

04 March 2009

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Dear Mr Keith,

Inquiry into Sustainable Procurement

The Environmental Defender's Office of NSW (EDO) welcomes the opportunity to provide comment to the Legislative Assembly Inquiry into Sustainable Procurement. The EDO is a community legal centre specialising in public interest environmental law.

We submit that it is critical that NSW government instrumentalities comply with sustainable procurement practices for four reasons. First, factoring in environmental considerations into purchasing practices is consistent with the NSW Government implementing the principles of Ecologically Sustainable Development (ESD) as required by the *National Strategy of Ecologically Sustainable Development 1992*.¹ Second, the NSW Government has a key exemplar role in setting the right example for businesses and the community at large through its purchasing behaviour. Third, as one of the largest consumers in NSW, the Government can, through its procurement practices, support best practice and developing industries. Fourth, again through its size, the NSW Government can, through on-selling, begin to create second hand markets in sustainable goods for the community, such as the Green Fleet program.

In relation to the Inquiry's terms of reference, we note that it is difficult for the public to gain an understanding of the extent to which NSW Government procurement practices comply with policies and guidelines relating to environmental management. This stems from the fact that unlike the federal level, there is no systematic or mandatory triple bottom line reporting (reporting on environmental, economic and social factors) in NSW.

Under Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), a system of triple bottom line reporting by government agencies against environmental, social and economic indicators is required as part of the annual report of all Commonwealth government departments and agencies. This was implemented to ensure that Commonwealth instrumentalities implement the principles of ESD and set sustainability targets. In contrast, there are currently no legislative requirements for NSW government agencies to undertake triple-bottom line reporting. The current NSW reporting requirements under the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Statutory Bodies) Act 1984* and the *Public Finance and Audit Act 1983* and State of

¹ Found at: <http://www.environment.gov.au/esd/national/nscsd/index.html> (23 February 2009).



Environment reporting under the *Protection of the Environment Administration Act 1991* contain no mandatory obligation on NSW agencies to report on the environmental aspects of their operations.

The EDO submits that in order to better ensure compliance with sustainable procurement policies and guidelines, and to implement ESD, a system of mandatory triple bottom line reporting should be introduced in NSW.² This will allow better scrutiny and transparency of procurement practices (and indeed environment performance in general) by the community which in turn will influence the behaviour of agencies. This is consistent with the recommendations of a Legislative Assembly inquiry in 2005.³

Additionally, mandatory guidelines containing performance indicators and best practice targets for various types of environmental impacts (such as greenhouse gas emissions, paper use and waste) should be introduced for NSW Government agencies. These guidelines should be given legislative force and require NSW Government agencies to report against the targets to enable their environmental performance (including procurement practices) to be compared to best practice. Moreover, it will ensure a reduction in the environmental footprint of NSW Government agencies.

Please do not hesitate to contact me on (02) 9262 6989 or Robert.ghanem@edo.org.au for further information.

Yours sincerely

Environmental Defender's Office (NSW) Ltd

Robert Ghanem

A/Policy Director

² See EDO submission, *Inquiry into Environmental Impact Reporting in the NSW Public Sector* - 6 November 2007
Found at: <http://www.edo.org.au/edonsw/site/pdf/subs07/envimprep071106.pdf> (23 February 2009).

³ *Sustainability Reporting in the NSW public Sector*, Committee Report, available at:
<http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/C25E8E08F367896ECA2570BC000D8705> (23 February 2009).



An independent public interest legal centre specialising in environmental law