 2600.

Also write to Premier Beattie congratulating him on his commitment to this reform proposal.

*For more information, contact Louise Matthiesson of The Wilderness Society on (07) 3846 1420 or email [bushland@wilderness.org.au](mailto:bushland@wilderness.org.au).*

### **Super-Cyclone Case Decision**

EDO-NQ has now received judgment in the case of *Nott v Daikyo and Cairns City Council*. The case was heard in March this year and EDO-NQ acted for Dr Nott, a senior lecturer from the School of Tropical Environment Studies & Geography at James Cook University in Cairns. Dr Nott appealed a condition concerning minimum habitable floor levels AHD, which was imposed by Council on a residential and tourist development planned by Daikyo (North Queensland). Dr Nott appealed the condition on the basis that part of the development as approved by Council would lie below the 1 in 100 year marine inundation level. Dr Nott's case was that the frequency and intensity of major cyclones has been under-estimated by relying solely upon the historical record

which is less than 100 years in North Queensland.

Unfortunately, the Court declined to amend the condition to increase the minimum habitable floor level to 5.15m AHD, as had been requested in submissions made on Dr Nott's behalf. One of the major reasons given by the Court for its decision was that Dr Nott was in effect asking the Court to act as a planning authority and to "substitute a standard devised by him for Council's adopted standard". The submissions of Counsel for Dr Nott however were that the Court was not being asked to act as a planning authority but was merely being asked to interpret the planning scheme as it exists, but in the context of Dr Nott's research. The result is disappointing and does not ease concerns held by many in the community as to the likely impacts of Cyclonic events on North Queensland coastal areas.

*For further details please contact Joanna Cull at EDO-NQ on (07) 40314766 or [jcull@edo.org.au](mailto:jcull@edo.org.au).*

### **Cairns Seminar on the Queensland Environmental Legal System on 30 July 2003**

Experienced planning and environmental barrister Chris McGrath is hosting a one-day seminar giving an overview of the Queensland environmental legal system on Wednesday 30 July 2003, 9:30am to 4:30pm at Cominos House, Greenslopes Street, Edge Hill, Cairns.

The seminar will be conducted using a case study of a sand mine in a coastal environment and a round-table format in which the audience is divided into six interest groups for the day. This fun & informative seminar will be particularly useful for local government CEOs, planning & environmental staff. All proceeds from the seminar will go to EDO-NQ. Cost: \$40 for EDO-NQ members, full-time students and pensioners, \$50 for non EDO-NQ members. *Bookings are essential so contact EDO-NQ on phone (07) 4031 4766, fax (07) 4041 4535 or [edong@edo.org.au](mailto:edong@edo.org.au).*

### **Submission writing workshop against the proposed Moreton Bay Sea Cage, 3 August 2003**

The Queensland Conservation Council, Moreton Bay Environmental Alliance and Wildlife Preservation Society of Qld's Bayside Branch invite you to attend a submission writing workshop HOW TO SAY NO TO FISH CAGES. Come and join a team of experts on effective submission writing in response to the SunAqua's Environmental Impact Statement for the Sea Cage development within Moreton Bay Marine Park. The team will assist you to write your submission on the spot or provide you with the information you need to create your own submission. You need only stay for 30 minutes. Where: Indigiscapes, Runnymede Rd, Capalaba, off Redland Bay Road. When: Sunday 3rd August 9:30am-11am. Tea, coffee and light refreshments will be provided.

*For more information or to RSVP, contact Simon Baltais of QCC on (07) 3221 0188 or email [moreton@qccqld.org.au](mailto:moreton@qccqld.org.au). If you can't make the workshop, contact EDO(Qld) for a guide to writing your submissions. SUBMISSIONS ARE DUE BY 21 AUGUST 2003.*

### **Queensland Draft Biodiscovery Bill 2003 - Comments sought**

Following on from last year's *Biodiscovery Policy Discussion Paper*, the

Queensland Government recently released the *Draft Biodiscovery Bill 2003*. 'Biodiscovery', often called "bioprospecting", is the commercial exploitation of natural biological resources, usually undertaken by or for biotechnology or pharmaceutical companies.

The Draft Biodiscovery Bill purports to "ensure ecologically sustainable access to the State's biological resources for research into, and commercialization of new drugs, therapeutic goods, bio-pesticides and other naturally derived products". To achieve this, the Bill contains mechanisms such as a *Biodiscovery Code of Practice* and *Biodiscovery Collection Protocols*. The Bill also entitles the State Government to share in any commercial profits from bioprospecting on State land or waters (but not private land) through compulsory *Benefit Sharing Agreements*.

EDO-NQ are assisting clients to comment on the Draft Bill, and support the separation of environmental protection functions (to be performed by the EPA) from resource development functions (to be performed by the Department of Innovation and Information Economy), as was recently done for mining.

However, EDO-NQ will seek clarification that *Nature Conservation Act* permits are not overridden by the new Bill, and will raise concerns about the lack of third party enforcement rights (judicial review only) and the need for better public access to information about applications and approvals.

Comments on the draft Bill must be received by **1 August 2003**, addressed to The Team Leader, Biotechnology Policy and Regulation, Department of Innovation and Information Economy, PO Box 187, BRISBANE ALBERT STREET QLD 4002.

For a copy of the bill see <http://www.iie.qld.gov.au/research/biodiscovery.html> or phone 3404 3648. For more information contact Steve Hall at EDO-NQ on (07) 4031 4766 or email [shall@edo.org.au](mailto:shall@edo.org.au).

### **Cth/Qld Aquaculture Consultation Paper - New Assessment and Approval Process Proposed**

The Commonwealth Minister for the Environment and Heritage recently released a Joint Commonwealth and Queensland Consultation Paper on streamlining the assessment and approval of land-based aquaculture proposals adjacent to the Great Barrier Reef. The consultation paper outlined the plan to accredit State assessment and approval processes to avoid duplication of assessment at the State and Commonwealth level.

Comments on the consultation paper closed on 20 July 2003, but if the proposal is pursued, the IDAS process (with amendments, including third party appeal rights in some circumstances) under Queensland's *Integrated Planning Act 1997* would be accredited to replace the assessment and approval process under the *Great Barrier Reef Marine Park (Aquaculture) Regulations 2000*.

Also, the draft Qld/Cth assessment bilateral under the EPBC Act would apply to aquaculture likely to have a significant impact on the World Heritage areas of the Reef, with the Commonwealth retaining final approval powers. Under both processes, new performance standards recently agreed upon by Queensland, the Commonwealth and industry proponents will apply, meaning a uniform set of standards will be used by both levels of government for the assessment and approval of land-based aquaculture proposals adjacent to the Reef.

*For a copy of the consultation paper see [www.ea.gov.au/epbc/publications/consultationpapers/aquaculturepdf.html](http://www.ea.gov.au/epbc/publications/consultationpapers/aquaculturepdf.html). For further details contact Jo Bragg at EDO(Qld) on 32 100275 or [jbragg@edo.org.au](mailto:jbragg@edo.org.au).*

### **Great Barrier Reef World Heritage Area Draft Zoning Plan out for Public Comment**

Don't forget that the Draft Zoning Plan for the Great Barrier Reef Marine Park has been released for public comment by the Federal government! Submission forms for making public comments on the Draft Zoning Plan are available from the GBRMPA website at [www.gbrmpa.gov.au](http://www.gbrmpa.gov.au). See our June 2003 Bulletin for details and get your comments in by **4 August 2003**. For further information visit [www.gbr.wwf.org.au](http://www.gbr.wwf.org.au).

### **Staff News - Welcome Stephen!**

Solicitor Stephen Hall has joined EDO-NQ! Stephen recently succumbed to the lure of sunshine and ended two and a half years as the EDO Tasmania solicitor, during which he gained a wealth of experience in environmental law. The EDO-NQ and EDO(Qld) staff and management committee extend a warm welcome Stephen and look forward to working with him.

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