

How to Fight and How Not to Fight

The Tactics and Strategy of Environmental Law

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Every conservation battle that is lost is lost forever. Every one that is won is only won to be fought again tomorrow – *John Sinclair*

1 What to Fight?

Strategy without tactics is the slowest route to victory. Tactics without strategy is the noise before defeat – *Sun Tzu*

- Pick your issues
- Election cycles
- Media interest
- Resources
 - Energy
 - Time
 - Emotion
 - Money
 - Sexiness
 - 'Stickyness'
- What's a win?
- What will it cost?
- Courts do not decide 'environmental issues' 'on their merits'
- Courts only get involved where one party is not getting or listening to good legal advice
- Failure in court is failure squared
- Fight them on the beaches
- Get someone else to do the dirty work / Wake the Sleeping Giant

2 Who is fighting?

It is best to keep one's own state intact; to crush the enemy's state is only second best. - Sun Tzu

Know yourself

1. An association
2. A committee
3. Members
4. Authority to Act
5. Authority to Speak
6. Relationship with others with complementary views
7. Your team – Even lawyers and experts have to feed their families
8. K.I.S.S. - DO NOT FIGHT EVERY ISSUE – ONLY THOSE YOU CAN WIN AND ONLY THOSE YOU REALLY CARE ABOUT.

Know your area

Know your limits

Know your enemy

Know the public

Know the public servants

Know the politicians

Know the law

3 Who are you fighting?

Build your opponent a golden bridge to retreat across – Sun Tzu

- What are the issues? The whole estate / resort / marina?
- Or is it really just the koala stress / gastric breeding frog / reef?
- What do they think about your issue?
- What can you agree on?
- What's their financial backing?
- How long can they fight?
- Company searches – absolutely critical that these are done early!
- What will kill this? Local / State / Federal Governments – Friend or Foe?
- Paper tigers and houses of cards shading past deals
- What other things are they doing? POLaR
- What is a win for them?
- What is a loss for them?

4 When to Fight

Victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win. - Sun Tzu

Your first and best chance to get something done is at elections and plan time. Then before the developer gets interested, or too interested. Then at time of advertising, then decision, then Court.

What's your worst case scenario?

- Who's going to be arrested?
 - What's your response when they do?
 - What resources are put into this
 - Police liaison
 - Legal Observers
 - Greenpeace and Sea Shepherd vs. ACF / QCC
- Who's going to lose their house?
- Who's going to lose their job?
- Are you prepared to sacrifice the organisation?

What's your best case scenario?

- What if you win?
- What next?

5 *How to Fight*

For to win one hundred victories in one hundred battles is not the acme of skill. To subdue the enemy without fighting is the acme of skill – *Sun Tzu*

- Understand how a developer makes the most money - By breaking the rules or by taking something that's not theirs
- How to cut them off with the owners – not a conditional contract, an option.
- Covenant it!
- Buy it!
- Make the government buy it!
- Jobs, jobs, jobs
- RTFM
- It's all the experts. Obtain original documentation. Sort rumour from fact. Act quickly
- Use the media to get answers (from politicians, government agencies and your opponents)
- **How to fight in 3 easy steps** – Know the issues, know the facts, act quickly.

6 *The Fog of War*

All warfare is based on deception – *Sun Tzu*

- FOI means they won't give it to you unless they want to.
- Be narrow, be specific.
- Find a pensioner / coordinator / follow up / insist on timeframes / use the media
- Timing
- Dumpster surfing
- Detective Google
- Social engineering (subcontractors, pubs, security firms)
- Everything in Qld is done on the phone as there are no phone tapping powers (without the Feds)

7 How not to fight

Treat your men as you would your own beloved sons. And they will follow you into the deepest valley – Sun Tzu

You - Have a new unincorporated association, don't keep minutes, don't meet regularly, react to issues

Issues – Play the ball and not the man - Procedural points are not worth taking unless they cause a substantive result.

Alienate the public and politicians with no end game - Protesters don't save forests, politicians do.

Ignore the big picture - Everything is political. It starts and ends at the ballot box (last time or next time).