

Proposed Herons Creek power station: the assessment process and community involvement

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ENVIRONMENTAL DEFENDER'S OFFICE NORTHERN RIVERS

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Overview

- Environmental Planning and Assessment Act 1979
 - Part 3A
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policies (SEPPs)
 - Major Projects SEPP
 - Hazardous and Offensive Development
- Hastings LEP (not binding)

www.legislation.nsw.gov.au

www.planning.nsw.gov.au

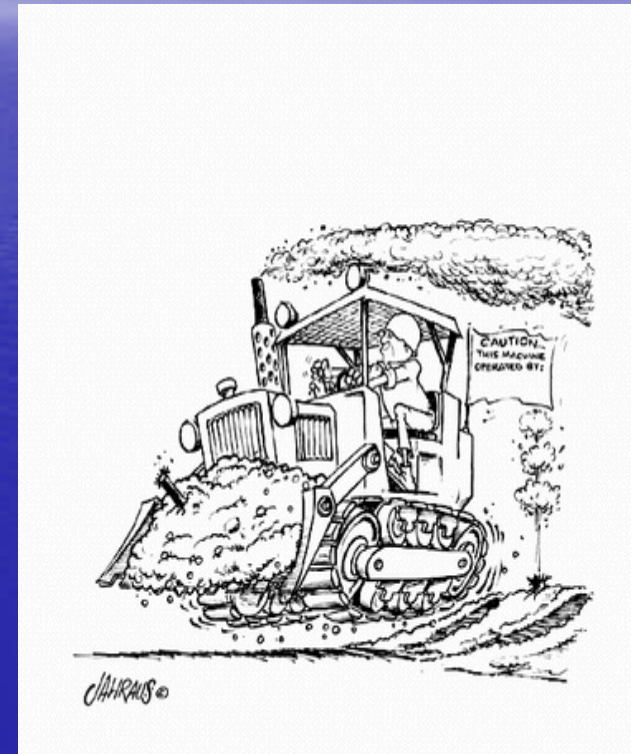
www.edo.org.au/edonsw/site/part3a.php

The previous system

- **Designated development**
- **Application provided to consent authority**
 - Environmental Impact Statement
 - Copy to DECC: effective veto
 - Public exhibition & submission period
- **Assessment against s.79C factors**
- **Merits Appeal rights**

Major Projects: Starting the process

- **Minister is the Consent Authority**
- **Specified in the Major Projects SEPP**
- **Application to DoP**
- **Need landowner's consent**
- **Director General prepares assessment requirements**
 - Consultation?
 - Broad discretion



Assessment Process

- Proponent prepares environmental assessment (incl. Statement of Commitments)
- Director General decides whether it is adequate
 - Discussion with developer
 - Decision cannot be challenged
- Advertised on Department's website for at least 30 days

Community Involvement

- **Use the opportunity**
 - Subs form part of decision-making report
- **Focus on the real issues**
 - Individual vs Form letters
- **Expert Panels**



Independent Hearing and Assessment Panels

- Can be used to assess any aspect of the project.
 - Made up of 'experts' or 'officers'
 - No criteria for 'experts'
- The IHAP *may* choose to receive submissions from the public or hold hearings
- Loss of appeal rights.



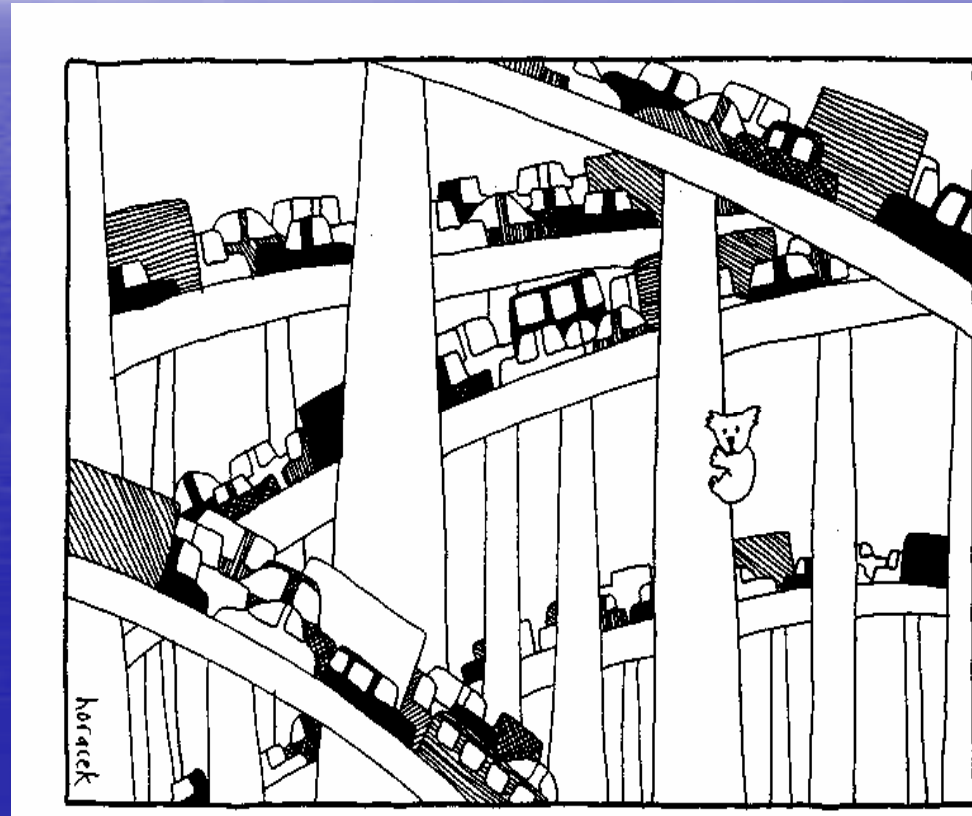
The Decision!



- **D-G prepares report for Minister**
- **Minister to take this into account**
 - Can rely on briefing note
 - Can approve or refuse
 - Can modify as sees fit
 - Few constraints

Environmental Safeguards Out the Door

- Not required, or
- Must be given in a manner consistent with the planning approval



Appeals under Part3A

- **Appeals for proponent**
 - 3 months
 - Loss of rights if expert panel appointed
- **Appeals for objectors**
 - 28 days if development would have been designated development
 - Loss of rights if expert panel appointed
- **Judicial review**
 - 3 months from notification
 - Very limited prospects because of discretions

Strategic Issues



- Justification of the project
- Greenhouse gas emissions
- Social impact
- Air quality?
- Ecological impacts?

EDO Northern Rivers

Advice line 9-5 Monday-Friday

- **1300 369 791**
- **02 6622 8360**
- **Email: _____**
- **http://www.edo.org.au/edonsw/site/northern_rivers_edo.php**