



# Democracy, the Rule of Law and EDO NSW

Jeff Smith, Executive Director

2 May 2013



## Conclusion

notions of democracy and the rule of law occupy a contested space

public interest environmental law is sometimes at the centre of this contestation

recent funding principles developed by the AG reflect one element of this tension

community support for EDO NSW reflects another dimension

public interest environmental law promotes a number of democratic processes and ends

# Where we're at: access to justice in NSW

## Funding Principles

Funding should be primarily used for casework (legal advice and representation) for socially and economically disadvantaged and vulnerable groups who may otherwise not have access to justice

Funding may be used for information and referral services, community consultation, education and capacity building, professional development, advice on law reform and policy issues and activities ancillary to legal casework

Funding may not be used for:

- lobbying activities
- public campaigning
- providing legal advice to activists and lobby groups.

Funding for legal representation should be subject to a means and merit test

Funded services should take into account the public interest, such as concerns of disadvantaged and vulnerable people, and issues affecting an individual's rights

## What is EDO NSW?

- A community legal centre specialising in public interest environmental law;
- Non-government and not for profit
- Mission: To protect the environment through law
- Part of a network of 9 independent EDOs across Australia
- EDO NSW receives 60% of its funding from the Public Purpose Fund (administered by the Law Society)
- EDO receives around 12% of its funding from governments (state and federal)

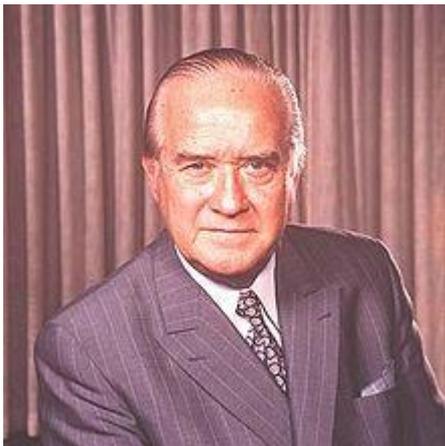
# Where do we come from?



Sydney Cove \$500m  
Redevelopment Scheme  
1970

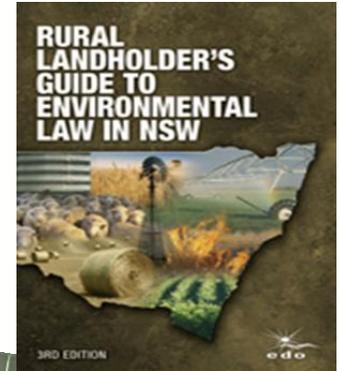


Halted by  
Green Ban, December, 1971



# What do we do - our functions?

- Policy and law reform
- Community legal education
- Litigation and advice
  - Judicial review
  - Merit appeals
  - 3<sup>rd</sup> party enforcement
- Capacity building in the Pacific



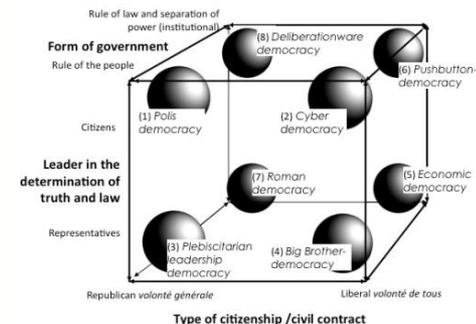
# What do we do – day-to-day?

- Protect the environment through law
- Make decision-makers more accountable
- Run test cases
- Provide expert advice to government
- Build the capacity of the community to engage
- Contribute to the professional development of other lawyers, including in the Pacific



# What is the relationship between EDO NSW work, the rule of law and democracy?

- promotes equality before the law (David v Goliath: Warkworth & Georges River)
- promotes access to justice (phone advice; outreach; public interest jurisprudence)
- promotes environmental justice (public health, Aboriginal cultural heritage)
- Courts reinforce representative government (CH Bay land-bribe case)
- ensures accountability in decision-making (mandamus and injunctions)
- informs citizens (often via media) of issues (CUB case)



# The End