

Earth Jurisprudence & Rights of Nature

reflections on Qld laws

Darwin/Alice Springs

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Environmental Defenders Office

*Using the law to protect
our environment.*





What is happening to the Great Barrier Reef?

- The Australian Institute of Marine Science study released after the UNESCO mission visit showed that in the last 27 years to 2012 the reef has lost a staggering 51% of coral cover.
- Poor water quality is a major contributor.





Living in the Homosphere

For centuries now we humans have been enthusiastically engaged in constructing a delusionary human world that is separate from the real universe.



Living in the Homosphere

We have rejected the biosphere into which we were born and have erected in our minds a vast, hermetically sealed “humans only world”.

Living in the Homosphere

We have lived so long within this contrived “homosphere”, breathing in its myths of human supremacy, that it is now more real to us than Earth.

(Wild Law Chapter 3, p51).



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Outline, Queensland Laws

- Transparency and accountability
- Public submission & appeal rights
- Vegetation Protection
- Planning & Coastal
- Mining & environmental protection

State of the Environment Queensland 2011



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Transparency and Accountability

- One house of Parliament with government enjoying huge majority.
- Parliamentary Committee system to examine new Bills and hear public submissions.
- Committee rarely recommends changes to Bills, even if huge majority of submissions oppose Bills.

Transparency and Accountability

- State of the Environment Report 2011, little read, not connected to planning.
- Major changes to public services without full cost benefit analysis let alone ecological impacts
- Public service reduced by 15% less time to help public with inquiries

Transparency and Accountability

- Queensland generally possesses open standing for enforcing environmental laws e.g. in planning, nature conservation
- 2012 changes to costs rules in the Planning and Environment Court have already had a chilling effect on community participation.
- Major projects legislation attempts to oust judicial review





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Public Submission and Appeal

- Certain types of development are ‘impact assessable’ under planning schemes with both public submission rights and submitter appeal rights to the Planning and Environment Court.
- Online copies of development applications are available in Brisbane for example see PD online.



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Public Submission and Appeal

- Mining and major gas projects are subject to public submissions rights and appeals/objection to the Land Court. For mining the Land Court has recommendatory functions only.
- Public notification now occurs online but with poor or no link to key documents.





Changes to Vegetation Laws

- The new Qld government proposed changes, including removing protection from at least 700,000 hectares (7,000 square km) of important ‘regrowth’ forests and bushland.
- Exemptions and other loopholes will also allow for clearing of unspecified areas of mature bush for so-called ‘high value agriculture.’

Changes to Vegetation Laws

- Enforcement provisions are also proposed to be weakened.
- Would be the greatest leap backwards, ever, in Qld environmental regulation



Planning and Coastal

Planning and Coastal

- What has happened since the election in March 2012?
- Temporary State Planning Policy 2/12 Planning for Prosperity.
- Emphasises economic criteria over ecological or social



Planning and Coastal

- Draft Coastal Protection State Planning Regulatory Provision 8 October 2012
- Broad discretionary powers given to Planning Minister Seeney
- Very weak on ecology
- Changed late April 2013



Planning and Coastal

- Draft Single State Planning Policy released for comment
- Actual draft SPP due out very soon
- Plan to simplify State's role and leave more to local government
- This is a step backwards



Planning and Coastal

- Planning forum 27 March 2013
- Proposal for single State referral agency
Department of State Development,
infrastructure and Planning
- Department of Environment, Heritage
Protection reduced to advisory role
- Confirmed by recent research



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Mining and Environmental Protection

- Over 50 major mining gas and infrastructure projects undergoing assessment in Queensland.
- All involve damage to nature of an extraordinary scale
- Hancock Coal Alpha mine proposal in the Galilee basin for example seeks an area of 60,000 hectares for the lease area with pit area to be dug up of over 20,000ha



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Mining and Environmental Protection

- Hancock Coal Alpha mine proposal in the Galilee basin for example is proposed to produce 30,000 Mega tonnes of coal per annum.
- Hancock Coal seeks an area of 60,000 hectares for the mining lease area with area to be dug up of over 20,000ha



Law Reform: What is needed

- Different process that values ecology
- Assessment processes at slower speeds that enable community participation
- Better public notification and online access to applications and supporting documents
- End of Coordinator-General's power to decide environmental conditions
- Additional clear rules that set “no go” areas to protect communities and the environment



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