

On the third issue regarding the disposition of Crown lands, the Court held that the applicant failed to identify how the exercise of statutory power under the LAA constituted a breach of trust, and any other irreparable damage to the common law rights of fishing and navigation which would result from the disposition of the land.

Finally, the Court concluded that it was not possible to determine whether the intended use itself of the land would constitute a relevant interference with common law public rights because the structure plan was yet to be finalised and approved.

## **QUEENSLAND**

**From the EDO-North Queensland website.**

### ***Greenhouse test case: Wildlife Whitsunday v Minister for Environment and Heritage***

EDO-NQ and barristers Stephen Keim SC and Chris McGrath are representing the Wildlife Preservation Society of Queensland- Proserpine/Whitsunday Branch Inc (Wildlife Whitsunday) in a new Federal Court test case. The case is the first legal challenge against the Australian Government for failing to consider the effects of global warming on the environment. Wildlife Whitsunday contends that the Minister failed to consider the environmental impacts of greenhouse gases and global warming when approving the construction of 2 new coal mines. The coal from the coal mines will largely be burnt in coal-fired power stations producing greenhouse gases contributing to global warming. Global warming is expected to cause severe impacts to the Australian

environment, including to the iconic Great Barrier Reef and Wet Tropics Rainforests. A directions hearing was held before His Honour Justice Dowsett of the Federal Court on 19th August 2005 where both QCoal Pty Ltd (Sonoma mine) and Bowen Central Coal Management Pty Ltd (Isaac Plains mine) were joined as parties to the proceedings. The matter has been set down for hearing on 20th October 2005 in the Federal Court in Brisbane.

### ***Coastal development challenge - Alliance to Save Hinchinbrook v Environmental Protection Agency***

EDO-NQ on behalf of the Alliance to Save Hinchinbrook (ASH) have filed an application seeking Judicial Review of the decisions by the Environmental Protection Agency (EPA) and Queensland Parks and Wildlife Service (QPWS) under the Marine Parks Regulation 1990 and the Integrated Planning Act 1997 to approve the construction of 2 breakwater walls in the Hinchinbrook Channel at Oyster Point, Cardwell. The breakwaters have been proposed by Cardwell Shire Council to facilitate the use of the marina at the Port Hinchinbrook development and reduce the need for dredging the access channel. ASH contends that both the EPA and QPWS failed to consider the impacts of the increased boat use in the area and resultant boat strikes on dugongs and the newly identified Australian snubfin dolphins as a consequence of the construction of the breakwaters. ASH also contends that the EPA failed to take into account the precautionary principle in forming conclusions on the likely effects of the proposal on dredging in the area. ASH says that there is no evidence that the breakwaters will be effective in reducing dredging without future extensions to the length of the breakwaters.

A directions hearing is set down before the Supreme Court in Cairns at 10am on Monday 3rd October 2005, and NQ members are encouraged to attend. Barrister Stephen Keim SC will appear for ASH. For more information on either of these cases contact EDO-NQ on (07) 4031 4766 or edonq@edo.org.au.