

IMPACT

PUBLIC INTEREST ENVIRONMENTAL LAW

NO 77 MARCH 2005

QUARTERLY JOURNAL OF THE
NATIONAL ENVIRONMENTAL
DEFENDER'S OFFICE NETWORK

Australian Capital Territory
New South Wales
Northern Territory
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CONTENTS

Celebrating Twenty Years of Defending the Environment	1
EDO Victoria Wins Landmark Climate Change Case.	2
Local Landholders Save Threatened Species Habitat	2
EDO Network Litigation Update.	3
Heavy Penalty Imposed for Clearing in World Heritage Area	4
Protecting Queensland's Wild Rivers	5
Tasmanian Supreme Court Decision Threatens Public Participation	5
Pollution Prosecutions in New South Wales Plunge by Two-Thirds	5
Lessons from the Methanex arbitration for AUSTFA Article 11.7	6
ACT Greenhouse Abatement Scheme Commences	6
'Protecting Our Liquid Assets'	7
Legal Strategies for Promoting Implementation of International Biodiversity Law in the Sth Pacific	8

**Published by the Environmental
Defender's Office (NSW)**

Level 9, 89 York St Sydney 2000

Ph: 02 92626989

Fax: 02 9262 6998

Email: edonsw@edo.org.au

ABN: 72002 880864

ISSN: 1030-3847

Printed on recycled paper

Celebrating Twenty Years of Defending the Environment



EDO Network lawyers at D'Entrecasteaux National Park, Western Australia.

**PEPE CLARKE
PROGRAMS MANAGER
EDO NEW SOUTH WALES**

Twenty years ago, Australia's first public interest environmental law centre was founded in Sydney, staffed by one lawyer working part-time in the corner of a larger legal firm.

Today, there are nine Environmental Defender's Offices around Australia, fighting to protect the environment through litigation, law reform and community education.

Last year, the national EDO network took on cases to protect the Great Barrier Reef, stop illegal whaling in the Antarctic, challenge polluting industries, prevent commercial filming in wilderness areas and protect rivers, wetlands and coastal areas.

The EDO network will celebrate its twentieth anniversary with a two-day conference on Public Interest Environmental Law in Australia in Sydney on 13-14 May.

'This conference will reflect on the important role that public interest environmental law has played in Australia over the last twenty years, and explore future directions in environmental law and policy',

says Jeff Smith, Director of the NSW Environmental Defender's Office.

Speakers at the conference will include the Hon. Bob Debus, NSW Attorney General and Minister for the Environment, and Justice McClellan, Chief Judge of the NSW Land and Environment Court. The conference program also features international guests, including two public interest environmental lawyers from Papua New Guinea.

The conference will discuss key environmental issues like climate change, land clearing, water management and protection of the marine environment, as well as practical workshops on community campaigning, media skills, defamation law and environmental protest.

The conference will be held in the historic Customs House building at Circular Quay in inner-city Sydney. A reception will be held at the conference venue on the first night of the conference for participants and members of the public.

For more information, including the conference program, please visit our website: www.edo.org.au.

EDO Victoria Wins Landmark Climate Change Case

BARNABY McILRAITH
SOLICITOR, EDO VICTORIA

In one of the first decisions of its kind, the Victorian Civil and Administrative Tribunal (VCAT) has ordered a state government planning panel to consider the climate change impacts of a proposed coal mine expansion at Hazelwood.

The planning panel had previously excluded submissions in relation to climate change impacts associated with a proposed planning scheme amendment to allow expansion of the Hazelwood Mine to extend the operation of the Hazelwood Power Station.

WWF Australia, Environment Victoria, the Climate Action Network Australia and the Australian Conservation Foundation objected to the planning scheme amendment on the basis of greenhouse gas emissions.

The groups then sought judicial review of the exclusion of the impacts of the emissions from the assessment of the impacts of the expansion of the coal mine.

VCAT said that the Victorian Minister for Planning does not have the power to direct the panel to exclude considerations about greenhouse gas impacts. VCAT also

said that greenhouse gas considerations are relevant for a planning scheme amendment that would facilitate mining of coal for use in the power station.

“...the Victorian Minister for Planning does not have the power to direct the panel to exclude considerations about greenhouse gas impacts.”

The President of VCAT, Justice Morris, confirmed that the *Victorian Planning and Environment Act 1987* seeks to achieve ecologically sustainable development:

‘Many would accept that, in present circumstances, the use of energy that results in the generation of some greenhouse gases is in the present interests of Victorians; but at what cost to the future interest of Victorians? Further, the generation of greenhouse gases from a brown coal power station clearly has the potential to give rise to ‘significant’ environmental effects.’

This decision sets the scene for a more integrated approach to environmental assessment at both State and Federal levels.



In his decision, Justice Morris acknowledged the similarity of the environmental impact assessment approaches required under both the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and the *Victorian Planning and Environment Act 1987*.

To read the full decision, please visit:
www.austlii.edu.au/au/cases/vic/VCAT/2004/2029.html

BRAIN V GLENELG SHIRE COUNCIL

Local Landholders Save Threatened Species Habitat

BARNABY McILRAITH
SOLICITOR, EDO VICTORIA

EDO Victoria recently represented local landholders in a successful challenge to a land clearing permit issued by Glenelg Shire Council which would have resulted in the loss of endangered vegetation and threatened species.

In June 2004, a planning permit was granted by the Glenelg Shire Council to clear up to 120 hectares of native vegetation on land in Mumbannar, near Portland. Council did not require the landholder to advertise the clearing application, thus depriving the community of an opportunity to object to the application.

Local landowners only became aware that a permit had been issued when they saw heavy machinery on the land and made inquiries. At the request of a local land-

holder, EDO Victoria lodged an application to cancel the permit and obtain a stop work order to prevent the landowner clearing the precious habitat.

“As a result of the community's intervention, the significant vegetation is likely to be protected as a reserve or under a conservation covenant.”

Although it had become apparent that a mistake had been made in assessing the significance of the vegetation, neither the council or the Department of Sustainability and Environment (DSE) were prepared to exercise their statutory powers to apply to have the permit cancelled.

Subsequent assessment of native vegetation on the land has revealed that it contains two endangered ecological vegetation classes and provides habitat for a number of

threatened species, including the Southern Brown Bandicoot, Red-tailed Black Cockatoos, Brolgas and Swamp Skink.

The permit was cancelled by Victorian Civil and Administrative Tribunal. Our client subsequently received a letter from the Secretary of DSE, congratulating him for bringing the matter to its attention. As a result of the community's intervention, the significant vegetation is likely to be protected as a reserve or under a conservation covenant.

The case highlights the crucial role of the community in preserving native vegetation. The opportunity for communities to comment on all significant clearing applications before a permit is issued is essential to the implementation of the Native Vegetation Management Framework.

EDO Network Litigation Update

Opposing Antarctic Whaling *Humane Society International v Kyodo Senpaku Kaisha Ltd*

EDO New South Wales, on behalf of the Humane Society International, continues to push for Australian law to be upheld in its case against a Japanese whaling company operating in the Australian Whale Sanctuary adjacent to Australia's Antarctic Territory.

The Federal Court has not yet granted leave to serve the proceedings against Kyodo Senpaku Kaisha Ltd in Japan. Justice Allsop of the Federal Court requested that the Australian government, which is not a party to the proceedings, make submissions on whether the case should proceed. In its submission the Australian government has expressed its preference for pursuing diplomatic channels, rather than legal ones.

If successful in getting approval from the Federal Court, EDO will proceed by seeking an injunction against the annual whale hunt, and a declaration that Kyodo Senpaku Kaisha's activities are illegal under federal environmental law.

The case is timely as the Japanese government has recently announced that it intends to double its catch of minke whales in the Southern Ocean when it resumes its whale hunt later this year, and to begin hunting humpbacks and fin whales as part of its scientific research whaling program.

Defending Rivers and Wetlands *Nature Conservation Council of NSW Inc v the Minister for Sustainable Natural Resources*

In 2003, EDO New South Wales commenced proceedings on behalf of the Nature Conservation Council (NCC) to challenge the validity of the water sharing plan for the Gwydir River. The EDO argued that the water sharing plan failed to adequately protect environmental flows, with potentially serious impacts on dependent ecosystems, including the internationally listed Gwydir wetlands.

In February 2004, the Land and Environment Court dismissed the proceedings, finding the plan was validly made. NCC appealed this decision in the Court of Appeal. In February 2005, the Court of Appeal dismissed this appeal, despite finding that the water sharing plan failed to satisfy key statutory requirements in relation to the allocation of environmental flows.

The EDO is currently seeking leave to appeal this matter to the High Court of Australia, on advice from Senior Counsel.

Responding to Climate Change *Redbank II v The Minister for Infrastructure, Planning and Natural Resources*

For the last three years, EDO New South Wales has acted for peak conservation groups in relation to the proposed Redbank II coal-fired power station in the Hunter Valley. In 2003, the EDO provided legal advice on the environmental impact assessment process and engaged experts on carbon emissions and electricity supply needs to assist with the preparation of submissions to the state government.

In October 2003, the NSW government refused to grant development consent for the power station, on the basis of its projected carbon emissions. This was the first time in Australia that a development proposal had been refused on the basis of its climate change impacts. The proponent subsequently commenced merits review proceedings in the NSW Land and Environment Court.

In preparation for these proceedings, the EDO provided legal and technical support for conservation groups intending to appear as objectors raising public interest environmental issues. However, the proponent recently elected to discontinue their legal proceedings. As a result, the Redbank II power station will not be constructed.

Protecting Coastal Bushland *Friends of South West Rocks Inc. v Machro Pty Limited and Ors*

EDO New South Wales represented a community group, Friends of South West Rocks, in legal proceedings against two developers, a local council and the National Parks and Wildlife Service to protect an area of coastal bushland threatened by residential development.

The bushland is home to a number of threatened species, including the Squirrel Glider and the Brush-tailed Phascogale, which were likely to be significantly affected by the development.

The basis for the challenge was the failure of the local council to refer the proposed development to the state government for development consent pursuant to State Environmental Planning Policy No. 71. In December 2004, the Land and Environment Court found in favour of our clients, ruling that the council had failed to properly apply the state coastal protection policy. The case establishes an important precedent for the application of the coastal protection policy and threatened species law.

Opposing Coastal Development *Yorkeys Knob Residents Association v Toma Group Pty Ltd & Cairns City Council*

On 14-16 February 2005, EDO North Queensland represented the Yorkeys Knob Residents Association in a Planning and Environment Court appeal against the approval by Cairns City Council of a large development at Yorkeys Knob.

His Honour Judge White handed down his decision on 1 April 2005 in favour of the Yorkeys Knob Residents Association. His Honour set aside the preliminary approval and the development approval that had since been issued.

His Honour found that the design and bulk of the development, in particular a building 130 metres long and 13 metres high, was not compatible with the surrounding land uses and therefore was not within the reasonable expectations of the community.

Consequently, the developer will have to submit a new development application to build on the site. This fantastic result sets an important precedent for what is acceptable development in North Queensland and the importance of amenity and its effect on local residents.

EDO Solicitor, Kirsty Ruddock, acted as court advocate for the Association in this successful case.

Preserving Cassowary Habitat *Community for Cassowary and Coastal Conservation Inc v Oasis Mission Beach Pty Ltd & Johnstone Shire Council*

On 7 April 2005, EDO North Queensland lodged an appeal on behalf of the Community for Cassowary and Coastal Conservation (C4) against the lack of conditions imposed on an approval by the Johnstone Shire Council for a residential development on a site that adjoins and includes known cassowary habitat.

C4 are seeking further conditions to improve the cassowary habitat including widening and revegetating the cassowary corridor, requiring buffers between the development and surrounding conservation areas and the prohibition of domestic cats and dogs in the subdivision.

Protecting Coastal Bushland *Mackay Conservation Group Inc v East Point Pty Ltd & Mackay City Council*

EDO North Queensland is currently representing the Mackay Conservation Group (MCG) in an appeal against the approval by the Mackay City Council of a major coastal development on a largely undeveloped site of 68 hectares at East Point in Mackay.

The case was commenced before the Planning and Environment Court in Brisbane on 21 March 2005 and was scheduled to be heard until 1 April 2005. However due to the large number of expert witnesses called by the respondents the case ran over until 8 April and was then adjourned until 4-6 May.

Barrister Stephen Keim SC is representing the MCG, assisted by solicitor Joanna Cull of EDO North Queensland and a team of expert witnesses.

Defending World Heritage Values

Bosworth v Booth – Full Federal Court

EDO Queensland has recently represented Dr Carol Booth in an appeal by lychee farmer Mr Bosworth to challenge an order by the Federal Court which has for nearly four years stopped his use of an electric grid to kill flying foxes. The order was obtained following Dr Booth's application for an injunction to prevent the use of the grid on the basis that the use of the grid without federal approval was unlawful.

Mr. Bosworth's subsequent application for federal approval to cull the Spectacled flying foxes using the grid (Referral 2002/571) was rejected by the Federal Minister for the Environment.

On 3 December 2004, Justice Kiefel of the Federal Court heard arguments from Mr Bosworth that the Commonwealth Environment Protection and Biodiversity

Conservation Act 1999 could not regulate freehold land, and in his case amounted to an acquisition of land by the Commonwealth for which just terms had not been paid.

The Court agreed with barrister Chris McGrath that Mr Bosworth's action had no reasonable basis, struck out the application, and ordered indemnity costs in Dr Booth's favour. Mr Bosworth appealed against Justice Kiefel's strike out, and the matter is scheduled to come before the Full Federal Court for hearing on 16 May 2005.

Protecting Native Fauna

Booth v Frippery Pty Ltd

In December 2004, EDO Queensland represented Dr Carol Booth in a court action concerning a different farmer's use of electric grids against Black Flying-foxes. This action is the first use of new third party enforcement provisions in the Queensland Nature Conservation Act 1992, which were inserted in December 2003 after extended advocacy by EDO Queensland and conservationist Dr Carol Booth.

The Planning and Environment Court made orders with the consent of the parties that farmers Mr and Mrs Thomas and their company Frippery Pty Ltd cease and refrain from killing or injuring the protected bats until 1 November 2005, before which time a full hearing concerning a permanent injunction and an order to dismantle the grids will be held.

EDO Western Australia Fights to Protect Coastal Zone

Coogee Coastal Action Coalition in WA Court of Appeal

Proceedings to challenge the proposed construction of a marina at Port Coogee and rezoning of the adjacent coastal strip, foreshore and seabed, issued last year by EDO Western Australia on behalf of the Coogee Coastal Action Coalition, were heard on 3 March 2005 before the Western Australian Court of Appeal.

Dr Hannes Schoombee appeared as counsel. He argued that the Western Australian Planning Commission (WAPC) had entered into a contract with the Port Coogee developers and thereby committed itself to carrying out certain duties alleged to be inconsistent with the responsibilities imposed on the WAPC by section 33 of the Metropolitan Region Scheme Act to zone land under the Metropolitan Region Scheme.

The EDO also argued that the Land Administration Act 1997 did not provide the Minister of Lands with power to sell unallocated Crown land at Coogee Beach in derogation of public common law rights of fishing and navigation. A decision is awaited.

ENVIRONMENTAL PROTECTION AGENCY V BOYLE

Heavy Penalty Imposed for Clearing in World Heritage Area

CHRIS MCGRATH, BARRISTER

In 2001, grazier Vincent Boyle cleared part of the Main Range National Park in South West Queensland – part of the Central Eastern Rainforest Reserves of Australia World Heritage Area – to join two of his cattle properties.

Boyle was prosecuted by the Environmental Protection Agency (EPA) for taking a natural resource in a protected area in contravention of s 62 of the *Nature Conservation Act 1992* (Qld), an offence with a maximum sentence of \$225,000 or 2 years imprisonment for an individual.

To avoid jail Boyle 'volunteered' to donate 480 hectares of other forested land owned by him to the Main Range National

Park. Given the significant conservation values of this land the EPA accepted his offer and agreed to not press for imprisonment.

Boyle was first sentenced in December 2004. He was fined \$10,000 and ordered to pay compensation amounting to \$410,000 with specific provision to allow him to pay this by the transfer of 480 hectares of his land to the Queensland Government for inclusion in the National Park.

However, only days after the original sentence was imposed, the EPA learnt that logging was occurring on the land offered in compensation. EPA officers investigated and found around 250 logs had been removed, old timber tracks had been re-opened and damage had been caused to parts of the land in removing the timber.

The EPA then sought to re-open the

sentencing and on 22 March 2004, Boyle was re-sentenced on the same terms as the original sentence but with the fine raised to \$50,000. The sentencing judge, Hoath DCJ, made it clear that imprisonment would have been imposed except for the fact that the grazier was in the unique position of having land of high conservation value to offer as compensation to the National Park.

If the value of the compensation of \$410,000 is included with the \$50,000 fine, then the totality of the sentence imposed in this case is a record for a tree clearing offence in Australia. As vegetation clearing offences have been attracting steadily heavier penalties, the sentence in Boyle's case may foreshadow future sentencing for such offences.

Protecting Queensland's Wild Rivers

Following Premier Beattie's February 2004 election commitment to introduce special legislation to protect Queensland's Wild Rivers, EDO Queensland and EDO North Queensland have been working with the Queensland Conservation Council and the Wilderness Society to provide legal advice and assistance as part of a campaign to improve the government's Wild Rivers proposal.

EDO Queensland provided detailed input into the negotiating position adopted by the groups and made a substantial contribution to a joint submission to be submitted on behalf of various environment groups in April 2005. The submission seeks improved public enforcement rights, parliamentary scrutiny of motions to revoke Wild River declarations, and the

inclusion of a public nomination process for Wild Rivers.

The joint submission calls on the Queensland Government to:

- commit to protecting and managing all of Queensland's Wild Rivers;
- stand by its election commitment and ensure that no new dams or weirs will be built anywhere on Queensland's Wild Rivers, except for sustainable stock and domestic use;
- commit \$60 million for implementation of the *Wild Rivers Act*;
- ensure that the highest level protection and management zone for Wild Rivers includes the river's channel, floodplain, wetlands, connected groundwater systems and all of its special features;

- prohibit any activities that will degrade Wild Rivers;
- ensure that the Wild Rivers Act allows the public to nominate Wild Rivers for declaration;
- ensure that the Wild Rivers Act recognises the native title rights and interests of Indigenous Queenslanders;
- ensure that the Wild Rivers Act includes strong enforcement provisions including provisions for public enforcement; and
- ensure equal protection for a Wild Rivers declaration as is provided in the process for declaring, amending and revoking National Parks.

For a copy of the submission or more information on the Wild Rivers campaign, see www.wildrivers.org.au.

Tasmanian Supreme Court Decision Threatens Public Participation

The Tasmanian Supreme Court decision in *Hardman v Ward* [2004] TASSC 74 has changed the way in which costs are awarded in the Resource Management and Planning Appeal Tribunal, the state tribunal responsible for hearing planning appeals in Tasmania.

Until recently, the Tribunal has generally ordered that each party bears its own costs, unless the Tribunal was satisfied that special circumstances existed to justify a different order being made. In assessing whether a different order should be made, the Tribunal considered the results of the appeal, whether a party has raised "frivolous or vexatious" issues or unnecessarily prolonged the hearing and the financial capacity of the parties.

However, following *Hardman v Ward* costs will be awarded to the successful party unless there is reason for a different order. Mr Hardman has lodged an appeal against the Supreme Court decision.

Public participation in environment and planning matters is an important element of the resource management and planning system in Tasmania. A decision that increases the exposure of individuals and community groups challenging environmental and planning decisions to costs orders if they are unsuccessful could deter such participation.

The Minister for Environment and Planning has acknowledged that this is an undesirable outcome and proposed new legislation to "maintain an appropriate bal-

ance between encouraging public participation and... discouraging frivolous and vexatious legal action." The new legislation is expected to confirm:

- that the starting point should be that parties meet their own costs in matters considered by the Tribunal, and
- that the Tribunal has discretion to consider all relevant matters relating to the award of costs.

Amendments to the legislation must resolve the issue of costs in a manner that allows the public to continue to participate actively and effectively in environmental and planning decisions in Tasmania.

Pollution Prosecutions in New South Wales Plunge by Two-Thirds

The number of prosecutions mounted by the NSW Department of Environment and Conservation (DEC) has plummeted in 2004, an Environmental Manager analysis shows.

In 2004, only nine prosecutions initiated by the DEC in the NSW Land and Environment Court were concluded. This is just under a third of the number completed over the same period last year.

The figures reflect a period of turmoil at the NSW regulator, beginning with a major restructure in September 2003, which saw

the EPA merge with three other agencies. In April 2004, the government slashed \$30m from DEC's budget, triggering the loss of almost 300 jobs.

"The fall in prosecutions may well be part of a disturbing trend that we would want to watch closely," said Jeff Smith, Director of EDO New South Wales. "The government made much of its desire to 'regulate smarter' in light of the massive job cuts to DEC," he noted. "The fall in prosecutions either exposes the rhetoric of

doing more with less or it means as part of their smart regulation approach they are winding back significantly on prosecutions," he said.

A DEC spokesperson told Environmental Manager a merger involves "significant effort," and a consequent short-term "diminution" in day-to-day activities is likely before the long-term benefits are felt. DEC remains "absolutely determined" to prosecute polluters where appropriate.

Source: *Environmental Manager*, 9 November 2004

Lessons from the Methanex arbitration for AUSTFA Article 11.7

During negotiations for the Australia-US Free Trade Agreement (AUSFTA), the EDO Network expressed a number of concerns about the potential impacts of the agreement, particularly arising from the ability of US corporations to be compensated for loss of trade due to regulatory action by Australian governments designed to protect the environment.

Under clause 11.7 of the AUSFTA, public welfare legislation designed to effect pollution reduction may fall into the definition of 'expropriation', the taking of private property without compensation, and thus be compensable.

The implications of these arrangements are clearly illustrated by arbitration arising out of the North American Free Trade Agreement (NAFTA) which pitted Canadian methanol manufacturer Methanex against the US following a decision by the State of California to ban MTBE, a Methanex product. Methanex has claimed \$970 million dollars in lost profits.

The core issue is the rationale for the MTBE ban. The inference is that the ban was implemented after detection of the chemical in Californian groundwater sources used for drinking water, and is a legitimate public health/environmental protection measure.

Methanex challenges the science behind the decision taken in 1999 and says former state Governor Davis never claimed that it was a public health measure. Methanex claims that the MTBE detected in groundwater is 'caused by the release of gasoline from leaking underground gasoline storage tanks and inefficient two-stroke boat motors'.

Further, Methanex alleges that the political influence of those manufacturing ethanol, the competing product, had more to do with the ban than concerns about public health. Part of its case was that the State of California's enforcement of its water protection laws is inadequate.

In 2002, after an initial jurisdictional hearing, the arbitration was adjourned to allow Methanex to replead certain grounds of its claim and provide evidence. The merits hearing was held in June 2004. A decision is expected shortly.

The inference is that the ban was implemented after detection of the chemical in Californian groundwater sources used for drinking water, and is a legitimate public health or environmental protection measure.

The relevance of this arbitration to Australian environmental law and policy grows with the anticipated increase in trade between the US and Australia. State environmental and public health legislation which risks triggering American trade losses may subsequently involve the State in compensation disputes.

States and territory governments may have to justify their use of regulatory action by showing the merits of regulatory versus non-regulatory means of intervention and would need to consider the various options and their effect on trade before making new laws.

Another interesting issues arises in regard to the status of public interest groups in the arbitration. Due to the NAFTA agreement

containing an arbitration provision, not provided in the AUSFTA, this dispute was taken to the UNCITRAL, the UN's commercial arbitration Tribunal under Article 15 of the UNCITRAL Arbitration Rules.

The US, as respondent, was representing the State of California and defending its right to regulate to protect the environment. Canada and Mexico also had standing, as the two other signatories of NAFTA. Non-governmental organizations sought status in the arbitration to make submissions in the public interest, including the International Institute for Sustainable Development (IISD) and the Centre for International Environmental Law (CIEL).

No third party public interest group had previously applied to be heard before UNCITRAL. While third parties have no express rights to appear in any capacity in UNCITRAL proceedings, nor is there any express prohibition. UNCITRAL granted two NGOs standing as amici curiae (entitling them to make submissions to the Tribunal).

The precedent-making decision about public interest group participation in the UNCITRAL proceedings can be found at: www.international-economic-law.org/Methanex/Methanex%20-%20Amicus%20Decision.pdf.

Their amicus curiae submissions can be found at: www.state.gov/s/l/c5821.htm.

ACT Greenhouse Abatement Scheme Commences

Acting Chief Minister Ted Quinlan has announced the commencement from 1 January of the ACT Greenhouse Gas Abatement Scheme which requires electricity retailers operating in the ACT to achieve greenhouse gas benchmarks for the electricity they sell.

"Electricity retailers now have a legal obligation to seek cleaner and greener sources of electricity and to promote more efficient use of electricity in order to achieve their benchmarks," said Mr Quinlan.

The ACT Scheme mirrors the scheme that has been operating in NSW for the past two years. The ACT Government has reached an agreement with the administrator

of the NSW scheme, the NSW Independent Pricing and Regulatory Tribunal (IPART), to also administer the ACT Scheme.

"This arrangement will allow the two schemes to be fully integrated at a reduced cost to the ACT as we can piggy-back on the work that the IPART has already done to set up their scheme," said Mr Quinlan.

Electricity retailers are required to show that they have achieved their benchmark each year by creating or buying greenhouse abatement certificates. These certificates demonstrate that a certain level of emission reduction has been achieved by activities such as new renewable electricity plants, improved generation efficiency,

demand side management programs or carbon sequestration in forest plantations. The certificates must be approved and registered by IPART.

"The integration of the two schemes will allow abatement certificates to be traded across the ACT and NSW, thus widening the flexibility that electricity retailers have for achieving their benchmarks as well as opening up new opportunities for greenhouse emission abatement in the ACT," said Mr Quinlan.

Source: Ministerial Media Release,

11 January 2005

'Protecting Our Liquid Assets'

In association with the Tasmanian Conservation Trust, EDO Tasmania recently hosted Protecting Our Liquid Assets, a conference exploring options for the reform of water management law in Tasmania. This article provides a brief summary of the conference proceedings.

Full proceedings are available on the EDO Tasmania website at www.edo.org.au/edotas.

Water Management in Tasmania

The conference was opened by Justice Alan Blow who put Tasmania's current water regulation in a historical context.

Alan Harradine (General Manager, DPIWE Water Resources Division), gave an overview of *Tasmania's Water Management Act 1999* (WMA). Mr Harradine identified key difficulties in formalising water allocations, particularly when Tasmania's system has to cater for the largest volumetric range of entitlements in Australia – from Hydro Tasmania's 13 million megalitre annual entitlement to a landholder who draws only 0.001 megalitres per day. In accordance with national water policy, the WMA separates water entitlements from land titles, facilitates water trading, provides formal allocations for the environment and encourages community-based planning and management. Mr Harradine identified the short-term challenges for improving the water management system as finalising water management plans for all catchments to guide allocation decisions and developing effective strategies for groundwater management.

Craig Woodfield (Water Policy Officer, Tasmanian Conservation Trust), identified a number of weaknesses with the current water management system. In particular, Mr Woodfield was critical of: emphasis on water allocation rather than water management; flawed dam application and assessment process; lack of integrated catchment management; and inconsistent government policy.

Land Use Impacts

One session of the conference focussed on the impact of land use changes on water systems. Material prepared by **Rob Vertessy** and **Rodger Grayson** (Cooperative Research Centre for Catchment Hydrology) demonstrated the impact of vegetation clearance on water yield. The impact and duration of these changes varies depending on the type and age of the cleared forest, soil depth and average rainfall. In general, larger impacts are expected where old growth forest or forests in high rainfall areas are logged.

Dr David Leaman (Geohydrologist, Leaman Geophysics) also discussed the impact of forestry activities, using Tasmanian examples to demonstrate changed seasonal flow patterns, erosion, siltation and soil losses resulting from the cycle of clearing, burning and planting. Dr Leaman was very critical

of current forest practices and noted that rotating plantations every 20 years keeps the entire hydrological system in a constant state of high water demand. Dr Leaman stressed the importance of a transparent and inclusive allocation system and claimed that Tasmania's water management regime is currently distorted by its exclusion of large water users such as forestry operators. An understanding of the impact of land use changes and translocation of water on flow regimes is essential to the equitable management of water allocations. An allocation system that fails to consider water losses can only lead to future difficulties.

Given the management complexities, both presentations indicated that forest planning should be undertaken at a catchment scale and must consider:

- where rainfall occurs;
- expected time scales for recovery (depending on plantations, rotation plans etc);
- exacerbating or alleviating impacts (including climate change, afforestation and other clearing within the catchment); and
- water quality impacts of reduced water yield / environmental flows.

Experiences in other jurisdictions

Dr Lee Godden (Senior Lecturer in Water Resources Law, University of Melbourne) discussed how the National Water Initiative (NWI), signed by all states except Tasmania and Western Australia in June 2004, addresses issues of water quality, loss of environmental flows and degradation of catchments. Dr Godden argued that the NWI focuses on ensuring the security of consumptive entitlements, rather than protecting the environment. The NWI provides discrete environmental entitlements, however the environment does not enjoy priority. Further, there is no certainty that the defined environmental reserve can achieve sustainable outcomes where existing allocations already exceed catchment capacity.

Professor Barry Hart (Director of Water Studies Centre, Monash University) presented an overview of the Victorian Catchment Management Framework, which aims to maintain and improve river health. He described the Framework as a model of community driven, multi-disciplinary management in which regional committees are responsible for developing and implementing action plans, providing advice to government on funding priorities and liaising with stakeholders.

Dr Gerry Bates emphasised the importance of developing management systems to reflect ecological realities. Dr Bates noted that

our management of natural resources is often characterised by control – creating rights to resources without any related obligations or consideration of how natural systems actually behave. In the context of integrated catchment management and vegetation reforms in NSW, Dr Bates advocated the adoption of a more 'whole of government' approach towards management of natural resources.

The way forward

The recurrent themes of the conference were:

- the need for integrated catchment management in which water management decisions are part of a broader planning framework;
- protection of water quality and quantity should not be separated from decisions about land use;
- the importance of a consistent whole of government approach to resource management and the need for administrative structures to reflect ecological realities;
- a transparent allocation system that accounts for all activities affecting water quality and quantity. It is critical that 'intercepting' land use changes are included in the water balance sheet;
- the importance of demand management – adopting mechanisms to encourage efficient use of water; and
- public involvement in the water management system, including consultation in water planning and third party appeal rights.

The following resolutions were adopted at the conclusion of the conference as steps to improve water management in Tasmania:

- introduction of catchment management legislation, covering all land use change (without exemption), salinity and other landscape processes, following established best practice model.
- amending the Water Management Act 1999 to: (1) expand membership of the Assessment Committee for Dam Construction to include a conservation member; and (2) expand the scope of the legislation to consider all water usage and efficiency issues.
- Tasmania immediately resuming negotiations on the National Water Initiative.

The debate generated by Protecting Our Liquid Assets illustrates both the need to develop an effective and equitable system for the sustainable use of water resources and the complexity of the task.

For more information about the conference, including the full text of speakers' papers, please visit: www.edo.org.au/edotas/liquid_assets.htm.

Legal Strategies for Promoting Implementation of International Biodiversity Law in the South Pacific

PART 1

PEPE CLARKE LLB BSC

Abstract: *The immense biological diversity of the South Pacific is under threat from a range of human activities. International agreements, both global and regional, establish guiding norms and principles for the conservation of biodiversity. The capacity of national governments in the South Pacific to effectively implement international biodiversity conservation agreements is limited. Local and international civil society organisations have an important role to play in facilitating the implementation and enforcement of international biodiversity agreements. This paper explores a range of domestic and international legal strategies available to civil society organisations to promote the implementation of international biodiversity law in the South Pacific.*

This article has been published in two parts. The second part of the article will appear in the June 2005 edition of *Impact*.

Introduction

The terrestrial and marine environments of the South Pacific support immense biological diversity. This diversity is under threat from a range of human activities, including overexploitation of living resources, destruction of marine and terrestrial habitat, pollution of the environment and illegal hunting and trading in endangered species.¹

In recent decades, the conservation of biodiversity has become a matter of international and regional concern.² International agreements, both global and regional, establish guiding norms and principles for the conservation of biodiversity in the South Pacific.³ However, the capacity of national governments to effectively implement international biodiversity agreements has been limited by a range of factors, including the availability of financial, technical and human resources.⁴

Intergovernmental cooperation, including bilateral, regional and global initiatives, has an important role to play in promoting the implementation of international biodiversity conservation law in the South Pacific. However, there are also diverse opportunities for non-government organisations to play a positive part in ensuring

the conservation of biodiversity in the region.

Numerous local and international civil society organisations are active in the South Pacific, undertaking scientific research, educating local communities, coordinating on-ground environmental projects and engaging in political campaigning. Legal strategies for biodiversity conservation, such as public interest litigation and legislative reform, remain relatively underutilised by civil society organisations working in the region.

This paper explores a range of domestic and international legal strategies available to civil society organisations to promote the implementation and enforcement of international biodiversity law in the South Pacific. In particular, the paper canvasses a range of *domestic legal strategies* – such as institutional capacity building, legislative reform, community legal education and public interest litigation – and *international legal strategies* – including monitoring and reporting, formal complaint mechanisms, multilateral negotiations, dispute resolution proceedings and legal action in international tribunals.

In exploring these issues, this paper aims to stimulate discussion about opportunities for strengthening civil society legal strategies in the region, by encouraging information exchange, resource sharing and active collaboration between local and international civil society organisations. Case studies are used to demonstrate existing mechanisms for improving the effectiveness of national, regional and international civil society legal strategies.

Biological Diversity in the South Pacific

The South Pacific region comprises a total of twenty one countries and territories: Papua New Guinea, Solomon Islands, New Caledonia, Vanuatu, Fiji, Tonga, Samoa, American Samoa, French Polynesia, Palau, Guam, Northern Mariana Islands, Cook Islands, Kiribati, Tuvalu, Federated States of Micronesia, Marshall Islands, Niue, Nauru, Australia and New Zealand.

The terrestrial and marine environments of the South Pacific support enormous biological diversity.⁵ The islands of the South Pacific sustain tropical forests, woodlands, grasslands, wetlands and coral reefs. The South Pacific has some of the highest marine diversity in the world – up to 3000 species may be found on a single reef. The many thousand islands are surrounded by a rich complex of coastal ecosystems, including mangroves, seagrass beds and estuarine lagoons. The region's marine and terrestrial ecosystems are also home to the world's highest proportion of endemic species per unit of land.⁶

The rich biodiversity of the South Pacific is in serious jeopardy. According to the United Nations Economic and Social Commission for Asia and the Pacific report, *State of the Environment in Asia and the Pacific 2000*, 'the biological diversity of the South Pacific region is some of the most critically threatened in the world'.⁷ The South Pacific contains the highest number of threatened species in the world; an estimated 75 percent of documented bird and mammal extinctions have occurred in the region.⁸

For centuries, customary land tenure and traditional resource management systems have successfully regulated individual and communal resource use. Custom has been the basis of conservation by resource owners, helping communities avoid resource depletion and scarcity. However, rapid population growth and economic development are placing considerable pressure on terrestrial and marine ecosystems and the biodiversity they contain.⁹

*In the past half-century, the rich biological resources of the region have been increasingly exploited both for international trade and to sustain the growing population. The direct harvesting and export of natural products, particularly timber and fish, the expansion of agriculture into primary forests, wetlands and grasslands, and the replacement of traditional native crops with high-yielding exotic species have had severe impacts on the region's biodiversity. In addition, urbanisation, pollution, mining, tourism, introduced species, hunting, illegal trade in endangered species and the lack of proper management practices have taken their toll. In the past decade, demand on biological resources increased sharply due to rapid economic and population growth.*¹⁰

Destruction of natural habitat for agricultural development is a major driver of biodiversity loss in the region. Population growth, together with an increased emphasis on export crops, is leading to the removal of increasing areas of natural habitat for agricultural purposes. Urban development associated with rapid population growth also presents a significant threat to biodiversity in certain parts of the South Pacific.¹¹ In countries such as Papua New Guinea, the Solomon Islands and Vanuatu, commercial logging activities exact a heavy toll on forest ecosystems. Mineral development projects have been responsible for high intensity impacts on terrestrial biodiversity, as well as downstream pollution impacts on riverine, coastal and marine ecosystems.¹²

Marine biodiversity in the South Pacific is threatened by over-fishing, marine pollution and destruction of marine and coastal habitat, including coral reefs and man-

groves. Freshwater ecosystems have been affected by over-extraction and pollution. The islands of the South Pacific are particularly vulnerable to the predicted effects of climate change, including coral bleaching, rising sea level, altered rainfall patterns and extreme weather events. Concerted national, regional and international effort is required to halt the decline in biodiversity in the region and to mitigate the biodiversity impacts of climate change.¹³

International Biodiversity Law in the South Pacific

International environmental law has developed rapidly over the last forty years. During that period, loss of biological diver-

- 1979 Convention on the Conservation of Migratory Species of Wild Animals;
- 1982 United Nations Convention on the Law of the Sea; and
- 1992 Convention on Biological Diversity.

The ratification status of each of these treaties by independent states in the South Pacific is summarised in Table 1: *South Pacific Membership of the International Biodiversity Agreements*.

The limited ratification of global biodiversity agreements in the South Pacific is a significant threshold issue limiting the implementation of international biodiversity law in the region. Nonetheless, national governments throughout the South Pacific

required to identify wetlands of international importance within their territory and designate such wetlands for inclusion on a list established under the Convention.¹⁸ Parties are required to maintain the ecological character of listed wetlands, and to report on the status of listed wetlands within their territory.¹⁹ Furthermore, each party undertakes to promote the conservation of wetlands – both listed and unlisted – by establishing and managing wetland reserves.²⁰

Convention Concerning the Protection of the World Cultural and Natural Heritage

The 1972 *Convention Concerning the Protection of the World Cultural and Natural Heritage* ('World Heritage Convention') is concerned with identifying cultural and natural heritage sites of 'outstanding universal value', and with promoting cooperation amongst nations to contribute effectively to the protection of these areas.²¹ Parties to the Convention are required, *inter alia*, 'to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage'.²² Parties must report periodically on the legislative and administrative measures which they have adopted to implement the Convention.²³

Convention on International Trade in Endangered Species of Wild Fauna and Flora

The aim of the 1973 *Convention on International Trade in Endangered Species* ('CITES') is to protect endangered species by banning trade in endangered species and regulating trade in other listed species. The Convention provides for the listing of species threatened with extinction, species threatened by utilisation incompatible with their survival, and species protected in the territory of a state party, where that party requests assistance in controlling international trade in that species. Parties to the Convention are required to take legislative and administrative measures to regulate the import and export of listed species, including a system of import permits and export certificates.²⁴ Parties are required to provide biennial reports to the Secretariat in relation to the measures taken to enforce the provisions of the Convention.²⁵

Convention on the Conservation of Migratory Species of Wild Animals

The 1979 *Convention on the Conservation of Migratory Species* ('CMS') provides a framework for states to take individual and cooperative action for the conservation of terrestrial, marine and avian migratory

Country	Ramsar	WHC	CITES	CMS	UNCLOS	CBD
Australia	✓	✓	✓	✓	✓	✓
Cook Islands	–	–	–	–	✓	✓
Fiji	–	✓	✓	–	✓	✓
Kiribati	–	✓	–	–	✓	✓
Marshall Islands	–	–	–	–	✓	✓
Federated States of Micronesia	–	–	–	–	✓	✓
Nauru	–	–	–	–	✓	✓
New Zealand	✓	✓	✓	✓	✓	✓
Niue	–	✓	–	–	✓	✓
Palau	–	–	–	–	✓	✓
Papua New Guinea	✓	✓	✓	–	✓	✓
Samoa	–	–	–	–	✓	✓
Solomon Islands	–	✓	–	–	✓	✓
Tonga	–	–	–	–	✓	✓
Tuvalu	–	–	–	–	✓	✓
Vanuatu	–	–	✓	–	✓	✓

Table 1: South Pacific Membership of Multilateral Biodiversity Agreements¹⁶

sity has become an issue of global concern. This concern is reflected in international and regional agreements for the conservation of biodiversity.¹⁴ These agreements establish guiding principles, set binding standards, and provide mechanisms for international cooperation in biodiversity conservation.¹⁵

International Agreements

Key global agreements in relation to the conservation of biodiversity include:

- 1971 Convention on Wetlands of International Importance;
- 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage;
- 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora;

have signed and ratified the *Convention on Biological Diversity* and the United Nations *Convention on the Law of the Sea*, and others have signaled their intention to ratify other biodiversity conventions in the future.

Each of the agreements listed above provides for the conservation of biodiversity via the protection of species or the conservation of natural ecosystems. The objectives and key features of each of these agreements are reviewed briefly below.

Convention on Wetlands of International Importance

The 1971 *Convention on Wetlands of International Importance* ('Ramsar Convention') aims 'to stop the loss of wetlands and to promote their conservation and wise use'.¹⁷ Parties to the Convention are



species and their habitats.²⁶ Parties are required to adopt strict measures to protect listed endangered migratory species, and are encouraged to enter into agreements for the conservation and management of other migratory species.²⁷ There are currently no bilateral or regional agreements for the conservation of migratory species in the South Pacific, and membership of the Convention in the region is limited.

United Nations Convention on the Law of the Sea

The 1982 *United Nations Convention on the Law of the Sea* ('UNCLOS') is a global convention that has had a sweeping impact upon the South Pacific.²⁸ The Convention provides, inter alia, for the establishment of an exclusive economic zone (EEZ) extending up to 200 nautical miles from the coastline of coastal and island states.²⁹ This legal development has had profound implications for the economic and political landscape of the South Pacific, allowing each small island state to exercise control over an EEZ many times the size of its terrestrial territory. Within its EEZ, each coastal state has the sovereign right to exploit, conserve and manage living natural resources.³⁰ Coastal states may take legislative and administrative measures to enforce those rights, and are granted the authority to board, inspect and arrest vessels violating relevant laws within the EEZ.³¹ Within its EEZ, a state exercises authority to protect and conserve the marine environment, and is required to ensure the conservation of living marine resources.³²

Convention on Biological Diversity

The objectives of the 1992 *Convention on Biological Diversity* ('CBD') are 'the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilisation of genetic

resources'.³³ Parties to the Convention are required to develop national strategies, plans or programs for the conservation and sustainable use of biodiversity, or to adapt existing plans or programs for this purpose.³⁴ The Convention contains normative provisions in relation to identification and monitoring of biodiversity, conservation of biodiversity *in situ* and *ex situ*, and for the sustainable use of biodiversity.³⁵ The Convention also requires parties to adopt policy and procedural measures to promote conservation and sustainable use of biodiversity, including: financial incentives, public education and awareness, research and training, and environmental impact assessment procedures.³⁶

Regional Agreements

Regional environmental agreements play a key role in promoting and facilitating the implementation of global environmental agreements, and present opportunities for the development of innovative, regionally-appropriate principles and practices.³⁷ In the South Pacific, conservation of biodiversity in general and the protection and preservation of wildlife and habitat in particular has been a matter of regional concern. The South Pacific community has been particularly active in developing regional conservation strategies.³⁸

Key regional agreements related to the conservation of biodiversity in the South Pacific include:

- 1976 Convention on the Conservation of Nature in the South Pacific
- 1979 South Pacific Forum Fisheries Convention
- 1986 Convention on the Protection of Natural Resources and the Environment of the South Pacific
- 1989 Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific

- 1993 Agreement Establishing the South Pacific Regional Environment Programme.³⁹

Convention on the Conservation of Nature in the South Pacific

The 1976 *Convention on the Conservation of Nature in the South Pacific* ('Apia Convention') was signed in Apia, Western Samoa on 16 June 1976. However, the Convention did not come into effect until 1990 and few countries in the region have ratified the agreement. The Convention aims to establish a broad framework for nature conservation in the South Pacific region. The Convention requires parties to safeguard representative samples of natural ecosystems by establishing and maintaining national parks and reserves. Parties are required to protect native flora and fauna, and to provide for the listing and protection of endangered species. Parties to the Convention also undertake to cooperate in the matters of environmental research, information exchange, and training of personnel.⁴⁰

South Pacific Forum Fisheries Convention

The 1979 *South Pacific Forum Fisheries Convention* recognises the need for effective cooperation for the conservation and optimum utilisation of the highly migratory fish species of the region and establishes the Forum Fisheries Agency to carry out the following functions for the benefit of member states: monitoring regional fisheries; providing technical advice and information; assisting with the development of fisheries policies; and, assisting with licensing, surveillance and enforcement of national fisheries legislation.⁴¹



Convention on the Protection of Natural Resources and the Environment of the South Pacific

The 1986 *Convention on the Protection of Natural Resources and the Environment of the South Pacific* ('Noumea Convention') requires parties to prevent, reduce and control pollution, and to ensure sound environmental management and development of natural resources.⁴² The Convention requires parties to 'take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat'.⁴³ To this end, parties are required, as appropriate, to establish protected areas, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. Parties are further obliged to develop and maintain technical guidelines and legislation for environmental impact assessment.⁴⁴ Parties are required to report on the measures adopted by them to implement the Convention.⁴⁵

Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific

The 1989 *Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific* requires each party to prohibit its nationals and vessels from engaging in driftnet fishing activities within the Convention area, and to take measures consistent with international law to restrict driftnet fishing, including: prohibiting the use of driftnets in areas within its jurisdiction; prohibiting the import of fish caught using a driftnet; and, restricting port access for driftnet fishing vessels.⁴⁶

Agreement Establishing the South Pacific Regional Environment Program

The 1993 *Agreement Establishing the South Pacific Regional Environment Program* was concluded to formalise the establishment of the South Pacific Regional Environment Program (SPREP) as an entity independent from the South Pacific Commission. The purposes of SPREP are 'to promote cooperation in the South Pacific region and to provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations'.⁴⁷

SPREP has played a vital leadership role in the region and provided essential support for the development and implementation of environmental law in the South Pacific. As Boer, Ramsay and Rothwell note: 'the development of the South Pacific Regional Environment Program (SPREP) is perhaps the strongest example throughout the whole Asia Pacific of an environmentally-centred subregional organisation'.⁴⁸

Implementation of International Biodiversity Law in the South Pacific

The international and regional agreements discussed above provide a sound framework for the conservation of biodiversity in the South Pacific, but require action at a regional and national level to achieve their ambitious goals.⁴⁹ In order to assess the measures which South Pacific states have taken to implement these international agreements, it is useful to consider the following key elements of the implementation process: ratification, implementation, compliance and enforcement.

The limited resources of national governments in the South Pacific present significant challenges for the effective implementation of international environmental agreements: 'within countries of this region, lack of, or weakness of, national policies, legal and institutional arrangements, and

human resource capabilities are the core obstacles to the effective negotiation, ratification and implementation of multilateral environmental agreements'.⁵⁰

Ratification

Ratification of international biodiversity conservation agreements by island nations in the South Pacific, with the exception of the CBD, has been relatively limited (see Table 1: *South Pacific Membership of Multilateral Biodiversity Agreements* above). This is due in part to the limited resources of these island nations:

At the national level, the operation of the [multilateral environmental agreement] system requires significant time and resources to address policy considerations for negotiation, signature and ratification of conventions. The same is true for the implementation of national commitments under ratified conventions. For small nations such as the Pacific islands, these requirements are very large in relation to the total number of personnel and their other responsibilities.⁵¹

The increasing complexity of international environmental law, and the related demands upon national governments in relation to negotiation, signature, ratification, implementation, compliance and enforcement of multilateral environmental agreements, has prompted a number of national governments to complain of 'treaty fatigue', an unwillingness or inability to enter into new international agreements, or to adequately implement existing agreements.

Implementation

According to a recent report published by the United Nations University, '[t]he first and foremost problem that states in the Pacific face in the implementation of multilateral environmental agreements is the



absence of an effective and comprehensive legal framework, or its incoherence.⁵²

The international biodiversity agreements discussed above contain a range of provisions requiring the development of national policies and subsequent enactment of legislation.⁵³ For example, the *Convention on Biological Diversity* requires parties to:

- develop national strategies, plans or programs for conservation and sustainable use of biodiversity;⁵⁴
- develop or maintain legislation for the in situ conservation of threatened species and populations;⁵⁵
- regulate collection of biological resources from natural habitats for ex situ conservation;⁵⁶ and
- establish appropriate procedures for environmental impact assessment of proposed projects that are likely to have significant effects on biological diversity.⁵⁷

National Strategies

A number of South Pacific states have developed national strategies for sustainable development. Each of the following countries and territories has developed a *National Environmental Management Strategy*: Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Niue, Samoa, Solomon Islands, Tonga and Tuvalu.⁵⁸ These national strategies represent an important step towards sustainable environmental management. In most cases, however, these strategies have not adequately addressed biodiversity conservation principles. As a result, a number of South Pacific states have invested significant resources in reviewing existing strategies, or developing new biodiversity conservation strategies.

For example, Vanuatu's *National Biodiversity Conservation Strategy* identifies the following key objectives: ensure sustainable management and conservation of Vanuatu's biodiversity; develop appropriate policy, planning and legal

mechanisms for the management of biodiversity; improve knowledge about biodiversity in Vanuatu; improve the capacity of national, provincial, non-government and community organisations to manage biodiversity; increase local awareness of the importance and value of biodiversity; and, foster community participation in the management and conservation of biodiversity.⁵⁹

Other countries in the South Pacific that are developing, or have developed, national strategies for the biodiversity conservation include the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Niue, Vanuatu, Papua New Guinea, Solomon Islands, Samoa, Australia and New Zealand.⁶⁰ The development of these national strategies is an admirable initiative, requiring significant resources, research and community consultation. However, inadequate human and financial resources, particularly in the developing countries of the region, are hampering implementation of these strategies and plans.⁶¹

National Legislation

The international and regional biodiversity conservation agreements discussed above require national governments to introduce domestic legislation to protect biodiversity within their domestic jurisdiction:

*These international and regional conventions provide an adequate framework in terms of establishing policies and goals for the conservation of biological diversity, but they are not self-executing in each country to which they apply. They require action at a national level to become operative.*⁶²

The key legislative measures that may be employed to conserve biodiversity are four-fold: site-specific conservation measures; species-based conservation measures; identification and modification of harmful processes and activities; and assessment of the impacts activities are likely to have on biological diversity.

Most countries in the South Pacific have enacted legislation in relation to environmental protection, or have enacted sectoral legislation containing environmental protection provisions. However, most countries in the region have not enacted comprehensive environmental legislation, resulting in a fragmented approach to biodiversity conservation. In most cases, existing laws do not comprehensively address the obligations of state parties under international biodiversity agreements.

The introduction of comprehensive environmental legislation, such as Fiji's *Sustainable Development Bill*, has been a controversial process, resulting in substantial delays and conflict. The limited resources of national governments in the region, combined with domestic controversy regarding land use regulation and economic development priorities, have resulted in significant delays in the drafting and enactment of comprehensive environmental legislation in a number of countries.⁶³

Compliance

International biodiversity agreements require national governments to comply with a range of obligations, including, but not limited to, the legislative measures discussed above. Other relevant treaty obligations include: identification and declaration of protected areas; identification and listing of threatened species; management of protected areas; environmental impact assessment; environmental monitoring; and, periodic reporting on measures taken to implement each convention to which the state is a party.

The ability of small developing states to deal with the compliance burden associated with membership of multilateral environmental agreements is a significant issue in the South Pacific: 'smaller states, especially in the Southwest Pacific, have very small

and under-resourced government bureaucracies and therefore find it difficult to deal with the vast number of international environmental conventions and to address issues such as national implementation and meeting reporting requirements.'⁶⁴

Enforcement

*While an adequate legal framework is necessary for effective conservation of biodiversity, it will be insufficient unless there are adequate institutions to implement and enforce the legal principles and administrative policies established by that legal framework.*⁶⁵ *Effective enforcement of environmental legislation is contingent upon the availability of adequate staff and financial resources, the administrative and political will of the enforcement agencies and the level of public awareness of environmental laws.*⁶⁶

Although most countries in the South Pacific have enacted environmental legislation, 'there is a lack of enforcement or implementation of many policies or legislation, together with a growing weakness in the protection of the subregion's indigenous property rights.'⁶⁷ According to the *State of the Environment in Asia and the Pacific 2000* report, '[a]lthough appropriate legal and institutional frameworks have been established in most countries of the region, the effective implementation of environmental legislation remains one of the foremost challenges for the achievement of environmentally sustainable governance.'⁶⁸

Development activities are routinely under-regulated by national governments in the South Pacific. In many cases, resource development is actively promoted in the interests of economic growth and national development.⁶⁹ As Boer, Ramsay and Rothwell note, in cases where 'environmental concerns have consequences for economic development, and where there has been a traditional reliance upon natural resource exploitation, this is a sensitive and difficult issue to resolve'.⁷⁰ As Farrier notes:

*environmental protection and conservation have a relatively low priority in countries where people suffer from relative disadvantage in terms of unemployment, educational opportunities and health care. The primary commitment of Pacific island countries is to economic development.*⁷¹

The extent to which enforcement is accepted by the community, an issue that inevitably influences the exercise of discretion by enforcement agencies, may vary depending on the nature of the regulated activity. For example, controls over large-scale development by foreign interests are more likely to be tolerated by local communities than habitat protection laws that affect a large number of small landholders.⁷²

However, there are other difficulties associated with the regulation of large-scale development. Most major resource extraction projects in the South Pacific are conducted by foreign companies, including large multinational corporations. According to Richardson:

*many small developing States are ... simply incapable of effectively regulating transnational corporations; lack of staff and technical ability, and a weak regulatory framework or monitoring capability to ensure surveillance of industrial operations, all allow transnational corporations to circumvent government regulation.*⁷³

Other factors that undermine law enforcement in the South Pacific include corruption, civil unrest and practical difficulties associated with enforcement in remote or offshore locations. Controlling illegal fishing activities is particularly problematic, due to the enormous resources required to effectively monitor fishing activities in the open ocean.

Please see the next edition of Impact for the second part of this article: Civil Society Legal Strategies to Promote the Implementation of Biodiversity Law in the South Pacific.

Bibliography

Texts, Articles and Conference Proceedings

- Anderson, M. (1996) 'Human Rights Approaches to Environmental Protection: An Overview'
- Boyle, A. and Anderson, M. (eds) (1996) *Human Rights Approaches to Environmental Protection*, Clarendon Press, Oxford
- Boer, B.(ed)(1996) *Environmental Law in the South Pacific: Consolidated Report of the Reviews of Environmental Law in the Cook Islands, Federated States of Micronesia, Kingdom of Tonga, Republic of the Marshall Islands and Solomon Islands*, IUCN, Gland and Cambridge
- Boer, B., Ramsay, R. and Rothwell, D. (1998) *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London
- Boer, B. and Durchschlag, E.M. 'Conservation of Species and Habitats, Including Trade in and Sustainable Use of Endangered Species' (Unpublished Draft Report)
- Carew-Reid, J. (ed) (2002) *Biodiversity Planning in the Asian Region*, IUCN, Gland, Switzerland and Cambridge, United Kingdom
- Clarke, P. and Bishop, S. (2005) *Building Civil Society Capacity to Protect the Biodiversity of the South Pacific Through Law*, Unpublished Discussion

- Paper, Environmental Defender's Office, Sydney
- Convention on Biological Diversity Conference of the Parties (2002) *Strategic Plan for the Convention on Biological Diversity*
- De Klemm, C. et al (1995) 'Conserving Biological Diversity: The Legal and Institutional Issues' in *Biodiversity Conservation in the Asia and Pacific Region: Constraints and Opportunities*, Proceedings of a Regional Conference. Asian Development Bank, Manila
- Environmental Defender's Office (1993) *Legal and Institutional Models for Conservation Areas*, Environmental Defender's Office Ltd, Sydney
- Environmental Law Institute (1998) *Networking in the Americas: Environmental Law Implementation and Enforcement*
- Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1
- Foundation for International Environmental Law and Development (2003) 'Strengthening Implementation and Negotiating Capacity: Pacific Islands and the Climate Change and Biodiversity Conventions', Foundation for International Environmental Law and Development. URL: www.field.org.uk (last accessed 22 May 2005).
- Hunter, D., Salzman, J. and Zaelke, D. (1998) *International Environmental Law and Policy*, Foundation Press, New York
- Johnston, S. (1997) 'The Convention on Biological Diversity: The Next Phase' 6 *Review of European Community and International Environmental Law* 219
- Malone, L. and Pasternak, S. (2004) *Defending the Environment: Civil Society Strategies to Enforce International Environmental Law*, Transnational Publishers, New York
- Ongwamuhana, K. (1991) 'Mining and Environmental Protection in Papua New Guinea', 15 *Environmental and Planning Law Journal* 133
- Oxfam Community Aid Abroad (2004) *Mining Ombudsman Annual Report 2004*, Oxfam-CAA, Melbourne
- Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 *Environmental and Planning Law Journal* 264
- Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *Environmental and Planning Law Journal* 209
- South Pacific Regional Environment Program (2000) *Convention on Biological Diversity: An Information Package for Pacific Island Countries*, SPREP, Apia
- United Nations Centre on Transnational Corporations (1985) *Environmental Aspects of the Activities of Transnational Corporations: A Survey*, United Nations, New York.
- United Nations Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, United Nations, New York
- United Nations Economic and Social Commission for Asia and the Pacific (2000) 'Review of the Implementation of Agenda 21, International Environmental Conventions, the Regional Action Program for Environmentally Sound and Sustainable Development, and the Program of Action for the Sustainable Development of Small Island States', *Ministerial Conference on Environment and Development in Asia and the Pacific 2000*, Kitakyushu, Japan, 31 August – 5 September 2000. URL: www.unescap.org/mced2000/so3.htm (last accessed 26 May 2005)
- United Nations Environment Program (2000) *Global Environmental Outlook* (GEO 2000), United Nations, New York
- Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo
- (2003) *Statement of Conclusions and Recommendations*, adopted at the Pacific Island Judges Symposium on Environmental Law and Sustainable Development, Brisbane, Australia, 5-7 February 2003
- ### International Conventions
- 1971 Convention on Wetlands of International Importance
- 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage
- 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora
- 1979 Convention on the Conservation of Migratory Species of Wild Animals
- 1982 United Nations Convention on the Law of the Sea
- 1992 Convention on Biological Diversity
- ### Regional Conventions
- 1956 Plant Protection Agreement for the South East Asia and Pacific Region
- 1976 Convention on the Conservation of Nature in the South Pacific
- 1979 South Pacific Forum Fisheries Convention
- 1985 South Pacific Nuclear Free Zone Treaty
- 1986 Convention on the Protection of Natural Resources and the Environment of the South Pacific
- 1986 Protocol concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region
- 1987 Agreement on Implementation of US-South Pacific Treaty on Fisheries
- 1989 Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific
- 1992 Niue Treaty on Cooperation in Fisheries Surveillance in South Pacific.
- 1993 Agreement Establishing the South Pacific Regional Environment Programme
- 1998 UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice

Endnotes

- 1 Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *EPLJ* 209 at 209, 219.
- 2 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses', p.48.
- 3 Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *EPLJ* 209 at 219.
- 4 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses', p.58.
- 5 Biological diversity, or 'biodiversity', is defined in the 1992 *Convention on Biological Diversity*, Article 2, as: 'the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems'.
- 6 UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, United Nations, New York, p.364.
- 7 UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, p.364.
- 8 UN Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, p.364.
- 9 'The accelerating loss and degradation of biological resources is one of the most alarming environmental problems in the East Asian and South Pacific regions. Deforestation, desertification, pollution of the environment, and illegal hunting and trading in endangered species, all contribute to the diminution of biological resources.'

Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *EPLJ* 209 at 219.

10 United Nations Environment Program (2000) *Global Environmental Outlook (GEO 2000)*, Chapter 2.

11 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.50.

12 Ongwamuhana, K. (1991) 'Mining and Environmental Protection in Papua New Guinea', 15 *EPLJ* 133.

13 United Nations Economic and Social Commission for Asia and the Pacific (2000) *State of the Environment in Asia and the Pacific 2000*, United Nations, New York, p.364.

14 United Nations Environment Program (2002) *Global Biodiversity Outlook*, United Nations, New York, p.119.

15 Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *EPLJ* 209 at 219.

16 Source: United Nations Environment Program (2002) *Global Biodiversity Outlook*, Annex 2.

17 Boer, B. and Durchschlag, E.M. 'Conservation of Species and Habitats, Including Trade in and Sustainable Use of Endangered Species' (Unpublished Draft Report), para. 58.

18 *Convention on Wetlands of International Importance* 1971, Art. 2.

19 *Convention on Wetlands of International Importance* 1971, Art. 2, 3.

20 *Convention on Wetlands of International Importance* 1971, Art. 4.

21 *Convention Concerning the Protection of the World Cultural and Natural Heritage* 1972, Art. 4.

22 *Convention Concerning the Protection of the World Cultural and Natural Heritage* 1972, Art. 5.

23 *Convention Concerning the Protection of the World Cultural and Natural Heritage* 1972, Art. 29.

24 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* 1973, Art. III-VI.

25 *Convention on International Trade in Endangered Species of Wild Fauna and Flora* 1973, Art. VIII.

26 Boer, B. and Durchschlag, E.M. 'Conservation of Species and Habitats, Including Trade in and Sustainable Use of Endangered Species' (Unpublished Draft Report), para. 9.

27 *Convention on the Conservation of Migratory Species of Wild Animals* 1979, Art. IV.

28 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.58.

29 *United Nations Convention on the Law of the Sea*, Art. 55-75.

30 *United Nations Convention on the Law of the Sea*, Art. 56.

31 *United Nations Convention on the Law of the Sea*, Art. 73.

32 *United Nations Convention on the Law of the Sea*, Art. 56, 61, 62.

33 *Convention on Biological Diversity*, Art. 1.

34 *Convention on Biological Diversity*, Art. 6.

35 *Convention on Biological Diversity*, Art. 7-10.

36 *Convention on Biological Diversity*, Art. 11-14.

37 Boer B. 'Biodiversity Planning' in Carew-Reid, J. (ed) (2002) *Biodiversity Planning in the Asian Region*, IUCN, p.531.

38 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.48.

39 Other South Pacific regional environmental agreements, beyond the scope of this paper, include: 1956 *Plant Protection Agreement for the South East Asia and Pacific Region*, 1985 *South Pacific Nuclear Free Zone Treaty*, 1986 *Protocol concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region*, 1987 *Agreement on Implementation of US-South Pacific Treaty on Fisheries*, and the 1992 *Niue Treaty on Cooperation in Fisheries Surveillance in South Pacific*.

40 *Convention on the Conservation of Nature in the South Pacific*, Art. II-VII.

41 *South Pacific Forum Fisheries Agency Convention*, Art. VII. For information about the Forum Fisheries Agency, visit: www.ffa.int.

42 *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 5.

43 *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 15.

44 *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 16.

45 *Convention on the Protection of Natural Resources and the Environment of the South Pacific*, Art. 19.

46 *Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific*, Art. 2, 3.

47 *Agreement Establishing the South Pacific Regional Environment Program*, Art. 2. To read about SPREP, visit: www.sprep.org.ws.

48 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.54.

49 Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 *EPLJ* 264 at 271. See also De Klemm, C. et al (1995) 'Conserving Biological Diversity: The Legal and Institutional Issues' in *Biodiversity Conservation in the Asia and Pacific Region: Constraints and Opportunities*, Asian Development Bank, Manila, pp.402-449.

50 Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p.9.

51 Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p.13.

52 Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p.27.

53 Boer B. 'Biodiversity Planning' in Carew-Reid, J. (ed) (2002) *Biodiversity Planning in the Asian Region*, IUCN, p.540.

54 *Convention on Biological Diversity*, Art. 6.

55 *Convention on Biological Diversity*, Art. 7.

56 *Convention on Biological Diversity*, Art. 8.

57 *Convention on Biological Diversity*, Art. 14.

58 ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p.242. Regional and international organisations, including SPREP, IUCN and UNDP, have played a key role in supporting the development of these national strategies. See Boer, B.(ed)(1996) *Environmental Law in the South Pacific: Consolidated Report of the Reviews of Environmental Law in the Cook Islands, Federated States of Micronesia, Kingdom of Tonga, Republic of the Marshall Islands and Solomon Islands*, IUCN, Gland and Cambridge, p.15.

59 Velasquez, J., Piest, U. and Mougeot, J. (2002) *Interlinkages: Synergies and Coordination among Multilateral Environmental Agreements – Pacific Islands Case Study*, United Nations University, Tokyo, p.28.

60 South Pacific Regional Environment Program (2000) *Convention on Biological Diversity: An Information Package for Pacific Island Countries*, SPREP, Apia, p.3.

61 ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p.73.

62 Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 *EPLJ* 264 at 271.

63 Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

64 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.58.

65 Preston, B. (1995) 'The Role of Law in the Protection of Biological Diversity in the Asia-Pacific Region', 12 *EPLJ* 264 at 274.

66 ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p.255.

67 ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p.367.

68 ESCAP (2000) *State of the Environment in Asia and the Pacific 2000*, p.256.

69 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.58.

70 Boer, B., Ramsay, R. and Rothwell, D. (1998) 'Regional Environment Issues and Responses' in *International Environmental Law in the Asia-Pacific*, Kluwer Law International, London, p.49.

71 Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

72 Farrier, D. (2003) 'Emerging Patterns in Environmental Legislation in Pacific Island Countries', 20 *Journal of South Pacific Law* 1.

73 '[T]he sheer inequality of bargaining power between giant transnational corporations and small developing countries makes these nations particularly vulnerable to the activities of transnational corporations. The critical need for capital investment may force many states to accept environmentally degrading industries.' Richardson, B. 'A Study of the Response of Transnational Environmental Law and Policy to the Environmental Problems of East Asia and the South Pacific' (1990) *EPLJ* 209 at 222. See also, United Nations Centre on Transnational Corporations (1985) *Environmental Aspects of the Activities of Transnational Corporations: A Survey*.

EDO Annual Conference 2005

On 13-14 May 2005, the Environmental Defender's Office (NSW) will be hosting a two day conference to celebrate the 20th anniversary of the Environmental Defender's Office Network.

This conference provides an opportunity to reflect on the development of public interest environmental law in Australia over the last twenty years, to discuss current issues of importance and to explore future directions in environmental law and policy in Australia.

The conference will be held in the historic Customs House building at Circular Quay in inner-city Sydney.

A reception will be held at the conference venue on the first night of the conference for participants and members of the public.

For updates and registration forms, please visit www.edo.org.au/edonsw.

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Fri 13 May 2005, 9.00am – 5.00pm

Sat 14 May 2005, 10.00am – 4.00pm

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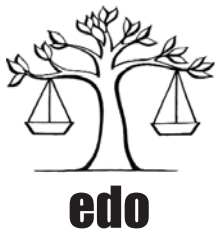
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North Queensland

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