



ENVIRONMENTAL DEFENDER'S OFFICE NSW

ANNUAL REPORT – 2007/08

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The Environmental Defender's Office (NSW) is a community legal centre specialising in public interest environmental law. The EDO provides legal advice and representation in public interest environmental law matters. In addition to the provision of legal services, the Office takes an active role in law reform and the formulation of policy, provides technical scientific advice to help the community understand environmental documents and carries out community programs on environmental law.

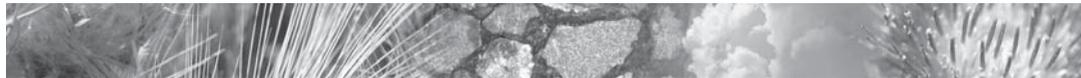
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Last October the Board invited me to become Chair of EDO (NSW), in succession to Andrew Chalk. After five years of highly effective leadership as Chair, and many more beforehand on the Board, Andrew thought it was time for a change. Although I realised Andrew's would be big shoes to fill, I accepted the invitation; I wanted to be part of what I regard as one of Australia's most dynamic non-governmental bodies. I will mention three of the more exciting aspects of the EDO story.

It is now 23 years since the New South Wales Environmental Law Association (NELA) set up EDO (NSW), the first public environmental law office in Australia.

Environmental controversy raged fiercely throughout the seventies, in the wake of the widespread historic building destruction, and inappropriate development, that characterised the Askin era in this State. There was growing appreciation, also, of the beauty and ecological importance of our natural environment. This caused the Whitlam government to establish the National Estate Royal Commission, led by Justice Robert Hope and involving many heroes of the environmental movement. Their report further heightened public awareness of what was at stake if we failed to take resolute protective action.

In 1979, under the Wran government, New South Wales enacted legislation that, for the first time in Australia, allowed anyone to challenge the legality of a planning decision. Many people wished to do this, or at least obtain reliable advice about the possibility of such action. However, few experienced environmental lawyers were available to non-commercial clients. Ordinary members of the public found it difficult to locate, still less afford, suitable lawyers. There was clearly a need for a readily accessible source of skilled assistance. After much fund-raising travail, NELA managed to set up a tiny, under-resourced office. But EDO (NSW) was born.

For a long time, life was tough for the Office. Income was extremely limited; the staff, although highly dedicated, was small. The Office had to restrict itself to its initial function: the provision of legal advice and assistance to those contemplating, or embarking upon, public interest environmental litigation. This was important work but essentially reactive. The Office did not have the resources that were necessary for it to move into the proactive advisory and commentary role that would assist the community to avoid the decisions and legal provisions that had caused the problems in the first place.

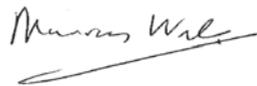
In more recent years, and this is the first exciting point, this situation has changed dramatically. Thanks mainly to the generous support of the Public Purpose Fund, the Office has been able greatly to expand its functions, while still maintaining the role that led to its foundation. As the accompanying report reveals, the Office is now heavily involved in advisory work, including with governments. It also has a significant community education role, including with members of the Indigenous community. In recent years, EDO (NSW) has been able to employ two qualified scientists who liaise with members of a specialist scientific panel and a range of experts and, between them, provide scientific information to clients and counsel engaged in particular matters. Also, EDO (NSW) has been able to establish a Lismore Office to meet the many requests for help that are being made by people in the beautiful, but fast-developing, North Coast area.

The second exciting development, for me, has been the establishment of EDOs in each of the other States and Territories. Most of these Offices are still seriously under-resourced and unable yet to cover all the tasks undertaken in New South Wales. But they all aspire to do this; and EDO (NSW) is assisting them in finding the additional financial resources needed for that purpose.

Thirdly, EDO (NSW) is now looking beyond Australia. More than ever before, environmental problems straddle national borders. Think, particularly, of climate change and loss of biodiversity. EDO (NSW) has expertise and experience of great potential value to public law environmental bodies in other countries, especially in those Pacific countries with whom we share so much legal and other history. These things can only be shared at the invitation of our overseas colleagues, and then only with sensitivity to cultural and legal differences. However, without money, little can be done. The work done so far has been made possible by the MacArthur Foundation. The results are encouraging, but there is a long way to go.

In its 23 years, EDO (NSW) has come a long way; there is still much to be done.

It is appropriate for me to say how impressed I have been with the quality of the work done on our behalf by the Director, Jeff Smith, and his staff. They exhibit a high degree of professionalism, skill and commitment. Their work is challenging but they serve us well.



The Hon. Murray Wilcox, QC
Chair

The Annual Report contained herein speaks for itself. It catalogues the tremendous throughput and quality of the work of the EDO over the past year. For my report this year, rather than summarise these achievements, I would like to focus on a number of themes emerging out of the last 12 months.

First, the past year has been one in which the EDO has truly established itself as a multi-disciplinary Office. Thanks to funding from the Public Purpose Fund, the EDO now has the capacity to assess, and address, environmental legal problems from a variety of perspectives, depending on the nature of the issues. The Office has worked hard at resolving issues in an integrated way. For example, the work of our Scientific Advisory Service - two in-house scientists backed by a 100-strong Expert Register – is now increasingly involved in our legal, policy and community legal education work (in addition to the traditional technical assessment function). The quality of our work, and the support we can provide to clients, has been greatly enhanced by this multi-disciplinary perspective.

Of course, having a multi-disciplinary capacity would mean nothing without the ability to attract and retain excellent

staff. In this respect, the EDO has continued to again punch above its weight, consistently recruiting and retaining staff who would be able to attract much higher salaries elsewhere. Working at the EDO is difficult and demanding, and requires much vigilance; the external environment is often volatile, and hostile to good environmental outcomes. Notwithstanding these challenges, staff remain committed, professional at all times and an inspiration to work beside.

The support of others helps staff enormously in this regard. The Board is active and engaged, and has provided arms-length guidance and direction that has allowed the Office to flourish. Volunteers, barristers, scientific experts, speakers, workshop participants, funders and our clients all play their part in making the EDO what it is, as well as helping to ensure the protection of our environment.

Second, the EDO has also invested considerable time and effort into expanding our reach. In August 2007, the Office received notice that the Public Purpose Fund was continuing to fund the Northern Rivers Office (originally the Office was run as a pilot project). This was a tribute to the two founding solicitors who pioneered the new Office and proof, if it were

“...the past year has been one in which the EDO has truly established itself as a multi-disciplinary Office.”

needed, of the value of an on-the-ground regional presence for the EDO. The Northern Rivers Office has gone from strength to strength in its short lifetime, quickly establishing a strong presence and credibility in the area. The Northern Rivers Office allows us to continue our vital rural and regional work, not only in the area itself but also in the rest of rural NSW as it frees up resources for the Sydney Office to engage with the remainder of the State.

Outreach is, however, not simply a geographical notion. The Office has also sought to broaden its reach through the continuation of its *Indigenous Engagement Program*, a unique endeavour that seeks to engage with Indigenous communities. We also run active programs for rural landholders as well as on private conservation initiatives. These endeavours are testament to the resolve of the Office to expand its reach beyond traditional environmental communities and to provide access to justice and information on environmental law to the broadest possible constituency.

The *third* theme is that the Office is committed to actively engaging in environmental issues when

law reform is required. Where deficiencies in the law have been identified through our casework or policy experience, it has long been a feature of our work to shift to a policy footing. Our multi-disciplinary capacity adds a new dimension to this work, allowing us to get on the front foot on law reform issues. The production of Discussion Papers on access to justice in the courts and on best practice climate change laws has already seen results and opened the Office up to new audiences. An active seminar series on climate change and topical issues and a strong commitment to doing external papers and presentations further enhances our engagement with, and relevance to, the environmental community.

Fourth, the establishment of the Northern Rivers Office and the intensive efforts to promote and raise its profile in the region, has highlighted the value of a strong media and communications arm in promoting the work of the Office generally. Over the past couple of years, the Office has sought to place a far greater emphasis on print, radio and even television work, which in itself furthers our multi-disciplinary approach.



Director's Report

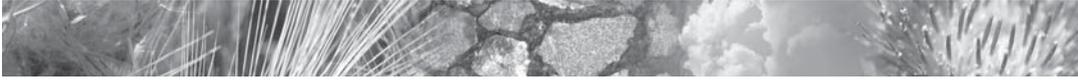
A report like this would not be complete without touching on a *final* theme – namely, the environment; the world in which we work. Earlier this year, Professor Ross Garnaut described climate change as “harder than any other issue of high importance that has come before our polity in living memory” and, more pithily, as a “diabolical policy problem”. That adjective is both apt and instructive, presaging that the old approaches won't work and that the EDO needs, as do others, to continue to adapt to our operating environment to face the challenges ahead and remain relevant. Climate change isn't the only problem we face, of course, and we need to continue to address a full suite of environmental issues. Even over the last couple of years, however, we have seen climate change loom large and touch on the everyday lives of people and the environment more directly. The next few years will be crucial to putting in place the infrastructure for a more climate-friendly world. There are likely to be a plethora of ideas about dealing with climate change: good, bad, and – equally bad – indifferent. The EDO will have a crucial role to play in assessing, commenting on, responding to, and, where necessary, seeking to hold back these ideas. The challenges of climate change also highlight the

value of the EDO taking a proactive approach to environmental issues.

In conclusion, I would like to welcome the Honourable Murray Wilcox, QC as the new Chair of the EDO. The appointment of Murray as Chair prefigures a new era for the EDO and one that, fortunately, can build on the strong foundations built by those who came before him. For my first five years at the EDO, I had the great pleasure, and good fortune, to work with Andrew Chalk. I look forward to an equally constructive relationship with Murray as the EDO continues its efforts to protect the environment in NSW and Australia.

I trust that this report does justice to the good works of the Office in 2007-2008.

Jeff Smith
Director



National EDO Network

The Environmental Defender's Office (NSW) is one of nine EDO offices located across Australia, collectively known as the Australian Network of EDOs (ANEDO). The different offices share information, resources and ideas and meet biannually as a network. Across Australia, there are over 25 solicitors and forty staff who work for the various EDOs.

Environmental issues in Australia increasingly have a national or cross-boundary focus, as exemplified by the new (CTH) *Water Act 2007*. All EDOs are committed to a more coordinated approach to national environmental issues and matters of national environmental significance which fall within the boundaries of a State. A key focus of ANEDO over the past year has been in the area of policy and law reform, with a particular emphasis on climate change. The EDO in NSW has taken the lead in much of this policy work, where the matter pertains to the environment in NSW and Australia.

EDO NSW Introduction

The EDO mission is to empower the community to protect the environment through law. The EDO has five core areas of operation, with staff working together in a multi-disciplinary way to achieve that mission.

The structure of this year's report differs from that used previously. This year, the report has been divided into three main sections, parts A, B and C.

Part A of the report will outline the functions of the EDO and provide brief updates from each of these core areas of operation – namely:

- litigation and legal advice
- policy and law reform
- scientific and technical advice
- community programs (community legal education, international and indigenous engagement)
- media and communications

Part B of the report will outline the work of the EDO within its identified 'priority areas' – that is, environmental issues that the EDO has identified in close collaboration with our stakeholders and clients, as requiring particular attention.

These priority areas are:

- Climate Change
- Environmental Planning and Development
- Biodiversity Conservation
- Natural Resource Management
- Environmental Justice
- Corporate Social Responsibility and Governance

This section of the report will set out how each of the key functions of the EDO contributed to protecting the environment in these areas.

Finally, Part C of this report will cover the reporting and governance issues involved in the day-to-day running of the Office. The staffing, funding and financial aspects of the EDO are also included in this section.

The EDO hopes that this new structure of the annual report suitably reflects the work undertaken by the Office during the 2007-2008 financial year.



EDO Northern Rivers

The Northern Rivers Office has now completed its second year of operation. The year began with the much-welcomed news from the Public Purpose Fund that it supported the continuation of the Office. It was evident from the pilot period that there is a clear need for the services provided by the Office in the Northern Rivers region.

The year has been one of consolidation and continuation of the services provided to the Northern Rivers region. Upon the recommendation of the independent evaluators of the Office and with the support of the Public Purpose Fund, the Office has expanded.

The Office now has its own dedicated Education Officer which has enabled the Office to expand and focus its education program to include the delivery of workshops and seminars as well as the writing of regular columns in local and regional newspapers on matters of environmental law. The Education Officer has allowed the two solicitors to extend their capacity in relation to advice and case work. The Office has also relocated into more serviceable and accessible premises, while remaining in Lismore.

The past financial year also saw the first litigation matters being run from the Office. All of the logistics of

running public interest cases in the Land and Environment Court from a small office in the Northern Rivers region have now been pioneered.

The Northern Rivers Office is continuing a new mode of rural and regional engagement with the Northern Rivers communities. It is perfectly positioned to provide the on ground services to the Northern Rivers community that the EDO would not otherwise be able to provide.

PART A:

CORE FUNCTIONS OF THE EDO

Litigation and Legal Advice

The EDO represents individuals and community organisations in public interest litigation to protect the environment. In 2007-2008, the EDO litigated a variety of cases involving issues of significant public concern.

The EDO provides free initial telephone advice and, if necessary, written advice on environmental law and policy.

The EDO's toll-free telephone advice service, the *Environmental Law Line* is staffed by a duty solicitor between 2:30 and 5:30 pm on Tuesday, Wednesday and Thursday in the Sydney Office and between 9 am and 5 pm Monday to Friday in the Northern Rivers Office.

In 2007-2008, EDO staff dealt with around 1000 telephone inquiries on the *Environmental Law Line*. Of these, about 65% came from rural and regional New South Wales. Many of the inquiries concerned planning and development law, with other

significant areas of interest including biodiversity conservation, mining, (CTH) *Environment Protection and Biodiversity Conservation Act 1999* issues, natural resource management and public land management.

Regarding casework by the EDO, 125 case files were opened during the reporting period and 78 files were closed. More than 100 detailed written advices were prepared during the 2007-2008 reporting period.



Policy and Law Reform

The EDO plays a key role in influencing environmental policy and law reform in New South Wales.

In 2007-2008, the EDO policy team drafted over 30 submissions in response to legislative reviews, government proposals and parliamentary inquiries. On the basis of our submissions, the EDO is regularly requested to address parliamentary inquiry hearings, public forums, and meet with government and environmental groups that lobby for environmental law reform.

The EDO policy team provides law reform advice to environment and community groups on current, proposed and potential environmental legislation. The EDO advises conservation groups and the community regarding the legal implications of Bills introduced into Parliament and whether amendments to a particular Bill should be sought. As part of this service, the EDO also provides legal and policy advice on potential amendments to members of the cross-bench and government during formal briefing sessions and meetings.

The EDO is regularly retained by environment groups on a consultancy basis to provide policy advice on a particular area of law or to develop law reform proposals. This complements proactive policy work on issues identified by the EDO as requiring law reform.

In 2007-2008, EDO policy work also involved participation on various stakeholder panels. The input provided at such forums is expertise-based, and is a crucial element of our key stakeholder and law reform role.

Often the provision of policy advice is accompanied by the presentation of EDO workshops on specific topics. In this way policy work complements the EDO education program, and increased community capacity to engage in policy and law reform processes.

Scientific and Technical Advice

In 2003 the EDO established a Scientific Advisory Service with the role of providing objective scientific and technical advice to the EDO and our clients on public interest environmental matters. As part of our multi-disciplinary approach, the last 12 months has seen a substantial increase in the contribution of the Scientific Advisory Service to the EDO's policy and law reform and community education work.

The Scientific Advisory Service comprises:

1. Two in-house environmental scientists.
2. A Technical Advisory Panel, which comprises academic experts who provide strategic advice to the EDO on scientific issues on a pro-bono basis.
3. An Expert Register, which comprises over 100 scientific and technical experts in a range of fields who assist the EDO from time to time on a pro bono basis.

The scientific and technical advice work provided by the Scientific Advisory Service can be categorised as follows:

- pre-decision and casework
- compliance and monitoring work

Pre-decision and casework

The Scientific Advisory Service provides advice on proposed developments or actions prior to a decision being made. This mainly involves advice on the impacts of developments and the adequacy of environmental impact assessments and assisting clients to prepare submissions to decision-makers. If the matter progresses to Court, the in-house scientists get involved in aspects of casework, such as briefing and managing expert witnesses.

Compliance and monitoring

The Scientific Advisory Service provides advice on approved developments or actions. This mainly involves advice on the compliance of developments and actions with conditions of approval or regulatory requirements, as well as assisting clients to prepare submissions to regulatory authorities.

Throughout the year, the Scientific Advisory Service has reviewed environmental assessment documents for over 25 matters, undertaken research and provided advice on specific technical issues for over 35 matters, and prepared or assisted with preparing about 15 EDO submissions, including policy submissions. In addition, the in-house scientists have consulted and worked with over 55 experts – both on and outside the Expert Register – and have presented a number of seminars on various scientific issues.



Community Engagement Programs

In 2007-2008 the EDO's community engagement programs were:

- Community Legal Education program
- International program
- Indigenous Engagement program

I. COMMUNITY LEGAL EDUCATION

In 2007-2008, the EDO continued to provide a range of free community legal education services covering a variety of environmental law topics. This program seeks to inform individuals and community groups about environmental law and to help them build the skills necessary to participate effectively in environmental decision-making.

In 2007-2008 the Community Legal Education program provided the following services to the community:

Workshops

During the reporting period, a total of fifteen rural and regional workshops were held throughout New South Wales. Three of these were in the Northern Rivers region.

Seminars

Seven free topical seminars covering a range of issues were held in the Sydney metro area during 2007-2008. A number of experts from relevant professions spoke at these seminars, adding to the range of opinions and ideas generated in the discussions.

Publications

In 2007-2008, the EDO expanded its range of plain-language publications and updated existing publications.

a) *IMPACT!*

The EDO's national environmental law newsletter, *IMPACT!*, was re-designed during the reporting period. The publication is now a contemporary, national, topical journal, produced biannually rather than quarterly. Articles are sourced from experts, primarily externally, on a range of environmental law issues.

The first edition of the new-look *IMPACT!* is titled, 'Public Participation on the Endangered List,' and is due to be launched by the Chair of the EDO, the Honourable Murray Wilcox, QC in July 2008.

b) *Rural Landholder's Guide to Environmental Law in NSW*

The Rural Landholder's Guide to Environmental Law in NSW was also updated during the reporting period, incorporating numerous legislative changes in this area.

The new guide is likely to be released towards the end of 2008.

**c) Caring for Country:
A Guide to Environmental Law
for Aboriginal Communities**

Due to significant demand for this publication, the EDO obtained funding in 2008 for a reprint of the *Caring for Country* guide. Copies are again available free of charge to the public as of June 2008.

Papers and Presentations

Over the past 12 months, the EDO has placed particular emphasis on presenting a public interest perspective at external conferences, seminars and workshops. In 2007-2008, EDO staff delivered over 30 papers and presentations, including:

- 'The Bowen Basin coal mines case: Climate law in the Federal Court' (Paper by Kirsty Ruddock, 2007) in Bonyhady, T. and Christoff, P. *Climate Law in Australia* Federation Press.
- 'Concept Plan Approvals under Part 3A of the (NSW) EP&A Act 1979' (Paper by Kirsty Ruddock, 2007) in *Local Government Law Journal* 14, pp 25-27.
- 'Does Climate Change Litigation Work?' (Paper by Kirsty Ruddock, 2008) in *National Environmental Law Association Bulletin*.

- 'Justice in the Northern Territory' (Paper by Kirsty Ruddock, 2008) in *Indigenous Law Bulletin* 7(2), pp 21-23.
- 'NSW Land and Environment Court rules coal mine impacts must be assessed' (Paper by Jacque Svenson, 2007) in *Local Government Reporter* 5(5), pp 1-5.
- 'Failure to consider the impacts of climate change in Part 3A approval' (Paper by Josie Walker, 2008) in *Local Government Reporter* 6(5) pp 70-72.
- 'The Challenge of Pro Bono Animal Representation' (*Animal Law Conference 2007*, Young Lawyers, 7 July 2007, Jessica Wood).
- 'Native Vegetation Regulation in Urban and Rural Areas' (University of New South Wales lecture, 18 July 2007, Rachel Walmsley).
- 'Climate Change and Law Reform' (National Association of Community Legal Centres Conference, 9-12 September 2007, Rachel Walmsley).
- 'Defining, measuring and reducing the greenhouse gas footprint of your office' (National Association of Community Legal Centres Conference, 9-12 September 2007, Tom Holden).

- 'Legal obligations of Council regarding climate change and sea level rise' (Sydney Coastal Councils Group AGM, September 2007, Rachel Walmsley).
- 'BioBanking and the Law in NSW' (*Nature Conservation Council Regional Conference 2007*, September 2007, Rachel Walmsley).
- 'Working in Public Interest Environmental Law' (*Government Lawyers Conference*, 30 October 2007, Jeff Smith).
- 'Does Climate Change Litigation Work?' (*Public Interest Advocacy Centre Conference*, October 2007, Kirsty Ruddock).
- 'Community activism on climate change: Climate Action Coogee' (*Public Interest Advocacy Centre Conference*, October 2007, Jacquie Svenson).
- 'Legal issues arising from climate change and the Torres Strait' (*CSIRO Greenhouse 2007 Conference*, 2-5 October 2007, Kirsty Ruddock, joint presentation with Donna Green, UNSW).
- 'Native Vegetation Regulation in Urban and Rural Areas' (University of New South Wales, 15 and 18 October 2007, Rachel Walmsley).
- 'Legal obligations of Council regarding climate change

and sea level rise' (Technical Committee of the Sydney Coastal Councils Group, October 2007, Rachel Walmsley).

- 'Climate change liabilities in the Torres Strait' (Presentation to University of NSW staff, November 2007, Kirsty Ruddock, joint presentation with Donna Green, UNSW).
- 'Climate Change at a Local Level' (*Environmental Planning and Law Association Conference*, November 2007, Kirsty Ruddock).
- 'The application of Ecologically Sustainable Development Principles in the Land and Environment Court' (Young Lawyers Continuing Legal Education, 28 November 2007, Josie Walker).
- 'A beetle, whales, pulp mills and coal – recent decisions under the EPBC Act 1999' (Legalwise Seminar, February 2008, Kirsty Ruddock).
- 'Biodiversity and the Law' (Lecture to Southern Cross University law students, April 2008, Sue Higginson).
- 'Are we heading in the right direction? An evaluation of the NSW planning reforms' (Planning Institute, 29 April 2008, Jeff Smith).

- Launch of 'Climate Law in Australia' (Gleebooks, April 2008, Kirsty Ruddock, joint presentation with Tim Bonyhady and Andrew MacIntosh from the Australian National University).
- 'The Law of Climate Change' (Climate Camp Seminar, 14 May 2008, Jacque Svenson).
- 'Greenwashing and climate change: the experience of the EDO' (ACCC Seminar, 30 May 2008, Jeff Smith and Kirsty Ruddock).
- 'How Adaptable Are Our Conservation Regimes?' (*Adapting to Climate Change Law and Policy Conference*, 19-20 June 2008, Jeff Smith).
- 'Critical analysis of the law of Genetically Modified Organisms' (University of Sydney Masters class, June 2008, Kirsty Ruddock, joint presentation with Greenpeace).
- 'Debate on Part 3A' (*National Environmental Law Association Forum*, June 2008, Kirsty Ruddock).

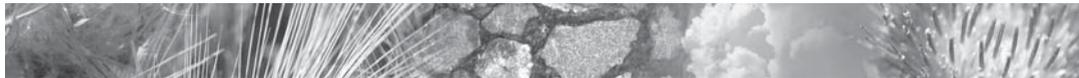
Website

The EDO website contains free resource materials on a wide range of environmental law issues, including a comprehensive set of environmental law fact sheets and copies of recent law reform submissions.

Throughout 2007-2008 an average of 17,000 pages were downloaded per month from the NSW website. Some of the most visited pages included the planning and pollution factsheets, policy submissions, publications, key cases and the EDO Northern Rivers home page.

The address of the EDO website is www.edo.org.au/edonsw

During the reporting period, a new resource, the 'Compliance Portal,' was developed by the EDO. The Portal has been created to assist the community in determining whether licence holders and those who hold various other permits and permissions have complied with conditions of consent, licences, plans and legislation. It can be accessed via a link on the EDO NSW homepage.



2. INTERNATIONAL PROGRAM

The EDO has a commitment to improving the effectiveness of environmental law as a tool for defending the environment internationally. For a number of years, the EDO has worked with partner organisations in Asia and the Pacific, including Papua New Guinea (PNG), Vanuatu, the Solomon Islands and Cambodia.

MacArthur Foundation

The EDO has been funded since 1998 by the US MacArthur Foundation to conduct capacity-building work in the Pacific, with a principal focus upon PNG. The EDO works closely with two public interest environmental legal centres in PNG: the Environmental Law Centre (ELC) and the Centre for Environmental Law and Community Rights (CELCOR).

AYAD and VIDA placements

The EDO is an Australian Partner Organisation for both the Australian Youth Ambassadors for Development (AYAD) and Volunteering for International Development from Australia (VIDA) programs funded by AusAID.

As such, the EDO works with host organisations in applicable nations to place Australian environmental lawyers for 12-36 month placements. The Australian

government, via AusAID, funds the travel and a modest income.

Being involved in these schemes provides a highly effective way of building environmental legal capacity in host organisations, as well as providing enriching and stimulating experiences for young Australian lawyers.

During 2007-2008 the EDO continued to support the VIDA placement of Pepe Clarke, Legal Officer for the World Conservation Union (IUCN) Oceania in Suva, Fiji, and commenced the VIDA placement of Daniel King with the Community Legal Education Centre in Cambodia. In the AYAD program, the EDO placed Gillian Duggin with the Centre for Human Rights and Development in Mongolia, and recruited Melody Coutman to replace her at the end of her placement. In addition, the EDO has initiated an AYAD placement of a legal officer at the Ministry of Natural Resources and Environment in Apia, Samoa, and recruited Justine Conaty for this position.

IUCN

The EDO is a member organisation of the IUCN in Oceania. The EDO is working with the Oceania Secretariat, based in Suva, Fiji, to build environmental legal capacity in the region. Programs Director Andrew Burke

attended the Oceania regional members meeting in Wellington, New Zealand in July 2007.

International Policy Engagement

In October 2007, the EDO's Director, Jeff Smith, was funded by *Partnership for Principle 10 (PP10)*, a global forum for public participation, to attend a meeting of the partners in Mexico City. *PP10* was established to advance Principle 10 of the Rio Declaration 1992, which emphasises the value of public participation in environmental decision-making.

The EDO's Policy Director, Rachel Walmsley, attended the Conference of the Parties of the *United Nations Framework Convention on Climate Change* (UNFCCC) in Bali in December 2007. Rachel was part of the Climate Action Network Australia (CANA) delegation and provided legal advice to non-governmental organisation delegates during the negotiations.

Rachel also attended two meetings relating to the *Convention on Biological Diversity* in Rome in February 2008. Rachel attended the first meeting of Working Group on Protected Areas, as an observer representing the Humane Society International (HSI). At the second meeting of the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA), Rachel was

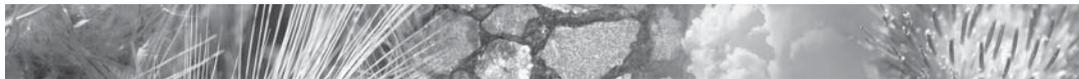
on the Australian Government delegation representing HSI. A key issue under negotiation was how to link climate change and biodiversity conservation measures.

In addition, EDO Aboriginal Liaison Officer Neva Collings attended the Seventh Session of the United Nations Permanent Forum on Indigenous Issues in New York, USA, during late April and early May 2008. Neva attended as an EDO representative, with funding provided by the Human Rights and Equal Opportunity Commission. Neva has considerable expertise in international cultural heritage policy, and during 2007-2008 attended a number of other international meetings in a non-EDO capacity.

Environmental Law Alliance Worldwide

EDO staff are active members of the Environmental Law Alliance Worldwide (E-LAW), an international network of public interest environmental lawyers and scientists. The EDO sends a representative each year to the annual meeting. In 2008, the meeting fell outside the reporting period.

For more information about E-LAW, see www.elaw.org



3. INDIGENOUS ENGAGEMENT

2007-2008 was the first full year of the EDO's *Indigenous Engagement* program to improve the delivery of environmental legal services to Aboriginal people in NSW. Initially funded by the Law and Justice Foundation of NSW, it has been funded under the Aboriginal Legal Access Program run by the Combined Community Legal Centres Group since 1 November 2007.

The 2007-2008 period has been very productive, particularly given the limited resources available and the part-time nature of the Aboriginal Liaison Officer (ALO) position. In practice, the work of the ALO, Neva Collings, has been supplemented by the Programs team.

On 13 November 2007, *Caring for Country: A Guide to Environmental Law for Aboriginal Communities in NSW* was launched at the Parliament of NSW. The first publication of its type in Australia, the Guide summarises diverse areas of law into a plain language, Aboriginal-perspective guide to rights and responsibilities.

Underpinning the *Indigenous Engagement* program since its inception has been the Aboriginal Advisory Committee. Comprising representatives of key organisations

such as the NSW Aboriginal Land Council, the Aboriginal Legal Service, Native Title Services and NSW government agencies, as well as significant individuals, the Committee has provided substantial input and advice on the Guide, the workshops and the direction of the program generally.

Media and Communications

The media is important to the EDO as it provides an effective means of highlighting the issues we engage with and promoting the work of the Office. Over the past couple of years, the EDO has placed a much greater emphasis on its media and communications work.

In 2007-2008, the EDO was involved in the following media and communication activities:

Television

- Interview announcing recurrent funding for the Northern Rivers Office by the Public Purpose Fund.
- Interview with *WIN TV* on the *Sandon Point* case.
- Interview with *NBN* regarding Part 3A.
- *7.30 Report* – “Court Rules Against Japan’s Whale Hunt”.
- *Stateline* – “Hard Evidence”.

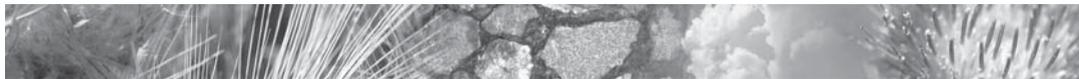
Radio

- *Radio National’s Background Briefing* – “Coastal Development and Climate Change”.
- Interview with *ABC Radio* on the *Sandon Point* case.

- Interview with *2LT* on private conservation and an upcoming EDO workshop.
- Interview with the *ABC* announcing recurrent funding by the Public Purpose Fund.
- Three radio interviews (*ABC* and regional community radio) on climate change, specifically on workshops being conducted on this issue.
- *ABC Radio* – “NSW Planning Law Changes”.

Newspapers

- *The Australian* – “Court Rebuff on Coalmine”.
- *The Daily Telegraph* – “Ruling a Test of Rudd’s Courage”.
- *The Sydney Morning Herald* – “Law Meets Lore for the Sake of the Land”.
- *The Sydney Morning Herald* – “A Change in Climate for Developers”.
- *The Sydney Morning Herald* – “Environmental Group’s Bid to Protect Grey Nurse Fails”.
- *The Sydney Morning Herald* – “Name Your Poison- You’ll Find it’s Legal”.
- *The Sydney Morning Herald* – “Whaling Injunction Futile, Says Ruddock”.



- *The Sydney Morning Herald* – “Green Group Loses Anvil Bid”.
 - *The Sydney Morning Herald* – “Shiver Me Timbers: FOI Victory for the Little Man”.
 - *The Sydney Morning Herald* – “Defender of the Faith”.
 - *The Sydney Morning Herald* – “Rudd Strike Signals Time is Up for Diplomacy”.
 - *The Sydney Morning Herald* – “Court Orders Whale Hunt to Stop”.
 - *The Sydney Morning Herald* – “Whale War Showdown”.
 - *The Sydney Morning Herald* – “Hoping for a Ghost to Thaw Whaling’s Cold War”.
 - *The Sydney Morning Herald* – “Japan Must Stop Taking the Minke”.
 - *The Sydney Morning Herald* – “Planning Law Changes to Clog Courts: Experts”.
 - *The Sydney Morning Herald* – “Fears for Purity of Water in Law Repeal”.
 - *The Sydney Morning Herald* – “Rule Change Hits Anti-Quarry Appeal”.
 - *The Sydney Morning Herald* – “Developer to Go it Alone on Greenhouse Gases”.
 - *The Australian Financial Review* – “Climate Change in Court”.
 - *Tweed Daily News* – “Court Clears Hastings Point Resort”.
 - *Northern Star* – “Victory, at Last for Property Developer”.
 - *Central Western Daily* – “Why Hub is Just Rubbish to Some”.
 - *Illawarra Mercury* – “Court Rebuffs Sartor: Sandon Point Approval Overturned”.
 - *Illawarra Mercury* – “Killalea Fight Gains Legal Leg-up”.
 - *Illawarra Mercury* – “New Conditions on Gerroa Sand Quarry”.
 - *The Northern Rivers Echo* – “Environmental Defenders Here to Stay”.
- Northern Farmer Bulletin (monthly publication of the Northern Star)**
- Dangerous dogs.
 - Farming and climate change.
 - BioBanking.
 - The Great Eastern Ranges Corridor Initiative and the potential for conservation initiatives in the Northern Rivers area.
 - GMOs and farming.
 - Quarries.

Online

- *ABC News Online* – “PM- Govt. Still Under Pressure on Whaling”.
- *ABC News Online* – “Court Rules Japan Whalers Breaking Aust Law”.
- *ABC News Online* – “Green Group Questions Sand Mining Approval”.
- *ABC News Online* – “Second Anvil Hill Mine Fight Fails”.
- *ABC News Online* – “Climate Change Ruling ‘Sets Precedent for Developers’”.
- *ABC News Online* – “Environmental Impact Revealed”.
- *ABC News Online* – “Green Group Takes QLD River Licence Battle to Court”.
- *ABC News Online* – “Turnbull ‘Failed to Consider’ Coal Mine’s Impact”.

Journals and Periodicals

- *Lawyers Weekly* – “Developers Forced to Consider a Deadly Serious Issue”.
- *Law Society Journal* – “PNG Lawyer Helps Abandoned Wives, Fights Discrimination, Police Violence”.

PART B:

PRIORITY AREAS

Climate Change

Casework

***Walker v the Minister for Planning & Ors* [2007] NSWLEC 741**

The EDO represented a local resident, Jill Walker, in a successful Land and Environment Court challenge to a Concept Plan approval of a development at Sandon Point. The proposed development was for up to 285 homes and an aged care facility to be built on flood-prone coastal land.

Justice Biscoe reviewed the principles of ecologically sustainable development (ESD) as well as US and Australian case law on climate change. His Honour found that the Minister for Planning had failed to consider ESD by not considering whether the impacts of the proposed development would be compounded by climate change and, particularly, increased flood risks.

Justice Biscoe stated [at [161]]:

Climate change presents a risk to the survival of the

human race and other species. Consequently, it is a deadly serious issue. It has been increasingly under public scrutiny for some years. No doubt that is because of global scientific support for the existence and risks of climate change and its anthropogenic causes. Climate change flood risk is, prima facie, a risk that is potentially relevant to a flood constrained, coastal plain development such as the subject project.

The Minister for Planning has appealed to the NSW Court of Appeal. The hearing has been scheduled for 24 July 2008.

***Drake-Brockman v the Minister for Planning & Frasers Broadway* [2007] NSWLEC 490**

The EDO commenced proceedings in the Land and Environment Court on behalf of Mathew Drake-Brockman. The proceedings challenged the validity of the approval for re-development of the Carlton United Brewery site, on Broadway, Sydney, for 1600 residential apartments, commercial offices and retail premises.

The case challenged the application of Part 3A of the (NSW) *Environmental Planning and Assessment Act 1979*, which grants the Minister for Planning broad discretion to approve Major Projects of State significance. It was argued, amongst other grounds, that the Minister failed to properly consider the principles of ecologically sustainable development (ESD) when approving the development.

The proceedings were unsuccessful before the Land and Environment Court.

The case did, however, draw attention to the general deficiencies in NSW planning laws and their inability to deal with climate change. In response, and notwithstanding the Court victory, the developer Frasers Property Australia commissioned a new development plan to include a number of sustainability initiatives. These include powering the precinct with its own gas powered, low carbon usage tri-generation facility, supplying 100% non-potable water through on-site rainwater capture and waste recycling, restoration and public access to heritage sites such as the old brewery yard, car share schemes, integration into the inner city bicycle network and "future-proofed car park provision".

Anvil Hill Project Watch Group Inc v Minister for Environment and Water & Anor [2007] FCA 1480

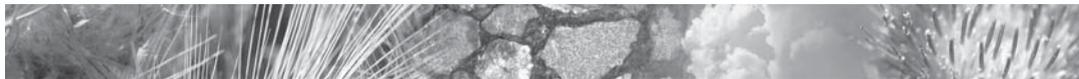
This was an application for review of a decision of the delegate of the Federal Minister for the Environment. The delegate decided that the greenhouse gas emissions projected to be released as a result of the mine did not trigger the operation of the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*. The EDO filed an appeal against the decision in the Full Federal Court, on behalf of the Anvil Hill Project Watch Group. The appeal was dismissed on 14 February 2008.

The outcome of the case emphasised the need for a 'greenhouse trigger' under Commonwealth laws, to ensure that similar future projects are properly assessed for their climate change impacts.

Annika Dean v Minister for Planning and Anor [2007] NSWLEC 779

The EDO acted for Ms Dean who challenged the Major Project approval for the Anvil Hill open-cut coal mine project in the NSW Land and Environment Court.

The original grounds of review included failure to consider:
i) the cumulative impacts of



greenhouse gas emissions; ii) mitigation conditions related to the adverse effects of greenhouse gas emissions; and iii) the economic effects of scope 3 greenhouse gas emissions. For reasons unrelated to the merits of pursuing these arguments, however, these grounds could not be pursued.

The case unsuccessfully challenged the grant of approval on the basis that the mine was 'wholly prohibited' within the meaning of section 75J(3) of the (NSW) *Environmental Planning and Assessment Act 1979*. If the Act had not been changed, the outcome of this decision would have meant that approval could be granted for projects if they were permissible in a thin sliver of the project area, even though prohibited in the vast majority of the area. However, s75J(3) was amended before judgement was handed down.

Legal Advice

The EDO provided the following legal advice regarding climate change issues in 2007-2008:

- Launch of a Freedom of Information application seeking access to material used by the Prime Ministerial Task Group on Emissions Trading.
- Letter to the Department of Planning advising the Minister on behalf of a community group to refuse a 'Major Projects' proposal for a diesel-fuelled peaking power station on the mid-North Coast.
- Brief to Counsel on whether private nuisance proceedings could be used to obtain an injunction against commencement of the Anvil Hill coal mine.
- Ongoing advice and assistance regarding the likelihood of success of a group of farmers in central NSW challenging the exploration on their properties for coal by a prominent mining company.
- Advice regarding potential private nuisance proceedings to restrain the commencement of operations of the Anvil Hill Coal Mine.
- Advice to a client regarding the reconsideration of the Anvil Hill proposal under the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*.
- Arrangement of pro bono advice for a climate change action group in relation to public liability insurance and the text of waivers and disclaimers.
- Organisation of lawyers and barristers to assist with potential arrestees at *Climate Camp* in Newcastle.

Policy and Law Reform

The EDO engaged in the following law reform activities in 2007-2008 that focussed on shaping and influencing climate change policy:

- Submission on the draft (CTH) *Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill*.
- Submission on the National Aviation Policy Statement Issues Paper.
- Submission on the Inquiry into climate change and environmental impacts on coastal communities.
- Submission on behalf of the Australian Network of EDO's on the Garnaut Climate Change Review – Emissions Trading Scheme Discussion Paper.
- Report for the Sydney Coastal Councils Group: An assessment of Australian and NSW legislation and government policy provisions relating to climate change relevant to regional and metropolitan coastal councils.
- Submission on behalf of ANEDO on the Garnaut Climate Change review – Interim Report to the Commonwealth, State and Territory Governments of Australia.
- Submission on behalf of ANEDO on the Garnaut Climate Change Review – Issues Paper 4
- Research and Development: Low Emissions Energy Technologies.
- Submission on behalf of ANEDO on the *National Greenhouse and Energy Reporting System Regulations Policy Paper 2008*.
- Submission to the Australian Competition and Consumer Commission on the Issues Paper: *The Trade Practices Act and carbon offset claims*.
- Submission regarding abatement incentives prior to the commencement of the Australian Emissions Trading Scheme.
- Submission to the Natural Resource Management (Climate Change) Inquiry.
- Submission on the National Greenhouse and Energy Reporting System Regulations Discussion Paper 2007.
- Submission on behalf of ANEDO on the (CTH) *National Greenhouse and Energy Reporting Bill 2007*.
- Submission on (NSW) *Renewable Energy (New South Wales) Bill 2007*.
- Appearance before a Senate Committee Inquiry hearing in Canberra on the (CTH) *National Greenhouse and Energy Reporting Bill 2007* and submission on the National Greenhouse



and Energy Reporting Scheme Discussion Paper.

- Ongoing legal advice to climate campaigners on various issues in preparation for, and during, the UN Framework Convention on Climate Change Conference of the Parties meeting in Bali.
- Advice to major conservation group on the legal issues surrounding forest carbon sinks and avoided deforestation as emission-reduction measures in Australia.
- Ongoing work analysing climate change legislation from around the world and identifying best practice provisions and model climate change legislation which culminated in the release of the *Model Climate Law Project* discussion paper.

Scientific and Technical Advice

The following scientific and technical advice regarding climate change issues was provided in 2007-2008:

- Advice regarding the contribution of high density developments and cities to greenhouse gas emissions for the *Drake Brockman* case.
- Assistance to the EDO policy team in addressing a key conservation group on issues relating to avoided deforestation in NSW.

- Advice to an EDO solicitor and a barrister regarding the potential for the Anvil Hill coal mine to implement mitigation measures to reduce greenhouse gas emissions.
- Review of literature and advice on the amount of greenhouse gases produced by each of the largest power stations in NSW.
- Assistance in preparing a policy submission regarding certification standards for carbon offsets and the risks associated with using forestry projects as offsets.
- Research on the standards for certification under the Greenhouse Friendly program.
- Review of literature and advice on issues associated with Carbon Capture and Storage technology in Australia.
- Review of literature and preparation of internal summary document on issues associated with plantations as carbon sinks.
- Preparation of a technical fact sheet on how to identify, measure and reduce the greenhouse gas emissions of a small office.
- Presentation of a seminar on using scientific and technical information in submission writing at an EDO seminar at Batemans Bay on coastal law and climate change.

- Review of environmental assessment documents and engagement of ecology experts to provide advice on Box Gum Grassy Woodland and Diuris Tricolour for the Anvil Hill coal mine case.
- Submission to the Department of Environment, Water, Heritage and the Arts in relation to the potential re-consideration of the Anvil Hill coal mine as a controlled action under section 78 of the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*.
- Review of an Environmental Management Plan and advice on groundwater issues associated with the Caroona coal exploration licence area.
- Engagement of an expert to provide advice on the design of the proposed groundwater monitoring program to assess the impacts of coal mining in the Caroona coal exploration licence area.
- Presentation at an EDO workshop on scientific issues associated with coal mining and exploration drilling in the Caroona coal exploration licence area.

Community Programs

The following community program activities addressing climate change took place during 2007-2008:

Workshops

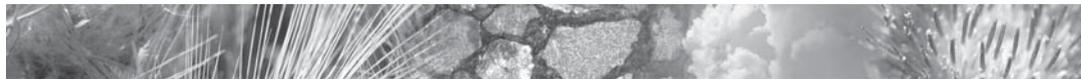
- Workshop in Batemans Bay regarding coastal law and the impacts of climate change on coastal communities.

Seminars

- A continuing series of climate change seminars on the following topics:
 - Making Our Cities Climate Change Friendly: Lessons from the CUB Litigation.
 - Coasts, Climate Change and Liability: The Future of Waterfront Real Estate.
 - Best Practice Climate Law: What Would Climate Laws Need to be Effective at the International and Domestic Levels?
- Seminar regarding a Major Project proposal for a diesel-fuelled peaking power station at Heron's Creek on the Mid-North Coast.

Publications

- Preparation of a special climate change edition of 'Hot Topics' published by the Legal Information Access Centre (LIAC).



Presentations

- Submission of a paper for the CSIRO Climate Change Conference in October 2007 on climate change and indigenous communities.

International work

- Discussed support for climate change work in Papua New Guinea with Environmental Forestry Forum and Centre for Environmental Law and Community Rights (CELCOR), particularly the possibility of running workshops with CELCOR on climate change and forestry in Papua New Guinea communities.

Roundtable

- In late 2007, the EDO convened a meeting with the key conservation groups to discuss the work of the EDO in this area and how the EDO could assist the groups in relation to climate change issues.

Environmental Planning and Development

Casework

Bungendore Residents Action Group Inc v Palerang Council & Navaroo [2007] NSWLEC 251 (judgment); [2007] NSWLEC 536 (discretion); [2007] NSWLEC 703 (costs)

The EDO successfully acted for Bungendore Residents Action Group who challenged Council's decision to allow alternative 47 or 44 lot subdivisions to proceed on an area of land at Bungendore, near Braidwood in the NSW Southern Highlands. The group was concerned that the subdivision would be out of character with the surrounding area, being a medium density housing development in a rural location, and that it would increase stress on town drinking water supplies.

In her judgement, Justice Pain found that the Council had failed to have regard to certain detailed analyses as required under the Local Environmental Plan, and that, as designated development, the development applications should have been subject to an environmental impact statement (which they were not). In August

2007 the court further decided that it should exercise its discretion to overturn the development consents.

Hastings Point Progress Association v Tweed Shire Council & Aeklig P/L

Hastings Point Progress Association v Tweed Shire Council & Planit Consulting P/L & Ors [2008] NSWLEC 180

The EDO Northern Rivers acted for the Hastings Point Progress Association Inc in two Land and Environment Court proceedings. These challenged two separate development consents granted by Tweed Shire Council, allowing 3-storey developments in the coastal hamlet of the Tweed Coast Hastings Point, contrary to the existing character of the hamlet.

One application was successful, the Court finding that Council had failed to take the cumulative impacts of the development into account as required by the Tweed Local Environmental Plan (LEP). The second application was dismissed, on the grounds that the Seniors Living State Environmental Planning Policy allowed local controls (such as the LEP) to be set aside.

Legal Advice

The EDO provided the following legal advice regarding environmental planning and development issues in 2007-2008:

- Brief to Counsel as to the likelihood of success of an appeal against a development consent for rural residential subdivision on high quality agricultural land.
- Letters to the Minister for Planning and Shoalhaven Council stating the opinion that a residential apartment building development in Huskisson was a Part 3A development and should be determined by the Minister rather than Council.
- Meeting with relevant Ministers, concerned residents and conservation groups about approval for the Kurnell desalination plant and associated (CTH) *Environment Protection and Biodiversity Conservation Act 1999* issues.
- Letter to the Director-General of Planning about issues with a draft Local Environmental Plan at Karuah.
- Letter to Great Lakes Council requesting that Council rescind its decision to demolish the Forster School of Arts until a proper community consultation process occurs.
- Advice regarding whether there were any grounds available to prevent the development of over 200 lodges and a restaurant, café, conference centre and recreation



facilities at a Public Recreation Park at Killalea, Shellharbour.

- Advice on the possibility of appealing a decision under Part 3A of the (NSW) *Environmental Planning and Assessment Act 1979* to approve the Port Enfield intermodal terminal.
- Advice and assistance about the sale of Goulburn Airport by Goulburn Council for housing purposes.
- General advice on rezoning issues.
- Advice regarding the redevelopment proposal of the Balmain Tigers Club at Rozelle.
- Advice to South Coast residents about a proposal to develop Redhead villages and environmental impacts on sewerage and other infrastructure.
- Brief to Counsel to advise on the prospects of challenging an amendment to the Byron Local Environmental Plan which seeks to allow a community title subdivision at Main Arm, a highly environmentally constrained area.
- Letter to the Minister for Planning calling for an inquiry into the preferred route that has been selected for the Pacific Highway upgrade, regarding the pollution of the Emigrant Creek Water Catchment.
- Letter to Tweed Council about development in a coastal area, that any approval would preempt the judgment in *Hastings Point Progress Association Inc v Tweed Shire Council*, a matter involving relevant issues.
- Advice regarding challenging a consent granted by Tweed Shire Council to a Seniors Living Development in Hastings Point, on the grounds that the Council failed to consider the cumulative impacts of the development expressly required under the Local Environmental Plan.
- Advice and assistance to a Ballina resident regarding an objection to a development proposal involving the disposal of asbestos on a neighbouring site.
- Advice regarding third party joinder in a Class I developer appeal to Counsel's refusal of consent.
- Advice and assistance regarding noise impacts from a gun club.
- Advice on challenging a development that raised coastal erosion issues at Old Bar, Taree.
- Advice concerning approval of modifications to M5 East and whether grounds exist to review this approval.
- Letter to the Minister for Planning about the heritage assessment of the Currawong site at Pittwater.

- Advice to a resident on State Planning Policy No.1 - Development Standards.

Policy and Law Reform

The EDO was involved in the following planning reform activities:

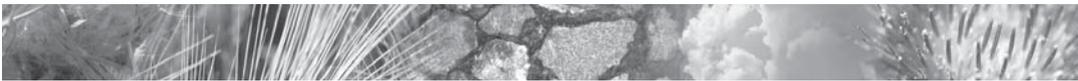
- Submission on the (NSW) *Environmental Planning and Assessment Amendment Bill 2008*.
- Presentation of a public forum on the proposed reforms for community and environment groups.
- Submission on the Discussion Paper: Improving the NSW Planning System.
- Preparation of an advice regarding recommendations for reforming planning in NSW.
- Submission on the DECC Guidelines for Biodiversity Certification of Environmental Planning Instruments.
- Submission on planning reforms as part of the (NSW) *Heritage Act 1977 Review*.
- Advice to environment groups and community groups regarding the implications of the NSW planning reforms.

Scientific and Technical Advice

The following scientific and technical advice regarding environmental

planning and development issues was provided in 2007-2008:

- Liaison with an air quality expert regarding air quality issues associated with unsealed roads at a development site near Lismore.
- Referral of experts to EDO Victoria to assist in two court cases regarding proposed coastal developments in Victoria.
- Engagement of an expert to provide advice and assist with a submission on the potential groundwater impacts of a proposed landfill at Armidale.
- Review of environmental assessment documents for a proposed train facility at Hexham Swamp, Newcastle.
- General advice to EDO solicitors on coastal erosion at Old Bar.
- Brief review of and general advice on the draft waste stream strategy for Norfolk Island.
- Preparation of a draft technical fact sheet on noise impact assessment.
- Review of ecology assessment and other assessment documents and provision of advice on merits issues associated with a proposed residential development at Currawong, Pittwater.



Community Programs

The following community program activities addressing environmental planning and development took place during 2007-2008:

Workshops

- Workshop in Gosford addressing general environmental law, including planning law issues.

Seminars

- Two seminars on State Planning Reforms, one held in the EDO's Northern Rivers region and the other in Sydney.
- Expert seminar on Planned Retreat held in Byron Bay.

Biodiversity Conservation

Casework

Humane Society International v Kyodo Senpaku Kaisha [2008] FCA 3 (re injunction)

In this long-running case, the EDO acted for the Humane Society International Inc (HSI) against a Japanese whaling company, Kyodo Senpaku Kaisha Ltd (Kyodo).

The proceedings were brought in the Federal Court of Australia. HSI sought a declaration that Kyodo breached the (CTH) *Environment Protection and Biodiversity Conservation Act 1999* by whaling in the Australian Whale Sanctuary adjacent to Antarctica and an injunction to prevent them from continuing to kill whales there. In response, Japan claimed that it does not recognise Australia's sovereignty over the Antarctic waters which constitute the whale sanctuary.

In January 2008, His Honour Justice Allsop made a declaration that Kyodo was in breach of Australian law by whaling in the Australian Whale Sanctuary and granted HSI an injunction to restrain Kyodo from further breaches of the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*.

Nature Conservation Council of NSW Inc v Minister for Environment and Water Resources [2007] AATA 1876

The EDO represented the NSW Nature Conservation Council (NCC) in proceedings brought in the Administrative Appeals Tribunal (AAT) against the Commonwealth Minister for the Environment and Water Resources. NCC presented evidence to the Tribunal that the NSW Ocean Trap and Line Fishery (OTLF) has a significant impact on the nationally listed critically endangered east coast population of the Grey Nurse Shark.

In a judgment handed down on 18 October 2007, the AAT upheld the Minister's approval of the OTLF as a wildlife trade operation on the basis that the fishery, operated in accordance with the conditions imposed by the Minister, will not be detrimental to the survival of the Grey Nurse Shark. Since the decision, the Minister has imposed stricter conditions on the wildlife trade operation that protect areas of critical habitat to Grey Nurse Sharks that were raised in the AAT proceedings.

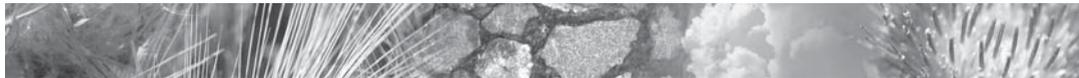
Humane Society International (Inc.) v Minister for the Environment [AATA, 2007/0557]

The EDO acted for the Humane Society International (HSI) in the Administrative Appeals Tribunal (AAT) appealing the Minister's declaration of the Southern and Eastern Scalefish and Shark Fishery Wildlife Trade Operation under the (CTH) *Environmental Protection and Biodiversity Conservation Act 1999*.

The EDO has represented HSI at four mediations with the Minister and Australian Fisheries Management Authority representatives since September 2006, and succeeded in negotiating a number of significant draft additional conditions to the Wildlife Trade Operation. Final orders implementing the conditions agreed to at the mediations were made by the AAT on 21 February 2008.

Gerroa Environmental Protection Society v Minister for Planning & Anor [2008] NSWLEC 173

The EDO represented the Gerroa Environmental Protection Society (GEPS) in their Land and Environment Court appeal against the Planning Minister's approval of an extension to a sand quarry at Gerroa on the NSW South Coast. The extension involved the destruction of Endangered Ecological Communities and littoral rainforest.



The development was approved as a major project under Part 3A of the (NSW) *Environmental Planning and Assessment Act 1979*.

GEPS claimed that the environmental safeguards contained in the sand mining approval did not go far enough and launched a merits appeal seeking to have the approval overturned, or better conditions attached.

The merits appeal was unsuccessful but the Land and Environment Court attached stringent conditions to the approval, some of which require the proponent to undertake extensive replanting and protection of wildlife corridors.

True Conservation Association v the Minister Administering the Threatened Species Conservation Act 1995

The EDO acted for the True Conservation Alliance (TCA) challenging the decision by the Minister for the Environment to grant biodiversity certification to *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* ('Growth Centres SEPP'). The effect of biodiversity certification is that species impact statements no longer need to be carried out for individual development applications in the area covered by the Growth Centres SEPP.

The TCA contended that in this case biodiversity certification was granted prematurely and based on inadequate information. The plan will result in clearing of 1,856ha of some of the rarest vegetation communities in the State. Approximately 16 threatened plant species and 22 threatened fauna species will suffer a loss of habitat as a result of the planned development under the Growth Centres SEPP.

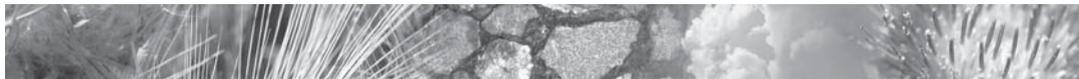
The case was awaiting its court hearing when the NSW Parliament passed special legislation to validate the biodiversity certification of the SEPP, making any legal challenge void.

Legal Advice

The EDO provided the following legal advice regarding biodiversity conservation issues in 2007-2008:

- Letter to the Federal Minister for the Environment following the decision in *Nature Conservation Council of NSW Inc v Minister for Environment and Water Resources and Ors* about the new Wildlife Trade Operation declaration.
- Letter to the Federal Minister for the Environment requesting the Southern and Eastern Scalefish and Shark Fishery Wildlife Trade Operation be declared invalid on the basis of the failure of the Bycatch Action Plan to fulfill a condition.

- Letter to the NSW Department of Environment and Climate Change on behalf of a resident regarding the shooting of native birds by a neighbour.
- Letter to the Federal Minister for the Environment requesting that the dredging of the south arm of the Hunter River for the new coal loader be declared a 'controlled action' and assessed under the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*, due to the likelihood of significant impacts on a Ramsar wetland and migratory bird species.
- Advice about challenging the biodiversity certification of the State Environmental Planning Policy for Growth Centres of Western Sydney under the (NSW) *Threatened Species Conservation Act 1995*.
- Advice to Brierfield residents regarding Bellingen Council's notice of determination for construction of a factory that builds portable sawmills in an area of high biodiversity.
- Advice and draft submissions for a conservation group challenging permits to export dolphins in the Solomon Islands.
- Advice regarding possible challenges to the Australian Fisheries Management Authority's decision to trial Patagonian Toothfishing and to allow longline fishing at Macquarie Island.
- Advice to concerned residents of Lord Howe Island about a potential rat eradication program and other biodiversity issues.
- Advice to a peak conservation group about private conservation options and a voluntary conservation agreement at Curricabark.
- Assistance on the Gorgon Gas proposal, particularly challenges under the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*.
- Advice about prospects to prevent a Seniors Living Development, including a letter to Council indicating that their approach to assessment of the Endangered Ecological Community located on the proposed site was unlawful.
- Advice regarding cruelty and biodiversity issues associated with the culling of grey-headed flying foxes by orchardists.
- Advice to a resident on the (NSW) *Trees (Neighbourhood Disputes) Act 2006*.
- Obtained pro bono assistance with issues relating to changing leaseholders on a wildlife refuge property.



- Advice incorporating the views of four scientific experts on the significant impacts on threatened fauna species likely to be caused by the Splendour in the Grass festival at Yelgun.
- Advice regarding a Koala assessment to be included in a submission to the proposed Splendour in the Grass festival.
- Advice on groundwater and downstream ecological impacts of a proposed landfill site in the Armidale Dumaresq Shire for the purpose of a submission on the project's referral.
- Advice to private landholders with written and oral independent legal advice regarding their intention to enter a private conservation covenant agreement with the Nature Conservation Trust.
- Advice to a community group regarding a dog kennel proposal in a rural area high in natural values, including a koala population, on the proposed development site.
- Advice to an environment action group regarding federal threatened species assessment on various sites at Gwandalan and Catherine Hill Bay.

Policy and Law Reform

The EDO engaged in the following law reform activities in 2007-2008 that focussed on shaping and influencing biodiversity conservation policy:

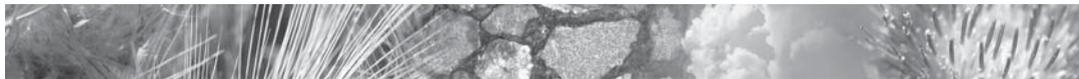
- Various submissions to the Department of Environment and Climate Change on the draft BioBanking Assessment Methodology and pilot study, Regulatory Impact Statement, Draft Regulation and Draft Compliance Policy.
- Appointment to the BioBanking Ministerial Reference Group to provide advice to the Department of Environment and Climate Change on the development of the BioBanking scheme at ongoing meetings.
- Presentation on BioBanking at forums for the Nature Conservation Council of NSW, and the Ecological Consultants of Australia.
- Submission on behalf of ANEDO on the (CTH) *Environment Protection and Biodiversity Conservation Act 1999: Recommendations for Reform*.
- Representation and advice to the Humane Society International at meetings of the parties to the *Convention on Biological Diversity 1992*.

- Advice to the Department of Environment and Climate Change providing input into the review of biodiversity assessment under the Environmental Outcomes Assessment Methodology under the (NSW) *Native Vegetation Act 2003*.
- Submission on the DECC Guidelines for Biodiversity Certification of Environmental Planning Instruments.
- Submission on the use of environmental offsets under the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*: Discussion Paper.
- Ongoing advice to peak environmental groups relating to the ten year review of the (CTH) *Environment Protection and Biodiversity Conservation Act 1999* and collaborative work on reforms.

Scientific and Technical Advice

The following scientific and technical advice regarding biodiversity conservation issues was provided in 2007-2008:

- Review of environmental assessment documents and advice on the ecological importance of a patch of Cumberland Plain Woodland at Bonnyrigg.
- Review of environmental assessment documents and advice on the ecological importance of a patch of Cumberland Plain Woodland at Barden Ridge.
- Review and summary of all Notice to Produce documents for the *True Conservation Association v Minister* case on biodiversity certification.
- Preparation of a summary of facts, liaison with experts, and assistance with the determination of the grounds of review for the *True Conservation Association v Minister* case on biodiversity certification.
- Review of the literature on the impacts of power lines on flora and fauna in relation to habitat fragmentation.
- Engagement of an expert to provide advice on the adequacy of an ecology assessment and the significance of impacts of a residential development on a threatened ecological community near Gosford.
- Engagement of a koala expert to review and provide comments on the Koala Plan of Management prepared for the Splendour in the Grass festival, near Byron Bay.
- Engagement of an ecologist to review and provide comments on the ecology assessment prepared for the Splendour in the Grass festival, near Byron Bay.



- Engagement of an expert to provide advice on the impact of an off-leash dog park on seagrasses in the Pittwater area.
- Engagement of an expert to provide on-going general advice on culling of the Grey-headed flying fox.
- Review of assessment documents and advice to client on the conservation significance of a riparian corridor possibly affected by the Berry by-pass.
- Review of ecology assessments for a proposed college at Kurri Kurri and provision of advice on the adequacy of the assessment and the significance of the impacts on threatened species.
- Preparation of an ANEDO policy submission on the Department of Environment and Water Resources' draft environmental offsets policy.
- Assistance in preparing a policy submission on the Department of Environment and Climate Change's working draft biodiversity certification guidelines.
- Interviews with over 15 ecology experts to obtain their opinions on the draft BioBanking Assessment Methodology and the BioBanking Scheme.
- Research on biodiversity hotspots to assist the Humane Society International at a meeting of the *Convention on Biological Diversity 1992* in Rome, 2008.
- Preparation of preliminary comments on the draft BioBanking Assessment Methodology to assist community groups identify key issues and prepare submissions to the Department of Environment and Climate Change.
- Assistance with the preparation of a policy submission to the Department of Environment and Climate Change on the proposed BioBanking scheme.
- On-going advice to the Ministerial Reference Group on BioBanking regarding the draft BioBanking Assessment Methodology.
- Advice and input into the five year review of the Environmental Outcomes Assessment Methodology.
- Research on various scientific issues associated with tropical forests to assist a policy advice to a client on a proposed Tropical Forest Conservation Act.
- Engagement and briefing of experts in ecology, sand resource economics, groundwater and Geographic Information Systems to provide preliminary

opinions and act as expert witnesses in the *Gerroa* case.

- Engagement of an expert to provide advice on the sewerage systems proposed for rural residential subdivisions at Macleans Ridge.
- Preparation of a summary on the BioBanking and Biometric assessment methodologies for the revision of the *Rural Landholder's Guide* publication.

Community Programs

The following community program activities addressing biodiversity conservation took place during 2007-2008:

Workshops

- Workshop on private conservation held in Dubbo.
- Environmental law workshop held in Gosford.

Seminars

- Two seminars on biodiversity conservation were held in which EDO cases were discussed. The seminars were on the following topics:
 - Can whaling be stopped in the Australian Antarctic zone?
 - Can the law save the Grey Nurse Shark?

Natural Resource Management

Casework

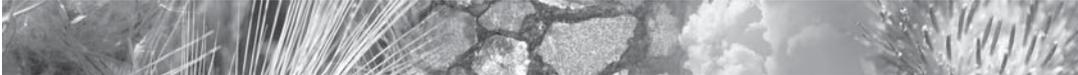
Hub Action Group v the Minister for Planning and Orange City Council [2008] NSWLEC 116

The EDO successfully represented The Hub Action Group, a group of local residents opposed to a proposal to develop 'the Hub' regional waste facility on agricultural land near Molong. The proposal had an anticipated lifespan of 40 years with a 1.5 million tonne capacity.

The proposal was opposed primarily because it was likely to limit the ability to use the land for agricultural purposes, even after closure of the facility. Productive agricultural land is a scarce resource which needs to be protected for future generations.

In his opening to the judgment, Justice Preston stated (at [1]-[5]):

The need for development to be ecologically sustainable is no longer seriously in debate. The principles of ecologically sustainable development are reasonably settled. They include: sustainable use of natural resources; integration of economic, environmental and social considerations in decision-making; the precautionary



principle; inter-generational equity and intra-generational equity; conservation of biological diversity and ecological integrity; and internalisation of external, environmental costs by use of improved valuation, pricing and incentive mechanisms.

In order to achieve sustainability, however, hortatory statements of principle and aspirational goals are insufficient; the grand strategy must be translated into action. This involves not only institutionalising the principles of ecologically sustainable development in policies and laws, but also ensuring that functions under those policies and laws are exercised in a way so as to promote and implement the principles of ecologically sustainable development. This involves good governance.

Implementing sustainability also requires that the principles of ecologically sustainable development inform project design, including the nature, scope, extent, life and other features of a proposed development and its location.

Translating grand strategy into action is often difficult. It is easier to devise ideas for sustainability, then it is to convert those ideas into reality. As T S Elliot

perceptively observed in his poem, "The Hollow Men":

"Between the idea
And the reality
Between the motion
And the act
Falls the Shadow

...

Between the conception
And the creation
Between the emotion
And the response
Falls the Shadow"

This case is an illustration of the problem of converting ideas for sustainability into reality.

Justice Preston found that the proposal was not sustainable, partly because it was likely to adversely affect the long term use, for sustained agricultural production, of the area and the adjoining prime crop and pasture land.

Darling River Action Group Inc. v Director General Department of Natural Resources (QLD)

The Darling River Action Group challenged in the Supreme Court of Queensland the decision of the Department of Natural Resources (Queensland) to auction 8000ML of unallocated water from the Warrego catchment. They did so on the basis that they would be adversely affected by the auction as it would have significantly reduced the flows in the already

stressed Darling River, and that they had not had the opportunity to be heard on the issue.

The Queensland Government decided after the case was commenced not to proceed with the auction and as a result, the Darling River Action Group withdrew its case.

Noel Smith v Cowra Shire Council & FerroMin Pty Ltd

The EDO commenced proceedings in the Land and Environment Court as agent for Noel Smith, a farmer from Cowra whose land had had a consent to mine magnetite and limestone granted over it. The mine would result in the clearing of 7ha of Endangered Ecological Community, 5.5ha of other native vegetation, impact on a number of threatened species, harm a creek running through the land and have noise, dust and amenity impacts.

After commencing proceedings, the Applicant instructed the EDO to discontinue the appeal as he had decided to sell the land to the mine.

WWF-Australia v Department of Agriculture, Fisheries and Forestry

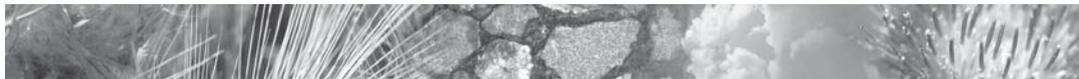
The EDO acted for WWF-Australia in the Administrative Appeals Tribunal against the Department of Agriculture, Fisheries and Forestry (DAFF) in relation to a Freedom of Information matter. WWF-

Australia appealed the decision of the Australian Bureau of Agricultural and Resource Economics (ABARE, a division of DAFF) to refuse access to the responses of a number of farmers to questionnaires used by ABARE to obtain information and views about land clearing in NSW. WWF-Australia was concerned about the claims made in published articles referring back to the data, which suggested that native vegetation laws were imposing significant economic costs on farmers. WWF-Australia requested the information to test the veracity of those conclusions.

After negotiations between WWF-Australia and ABARE in which the EDO assisted WWF-Australia, ABARE provided aggregated information about the underlying survey results to WWF-Australia. WWF-Australia was satisfied with the provision of this information and discontinued the application.

Watt v Forests NSW [2007] NSWADT 197

The EDO successfully represented Gerry Watt in a Freedom of Information matter before the NSW Administrative Decisions Tribunal. Mr Watt sought from Forests NSW the separate royalty rates for pulp logs in the Southern and Eden Regional Forest Agreement regions for 2003-2004. The Administrative Decisions Tribunal emphasised



the public interest in releasing this information in its decision.

Forests NSW initially refused access to the information based on three exemptions under the *Freedom of Information Act 1989*, including the commercial-in-confidence nature of the material. All exemptions were rejected by the tribunal.

Gloucester Environment Group v the Department of Primary Industries

The EDO commenced proceedings in the Administrative Decisions Tribunal challenging the refusal by the Department of Primary Industries to release location details in Annual Reports lodged by mineral exploration licence holders in the vicinity of Barrington Tops.

The Gloucester Environment Group was concerned that mining in Barrington Tops would potentially have an adverse impact on sensitive wetlands in the area.

After commencement of proceedings, the major licence holders waived their objection to release of the information and the matter was discontinued.

Legal Advice

The EDO provided the following legal advice regarding natural resource management issues in 2007-2008:

Water

- Letter to the Minister about the lack of appointment and reports of the Snowy Scientific Committee prior to the five year review.
- Letter to the Minister on behalf of landowners affected by the acquisition of bore water licenses by a gold mine, possibly threatening the viability of local groundwater sources.
- Advice to a client concerned about water management issues with a development and the potential for water pollution of a downstream wetland, including an application to seek joinder to existing proceedings.
- Advice to a community group regarding the allocation of water to a mine which may be lowering bore levels to stock and domestic users.

Native vegetation

- Letter to Kempsey Shire Council regarding Council's failure to release documents regarding illegal clearing.
- Advice to a local resident regarding breaches of the *Native Vegetation Act 2003* following the possible illegal clearing of hundreds of River

Red Gums for a tourist development at Tocumwal.

Forestry

- Freedom of Information application to Forests NSW seeking information regarding the use of chemicals in forest plantations.
- Letters to Forests NSW regarding construction of snig tracks on steep land in Mistake State Forest and investigation of a complaint of the lighting of fires in Ellis State Forest.
- Brief to counsel on the prospects of challenging a Federal Court decision regarding a pulp mill under the (CTH) *Environmental Protection and Biodiversity Conservation Act 1999*.
- Advice regarding avoided deforestation.
- Advice as to whether Forests NSW could be compelled to undertake an Environmental Impact Statement for the Western Region Forestry areas.
- Advice and assistance, including letters to the Department of Primary Industries and the Department of Conservation and Climate Change, about the lawfulness of a pine plantation development near Tumut that

would affect important habitat for the Corroboree Frog.

- Advice about an application made to the Department of Lands by a private timber company to purchase a crown road that accesses the Border Ranges National Park.

Mining

- Letter to the Environmental Protection Authority threatening third party action if nothing is done regarding water pollution in local water ways, possibly caused by a mine or power stations in the Lithgow area.
- Letter to Hawkesbury Council about the modification of a development approval for a sand mine at Maroota.
- Advice to a Northern Territory client about using the Warden's Court to challenge uranium leases.
- Advice and assistance to affected residents regarding their opposition to a development application for the extension of a sandstone extract license in an area containing various Endangered Ecological Communities and core koala habitat.
- Advice to a resident whose property is affected by a



coal mine near Narrabri about mining law and compensation arrangements.

- Advice on a possible appeal against refusal by the Department of Primary Industries to release details of the location of exploration activities under a ruby mining license, located in a State Conservation Area containing sensitive wetlands, and advice regarding a Freedom of Information request.
- Advice in relation to proposed gravel screening plant attached to an existing gravel extraction operation on the Macleay River.
- Advice to residents around Bargo concerning access issues and negligence concerns relating to mine subsidence on State land.
- Assistance to a community action group in preparing a submission for a designated development application to Lismore City Council for a major sandstone quarry.
- Advice and assistance including letters to Council about breaches of development consent by a gold mine in the Central West.

Policy and Law Reform

The EDO engaged in the following law reform activities in 2007-2008 that focussed on shaping and influencing natural resource management policy:

- Submission to the NSW Parliamentary Inquiry into natural resource management and climate change.
- Submission to the Department of Primary Industries regarding their Land Use Conflict Project.
- Advice to national environment groups on federal water legislative reforms, and preparation of information to appear at the Senate Committee hearing on the *Water Bill 2007* in Canberra.
- Preparation of an analysis of the (CTH) *Water Bill 2007* for the Australian Conservation Foundation and the Inland Rivers Network, including a draft report on the protection of high conservation fresh water ecosystems in the Murray-Darling Basin.
- Preparation of a NSW report for The Wilderness Society on carbon financing from avoided deforestation.
- Advice to key conservation groups on how to improve compliance under the (NSW) *Native Vegetation Act 2003*.

- Meeting with officers from the Commission of Taxation regarding the development of water accounting principles and practices analogous to financial accounting.
- Advice to the Department of Environment and Climate Change to discuss proposed changes to the (NSW) *Native Vegetation Regulation 2003* and provision of advice to the Total Environment Centre on the proposed changes.
- Review of water law in NSW, including the status of water sharing plans.
- Review of native vegetation and threatened species compliance actions.
- Completion of a review of indigenous engagement in natural resource management law for the Murray Lower Darling Rivers Indigenous Nations.
- Membership of the Water Advisory Group of the Nature Conservation Council of NSW.

Scientific and Technical Advice

The following scientific and technical advice regarding natural resource management issues was provided in 2007-2008:

- Engagement of an expert to review the groundwater and surface water assessments and to assist in preparing a submission to the Department of Planning on the expansion of a fly ash disposal dam near Lithgow.
- General advice on the potential impacts of longwall mining on Mammy Johnson's River near Gloucester.
- Engagement of an expert to provide a preliminary opinion of the significance of the impacts of a limestone mine near Broula on groundwater.
- Review of technical documents and liaison with water quality experts to determine the potential to prosecute for water pollution offences in the Hawkesbury-Nepean region.
- Review of ecological assessment, noise assessment and traffic assessment for the proposed expansion of the Champions Quarry and assistance with a submission.
- Review of environmental assessment documents for the Somersby Fields sand mine and assistance with a submission to the Department of Planning.
- Engagement of a noise expert and public health experts to assist with a submission and provide advice on the impacts of the Somersby Fields sand mine.
- Engagement of a stormwater expert to provide a preliminary opinion of the adequacy of the



environmental assessment and merits issues for the Tomsy's sawmill case.

- General advice and attendance at a community consultation meeting on key issues that should be addressed in an environmental assessment for a proposed quarry near Oberon.
- Preparation of a technical fact sheet on water quality assessment.
- Review of an ecology assessment for a limestone mine at Broula and engagement of an expert to provide advice on the adequacy of the assessment and merits issues.
- Review of an ecology assessment for Brierfield saw mill and advice on the adequacy of the assessment and merits issues.

Community Programs

The following community program activities addressing natural resource management took place during 2007-2008:

Workshops

- Workshop for rural landholders in conjunction with Tuntable Creek Landcare featuring ecologist Mark Graham at Tuntable Creek.
- Workshops focusing on mining law and advocacy in Gunnedah and Gloucester.
- Workshop in Lithgow on private conservation.

Publications

- Secured a \$75,000 grant from the Environmental Trust to update and print 80,000 copies of the *Rural Landholder's Guide to Environmental Law*, to be made available free to NSW landholders.
- Preparation of a report on Timber Plantation issues and law for a seminar scheduled by the North Coast Environment Council.

International Work

- Hosted two lawyers from the Environmental Law Centre (ELC), Papua New Guinea, Mary Boni and Diana Mewerimbe, for a week in Sydney for training and development. They followed proceedings in the EDO's *Hub Action Group Incorporated v Minister for Planning and Orange City Council* litigation, familiarised themselves with the EDO's work and met with a range of useful contacts, including Justice Pain of the Land and Environment Court.

Environmental Justice

Casework

Anderson & Anor v Director -General of the Department of Environment and Climate Change & Anor **[2008] NSWLEC 182**

The EDO acted for the Andersons in an earlier case challenging the validity of a consent issued by the Director-General of the Department of Environment and Conservation, allowing the destruction of Aboriginal cultural heritage for a residential subdivision. Subsequently, the Andersons successfully challenged two further re-determinations to grant the consent, and also successfully challenged the grant of development consent by the Minister for Planning. In recent proceedings, the Andersons lost a further challenge to a determination by the Minister for Planning to grant development consent for the residential subdivision.

The latest proceedings challenged the fourth issue of a consent allowing the destruction of Aboriginal objects on the site of the proposed subdivision. The grounds of challenge included that the decision maker had failed to take into account the cultural

significance of the land and objects, the opinions of the Andersons and intergenerational equity. The case also argued that there had been a failure to make inquiries about a report prepared for the Department of Planning about the cultural significance of the land and that the decision was affected by bias.

In June 2008 Justice Lloyd rejected the application for review on all grounds. The order regarding costs is yet to be made.

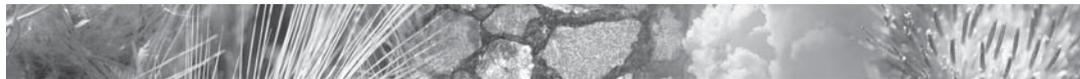
C v NSW Scientific Committee

The Northern Rivers Office acted for 'C' in the Administrative Decisions Tribunal. C was seeking to protect their identity from a developer company that lodged a Freedom of Information application seeking the personal details of C, who had nominated a population of the long nosed potoroo as threatened. The company intended to intensely develop lands forming the habitat of the threatened population.

Part way through the proceedings the company discontinued the application. However, the ADT made a permanent suppression order preventing the publication and broadcast of C's identity.

Legal Advice

The EDO provided the following legal advice regarding environmental justice issues in 2007-2008:



- Letter of advice addressing civil enforcement prospects in the Land and Environment Court regarding heavy metal pollution in Long Bay from Cammeray Marina.
- Letter to the Department of Environment and Climate Change on behalf of residents requesting that the use of ethylene oxide be a scheduled activity under the (NSW) *Protection of the Environment Operations Act 1997* in response to concerns over pollution and cancer clusters from a stack at Mona Vale.
- Assistance in the preparation of a Draft Memorandum of Understanding between Nambucca Council and Local Aboriginal Land Councils regarding procedures to better protect Aboriginal cultural heritage in the Nambucca Local Government Area including notification and identification of cultural heritage.
- Advice to a client in relation to a mine development consent and cultural heritage issues, including a letter to the mining company on their behalf to follow up breaches of the development consent.
- Advice about interim heritage orders and assistance in relation to a new development in Moree being built on a site of significant indigenous and community cultural heritage.
- Advice and assistance regarding damage to Aboriginal cultural heritage in the Blue Mountains.
- Advice on possible breaches of development consents relating to consultation on Aboriginal cultural heritage issues.
- Advice on the potential use of a Memorandum of Understanding on cultural heritage.
- Letter to Nambucca Shire Council regarding the EDO's review and update of the Nambucca Aboriginal Cultural Heritage Management Plan.
- Advice to a Moree community group on the joint management of protected areas.

Policy and Law Reform

The EDO engaged in the following law reform activities in 2007-2008 that focussed on shaping and influencing environmental justice policy concerns:

- Proactive discussion paper presented to the Land and Environment Court Users Group on access to justice in the Court, including proposed reforms to costs provisions and expert arrangements.
- Letter to the Minister for the Environment on the need

to review and reform NSW cultural heritage laws.

- Draft of proposed amendments to improve public participation under the (CTH) *Environment Protection and Biodiversity Conservation Act 1999*.
- Assistance to members of a conservation organisation working with Pacific Island delegates to Bali on issues of adverse impacts of climate change on indigenous peoples and islanders, and attendance at a forum for climate change justice for Pacific Islanders.
- Research into Traditional Owner participation under natural resource legislation, and research into water for cultural purposes for the Murray Lower Darling Rivers Indigenous Nations.

Science and Technical Advice

The following scientific and technical advice regarding environmental justice issues was provided in 2007-2008:

- Engagement of an expert to undertake an independent peer review of the investigation into the environmental impacts of the Wunma barge zinc spill in the Gulf of Carpentaria and on-going advice to a client on this issue.
- Review of water quality data and other assessment documents

associated with a water pollution incident allegedly caused by an oil drilling operation at Lake Kutubu in Papua New Guinea and provision of on-going advice to a client on this issue.

- Engagement of experts to provide advice on the adequacy of assessment documents associated with a water pollution incident at Lake Kutubu.
- General advice to an EDO solicitor on the public health impacts and sources of dioxins.
- Review of literature to provide general advice on the accuracy of sub-surface detection technologies associated with a potential Aboriginal burial site at Moree.

Community Programs

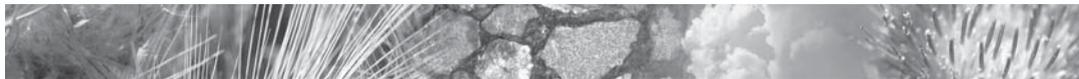
The following community program activities addressing environmental justice took place during 2007-2008:

Workshops

- Caring for Country workshops held in Coffs Harbour, Narooma, Walgett, Deniliquin, Wagga Wagga and Moree.

Seminars

- Hosted a legal forum on the proposed Heron's Creek power station.



Publications

- Launched *Caring for Country: A guide to environmental law for Aboriginal communities* at State Parliament.
- Reprinted *Caring for Country: A guide to environmental law for Aboriginal communities* for distribution.
- Created the new 'Compliance Portal' as part of the website, increasing public access to and understanding of the operation of environmental law provisions.

International work

- Assisted Solomon Islands lawyers with an injunction issued against them.
- Hosted a three-day litigation and policy training workshop in Port Moresby, Papua New Guinea, attended by over twenty lawyers working in the areas of environment and human rights.
- Attended the 8th Pacific Islands Conference for Nature Conservation and Protected Areas in Alotau, Papua New Guinea, addressing the theme of how conservation can serve communities in a rapidly changing world.
- Assistance to Helen Amnol, a Papua New Guinean from the Indigenous and Community Rights Advocacy Forum (ICRAF)

to attend the Public Interest Advocacy Centre Conference and various meetings with organisations including the Human Rights and Equal Opportunity Commission and the HIV/AIDS Legal centre, regarding assistance with the work of ICRAF in the human rights arena.

- Hosted Centre for Community Rights and Environment, Papua New Guinea (CELCOR), lawyer Daniel Bidar for two weeks in Sydney to attend an advocacy training course, in addition to following progress in EDO litigation matters and meeting a range of useful contacts.

Corporate Social Responsibility and Governance

Legal Advice

The EDO provided the following legal advice regarding corporate social responsibility issues in 2007-2008:

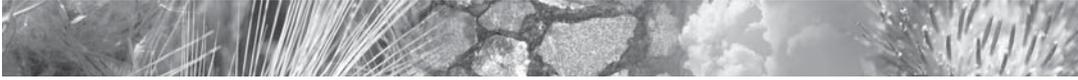
- Advice to climate change campaigners on the rules of incorporation.
- Advice regarding whether the 'greenpower' proposed to be generated at the Eden chipmill would need to be registered under the (CTH) *National Greenhouse and Energy Reporting Act 2007*.
- Ongoing advice to a client on directors' duties and actions under the (NSW) *Protection of the Environment Operations Act 1997*.
- Letter to a company noting that it had not yet completed court orders as required in the *Coalcliff Community Association* decision.
- Referral to the Australian Competition and Consumer Commission on whether the term "clean coal" breaches the (CTH) *Trade Practices Act 1974*.

- Letter to Forests NSW on behalf of resident regarding the mistreatment of his fire complaint against the leaseholder of a State forest lighting inappropriate and illegal fires.
- Advice to a conservation group about appointments to Western Lands Council and assistance in drafting a letter to the Minister for Lands about the issue.
- Advice to a client being threatened with defamation proceedings by a developer for statements made about developments in the Lake Macquarie area.
- Advice regarding constitutional changes to conservation organisations.

Policy and Law Reform

The EDO has undertaken the following activities relating to corporate social responsibility:

- Submission to the Australian Competition and Consumer Commission on the Issues Paper: *The Trade Practices Act and carbon offset claims*.
- Research on regulating carbon neutrality claims.
- Submission and appearance before a hearing regarding the Inquiry into Environmental Impact Reporting in the NSW Public Sector.

- 
- Submission on Financial Reporting by Unlisted Public Companies.

Community Programs

The following community program activities addressing corporate social responsibility took place during 2007-2008:

Seminars

- Seminar 'How to Get Heard,' addressing various activism and advocacy issues with guest speakers Commissioner Tim Moore, Ted Plumber and Tim Moore from City of Sydney.

Publications

- Revision of the EDO website providing a link to a fact sheet on Consumer Rights and Environmental Claims published by the Australian Competition and Consumer Commission.

International work

- Assisted a Papua New Guinea conservation organisation, addressing the need to put pressure on Oil Search Ltd following a pollution incident at a Ramsar lake.

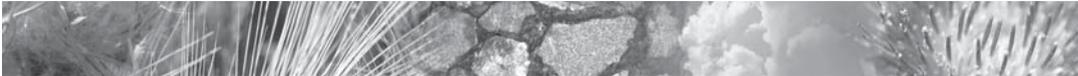
PART C:

REPORTING AND GOVERNANCE

EDO Clients

In 2007-2008, the EDO provided legal assistance to hundreds of clients, including a diverse range of individuals and community organisations. Organisations assisted by the EDO during the year and that have agreed to be published include:

- Australian Climate Justice Program
- Australian Conservation Foundation
- Australian Youth Climate Coalition
- Camden Haven Protection Society
- Climate Action Network Australia
- Coffs Harbour Regional Landcare
- Dunoon Community Group
- Friends of Currawong
- Friends of our Beaches
- Friends of the Koala Inc
- Great Lakes Environment Association
- Greenpeace
- Green Point Progress Association
- Humane Society International
- Huskisson and Woollamia Community Voice Inc
- Native Animal Rescue Group
- Nature Conservation Council
- Nimbin Environment Centre
- No Port Enfield Community Action Group
- Northern Illawarra Aboriginal Collective
- Residents Against Power Pollution
- Save Nimbo Creek Inc
- South West Enviro Group
- Southern Sydney Tenants Advice
- Surf rider Foundation Australia
- Total Environment Centre
- Tucki Community Against Mega Quarry
- Tyagarah Sustainable Community Association
- Upper Hunter Wonnarua Council
- Wagonga Local Aboriginal Land Council
- The Wilderness Society
- WIRES Northern Rivers
- WWF - Australia



Staff Training and Development

The EDO continues to support the training and development of its staff, to enhance their capacity to deliver high quality advice and assistance for our clients. In recent years, the Office has worked to broaden the skill base of legal staff to facilitate the development of cases under laws of general application, such as criminal and civil law.

The Office is committed to allocating funds for external staff training and development, in addition to undertaking internal legal education sessions on specific topics with special relevance to the EDO's work. In 2007-2008, EDO staff attended a total of 79 external training sessions.

Acknowledgements

Volunteers

In 2007-2008, the EDO once again saw an influx of volunteers willingly give over a thousand hours of their personal time and skills to contribute to the work of the Office. Their assistance continues to be a valuable resource and over the past year has greatly

enhanced the capacity of the Office to provide accurate and timely legal assistance. The EDO would like to thank the following volunteers from 2007-2008 for their commitment and hard work:

- Dominic Adams
- Karen Beath
- Danielle Cavanagh
- Justine Conaty
- Matthew Fawkner
- Elyse Gorman
- Paul Henry
- Norbert Kelvin
- Susan Kennedy
- Zsofia Korosy
- Henry MacPhillamy
- Sarah Morris
- Beth Mulqueoney
- Jacqui Nissim
- Hoang Lam Nguyen
- Nolan Noeng
- Emma Perera
- Steven Perry
- Michal Roucek
- Larissa Shihoff
- Julia Shparlinski
- Abigail Symes
- Kirk Simmons
- Elaine Teoh

- Kamani Thanakrishan
- Kate Vanderfield
- Huong Vu
- Anna Wheeler

Pro Bono Assistance

The legal and scientific community also lend invaluable support to the work of the EDO, providing legal and advisory services for a reduced fee or, in many cases, for no charge. The EDO is deeply grateful to the many barristers, solicitors, scientists and experts for their ongoing commitment to the provision of pro bono assistance in public interest matters.

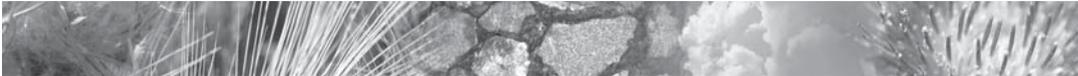
The EDO would like to thank the following barristers who provided their time and assistance with EDO litigation and other matters in 2007-2008.

- Christine Adamson SC
- Hamish Bevan
- Michael Bozic
- Matthew Baird
- Louise Byrne
- Malcolm Craig QC
- Francis Douglas SC
- Ross Foreman
- Stephen Gageler SC
- Jacqueline Gleeson
- Ian Hemmings

- James Johnson
- Geoffrey Kennett
- Patrick Larkin
- Jason Lazarus
- Craig Lenehan
- Lucy McCallum SC
- Peter McEwen SC
- Chris McGrath
- Duncan Miller
- Anna Mitchelmore
- Bridie Nolan
- Chris Norton
- Nye Perram SC
- Melissa Perry QC
- Andrew Pickles
- Darryl Rangiah
- Tim Robertson SC
- Mark Robinson
- Kristina Stern
- Neil Williams SC
- Michael Wright

The EDO would like to thank the following experts who provided assistance during 2007-2008, and all those who provided assistance anonymously.

- Barbara Adams
- Stephen Ambrose
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- 
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 - Khaalyd Brown
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 - Peter Cowell
 - Craig Dalton
 - Neil Davis
 - Martin Denny
 - Don Driscoll
 - Martin Fallding
 - Mark Fitzgerald
 - Nick Florin
 - Georgia Garrard
 - Chris Gimber
 - Emma Gorrod
 - Mark Graham
 - Ian Grey
 - Acelin Gordon
 - Gary Hall
 - Charlie Hewitt
 - Dieter Hochuli
 - Teresa James
 - Chris Jewell
 - Peter Karantonis
 - Nick Kariotoglou
 - Anne Kearle
 - Helen Ketelby
 - Elvira Lanham
 - Michael Leggo
 - Desiree Lucchese
 - Iain MacGill
 - John Mant
 - David Milledge
 - Tony Mohr
 - Chris Moon
 - Hugh Outhred
 - Trent Penmann
 - Steven Phillips
 - Martin Predavec
 - Damon Roddis
 - Peter Scott
 - Dave Scotts
 - Judy Smith
 - Phillip Spark
 - Deb Stevenson
 - Alan Stewart
 - Ian Wallace
 - Leah Wheatley
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 - Simon Williams
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 - Ian Wright

Acknowledgements

Donors

As a non-government and non-profit organisation, the EDO gratefully accepts support from a range of sources. The support received helps the Office to achieve its mission and in no way compromises the independence of the organisation. The EDO would like to acknowledge the following individuals and organisations for their generous financial and/or in-kind support:

- Lee Andresen
- Association for Berowra Creek Inc
- Geoffrey Ball
- Catriona Faehrmann
- Chalk and Fitzgerald
- Tamzyn Chapman
- Andrew Cox
- Environment and Planning Law Association (NSW) Inc.
- DLA Phillips Fox
- Freehills
- Sylvia Hale
- Felicity Hall
- Natasha Hammond-Deakin
- Ronnie Harding
- Dr Andrew Kelly
- Michael Kennedy
- Judy Lambert
- David Lemcke
- Mallesons Stephen Jacques
- Chloe Mason
- Nicola McIntyre
- Patricia Morley
- Duffy's Forest Residents Association
- Oatley Flora and Fauna Conservation
- Warwick Pearse
- Susan Robertson
- Emeritus Professor Patricia Ryan
- Sue Salmon
- Richard Smyth
- Smyth Levy and Associates
- James Tedder
- John Weate
- Hal Wootten
- Alek Zander



EDO People

Staff

At 30 June 2008, the staff of the EDO comprised:

Director

Jeff Smith

Principal Solicitor

Kirsty Ruddock

Senior Solicitors

Ian Ratcliff (Northern Rivers)

Jacque Svenson (Acting)

Josie Walker

Jessica Wood (Northern Rivers – currently on leave)

Solicitors

Sue Higginson (Northern Rivers)

Felicity Millner

Legal Interns

Dominic Adams

Policy Director

Rachel Walmsley

Policy Officers

Robert Ghanem

Richard Howarth

Policy Intern

Abby Symes

Scientific Director

Tom Holden

Scientific Officer

Kristy Graham

Programs Director

Amelia Thorpe

Aboriginal Liaison Officer

Neva Collings

Education Officers

Jemilah Hallinan

Mark Byrne (Northern Rivers)

Education Assistant

Heidi Evans

Operations Manager

Meredith MacDonald

IT/Administrator

John Scanlan

Receptionist/Administrator

Diana Beaton

Staff Changes

The EDO enjoyed relatively stable staffing during the year but, inevitably, there were some changes.

In the Litigation Team, Jessica Woods went on maternity leave from Christmas 2007. Ian Ratcliff was seconded from the Sydney Office to Northern Rivers to take her place to the end of 2008. Felicity Millner was recruited as a Locum Solicitor until Jessica and Ian return to their previous positions.

In the Programs Team, Director Andrew Burke was replaced by Amelia Thorpe. Tisha Dejamanee was replaced by Eszter Kovacs and subsequently by Heidi Evans as Education Assistant. With the extension of funding for the Northern Rivers Office, additional money was provided by the Public Purpose Fund to employ

an Education Officer and Mark Byrne took up this position.

In the Operations Team, Manager Lesley Harris was replaced by Meredith MacDonald. The Bookkeeper also left and, rather than employ another Bookkeeper, the decision was taken to use an external service provider. John Szabo & Associates Pty Ltd - Accounting & Taxation Services have been engaged to provide bookkeeping and accounting services to the organisation.

The Office was fortunate in being able to employ a number of interns for various periods during the year to work in both the Legal and Policy Teams. In addition to Abby Symes and Dominic Adams, who were employed in June 2008, other interns employed were:

Legal interns

Frances Tse

Policy interns

Danielle Gubbay

Richard Merzian (Climate Change)

Justin Wolst

Board Of Management

The EDO is a non-profit company limited by guarantee and its volunteer Board provides strategic direction and assistance to staff.

The Board is elected at each annual general meeting. Board members attend six-weekly meetings, annual policy days and

some community education events. They make a major contribution to the work of the Office, guiding its strategic development and devoting considerable time and expertise to the work.

At 30 June 2008, the EDO Board comprised:

Patron

Mr Hal Wootten AC QC

Chair

The Hon. Murray Wilcox

Vice-Chair

Prof. Michael Jeffery QC

Professor of Law and Director, Centre for Environmental Law, Macquarie University

Secretary

Warwick Pearse

Consultant

Treasurer

Nicola McIntyre

Barbara Adams

Planner; Woollahra Council

Andrew Cox

Executive Officer, National Parks Association of NSW

Cate Faehrmann

Executive Director, Nature Conservation Council of NSW

Murray Hogarth

Director, Econation Pty Ltd

Frank Hubbard

Director, Corporate Sustainability, Intercontinental Hotel Group ANZSP

Bruce Woolf

Partner, Woolf Associates



Funding and Financial Report

Funding From Grants

The EDO is overwhelmingly dependent on grants to fund its operations at their current level. As in previous years, the major source of funding for the organisation is the Public Purpose Fund (PPF). This is triennial funding and was awarded for the period 2006 to 2009. The initial grant included funding for an 18 month trial of an office based in the Northern Rivers. Due to the great success of this initiative, the PPF provided continuing funding for the Office from January 2007. The PPF provided about 68% of the EDO's income in 2007-2008

Triennial funding is also received from both the Commonwealth Attorney-General's Department and Legal Aid NSW through the Community Legal Services Program (CLSP). The current Funding Agreement covers the period 2005-2008. The current Agreement will be extended for another year as the Commonwealth completes a review of the Program. Community Legal Services Program funds accounted for about 15% of the EDO's income in 2007-2008.

As is the case for all the EDOs in Australia, the funding received from

the Commonwealth Government continues to be the subject of a "no-litigation" condition; that is, it cannot be used to undertake litigation or litigation-related activities. In 2007-2008, Commonwealth funding amounted to \$88,685 or 5% of overall revenue.

Commonwealth and NSW Government funding has remained static, with indexation increases only. However, at the end of this financial year, the Commonwealth released some additional one-off funds to be available in 2008-2009.

The John D. and Catherine T. MacArthur Foundation is another major funder of the EDO with triennial funding of \$US250,000 from 1 March 2007 to 28 February 2010. This funding is for a legal capacity building project in the Pacific.

In addition to the triennial grants outlined above, the EDO received a number of smaller grants allocated for a shorter time and for specific projects. The grants received in 2007-2008 were:

- NSW Environmental Trust Lead Environmental Community Groups Grants for administrative expenditure.
- Law & Justice Foundation funding for the "Caring for Country" project to improve delivery of environmental

law services to Aboriginal clients in New South Wales.

- Community Legal Centres Combined Group (NSW) through the Aboriginal Legal Access Program (with funding provided by the Public Purpose Fund) to continue to improve access to environmental law services to Aboriginal clients in New South Wales.
- The Environmental Trust for publication and distribution of a revised edition of, the *"Rural Landholders Guide"* to be published and distributed in 2008-2009.
- City of Sydney Council for a series of seminars on climate change.
- Environmental and Planning Law Association for a promotional event.

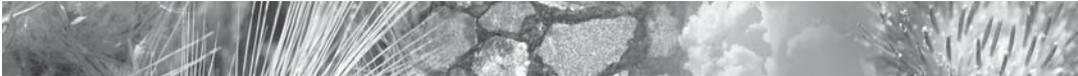
Income Generation

In addition to the income received from grants, the EDO generated other income from fees charged for our professional services, education activities, memberships, donations and bank interest. This money enables the EDO to undertake work which is strategically important but cannot be done within the terms of funding contracts. In 2007-2008, the EDO generated other income of \$125,661. This compares with \$179,595 last financial year.

Financial Performance

In 2007-08, the EDO had a deficit of \$75,959. This result is consistent with the outcome in most years where the surplus/deficit is within 5% of annual revenue. There were a few key reasons for the deficit in the 2007-08 accounts namely:

- An increase in the provisions for employee entitlements.
- The full amount of unexpended MacArthur grant funding at the end of 2006-07 was not reflected as a liability by our previous auditor in the 2006-07 Financial Statements. This needed to be adjusted in 2007-08 accounts and has distorted the surplus for 2006-07 and the deficit for 2007-08 by \$31,694.
- Income received from provision of legal services is lower than expected this year.



Independent Audit Report

Scope

We have audited the financial statements, being the Directors' Declaration, Income Statement, Balance Sheet, Statement of Cash Flows and notes to and forming part of the financial statements of the Environmental Defender's Office Limited for the year ended 30th June 2008. The company's directors are responsible for the financial report. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of the company.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and SIGNIFICANT accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with Accounting Standards and other mandatory

professional reporting requirements in Australia and statutory requirements so as to present a view which is consistent with our understanding of the Company's financial position and performance as represented by the results of their operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Qualification

The financial report for the year ended 30 June 2007 has been audited by another auditor, Littlewoods Chartered Accountants. The 2007 auditor's report was unqualified, however we were not able to obtain sufficient audit evidence regarding the comparisons. Accordingly we are not in a position to and do not express an opinion on the comparatives for the 2007 year.

Qualified Audit Opinion

In our opinion, except for the effects on the comparatives for 2007 of such adjustments, if any, as might have been determined to be necessary had the limitation on the scope of our work as discussed in the qualification paragraph not existed, the financial report presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements the financial position as at 30 June 2008 the

results of its operations and its cash flows for the year then ended.

Independence

In conducting our audit, we followed applicable independence requirements of Australian Professional Ethical Pronouncements and the *Corporations Act 2001*.

Auditor's Opinion

In our opinion:

(a) the financial report presents truly and fairly in accordance with the Corporations Act 2001, applicable Australian Accounting Standards and other mandatory professional reporting requirements the financial position of the company as at 30th June 2008 and the results of its operations and cash flows for the year ended.

(b) nothing has come to our attention that causes us to believe that the Environmental Defender's Office Limited will not be able to pay its debts as and when they fall due.

Joseph Pien Chartered Accountant

Joseph Pien
Suite 503, Level 5, 176 Pitt
Street, Sydney, NSW, 2000

Dated this, 26th day
of September 2008.



STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2008

	2008 (\$)	2007 (\$)
CURRENT ASSETS		
Cash	387,952	484,693
Receivables	178,361	123,367
Other	110,669	32,206
TOTAL CURRENT ASSETS	676,982	640,266
NON CURRENT ASSETS		
Property, Plant & Equipment	60,756	55,559
TOTAL NON CURRENT ASSETS	60,756	55,559
TOTAL ASSETS	737,738	695,825
CURRENT LIABILITIES		
Payables	118,288	12,391
Interest Bearing Liabilities	109,280	111,157
Provisions	123,358	109,505
TOTAL LIABILITIES	350,926	233,053
NET ASSETS	386,812	462,772
EQUITY		
Reserves	110,000	110,000
Retained Profits	276,812	352,772
TOTAL EQUITY	386,812	462,772

**SUMMARISED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2008**

	2008 (\$)	2007 (\$)
OPERATING REVENUE		
Grants	1,557,450	1,377,295
MacArthur	91,294	98,248
Donations Received	6,790	9,294
Conference and Publications	5,540	25,378
Professional Fees	59,637	108,600
Interest Received	51,769	27,787
Recoveries	-	2,973
Other Income	1,925	16,568
TOTAL REVENUE	1,774,405	1,666,143

OPERATING EXPENDITURES

Auditor's Remuneration	7,815	6,400
Accountancy & Bookkeeping	19,456	-
Bad Debts Written Off	5,194	9,811
Bank & Government Charges	2,188	1,477
Casual Labour	3,053	-
Computer Expenses	-	10,380
Consultants Fees	9,007	7,851
Cleaning	-	2,356
Conferences and Publications	57,862	45,255
Depreciation	16,925	14,060
Donations	-	800
Doubtful Debts	3,675	-
Employee Entitlement Provision	13,854	42,367
Employee Expenses	1,369	-
Fees & Permits	-	5,317

**SUMMARISED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2008 (Continued)**

	2008 (\$)	2007 (\$)
OPERATING EXPENDITURES		
General Expenses	769	3,585
Insurance	10,440	11,624
Lismore Evaluation	-	11,005
Light & Power	4,795	3,937
MacArthur Expenses	119,116	55,313
Equipment Leases	6,644	20,766
Office Costs	13,311	38,747
Postage & Couriers	3,569	4,234
Printing & Stationery	19,757	12,978
Program Development Costs	-	1,610
Rent - Office	110,934	71,716
Repairs & Maintenance	3,446	9,568
Salaries & Wages	1,191,629	998,156
Staff Training & Welfare	15,866	16,086
Staff Amenities	3,373	-
Staff Recruitment	1,897	8,035
Subscriptions	31,862	32,552
Superannuation Contributions	104,761	99,712
Telephone & Internet	36,553	24,253
Travelling Expenses	31,244	6,950
Foreign Currency Exchange Loss	-	3,771
TOTAL EXPENDITURES	1,850,364	1,580,672
OPERATING PROFIT/(LOSS)	(75,959)	85,471



Environmental Defender's Office (NSW)
Level 1, 89 York St, Sydney NSW 2000
Tel: 02 9262 6989 Fax: 02 9262 6998

www.edo.org.au