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Environmental Defender's Office Ltd

8th Floor, 280 Pitt St., Sydney 2000 DX 722 Sydney Phone (02) 261 3599 Editor: Brian J. Preston

"FORESTRY COMMISSION BROUGHT TO HEEL" *

by Ben Boer
Senior Lecturer in Law
Macquarie University

*In this case note, Ben Boer analyses the decision of the Land & Environment Court in **Jarasius v Forestry Commission of NSW** concerning forestry operations in the Eden-Bombala area. The note is particularly timely in the light of recent calls by forestry interests for the amendment of Part V of the **Environmental Planning and Assessment Act** 1979 (N.S.W.), such calls largely being inspired by the Court's decision.*

The case of **Jarasius v Forestry Commission of New South Wales, Harris-Diashowa and Others,** Unreported, L&E No. 40173 of 1987, 4 March 1988, was handed down by Mr. Justice Hemmings in the Land and Environment Court in March 1988. It has brought into sharp focus the requirements for compliance with Part V of the **Environmental Planning & Assessment Act** 1979 (NSW) (EPA Act) in the area of forestry. This case is the latest in a short series of forestry cases in this State which have been concerned with the scope of the environmental impact assessment requirements in forestry operations controlled by the Forestry Commission. (See **Kivi v Forest Commission** 47 LGRA 38; **Prineas v Forestry Commission** 49 LGRA 402; 53 LGRA 160; see also Preston, B.J. "Adequacy of Environmental Impact Statements in New South Wales", (1986) 3 EPLJ 194).

Since the commencement of operation of the EPA Act in New South Wales in 1979, the Forestry Commission has completed only three "representative" environmental impact statements (EIS's) for the purposes of the EPA Act. There has been a consistent refusal to complete other EIS's despite the provisions of the EPA Act. This refusal has been justified by officers of the Commission on the basis that the Forestry Commission in its "environmental reviews" adequately takes into consideration the various aspects of their logging operations from an environmental point of view. It has also been said that the Commission does not do EIS's because of the cost and effort involved. What is not said, however, is that there may well be a substantial risk that an independent review of EIS's by the Department of Environment & Planning in New South Wales (DEP) could result in the operation not being approved, or approved subject to reasonably stringent conditions. The Forestry Commission has always resisted the view that the DEP has any role in the operations of the Forestry Commission. This case lays down once and for all that the Forestry Commission, along with other government departments, is subject to the provisions of Part V of the EPA Act in terms of its obligations to "examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity" (s 111), and further, not to carry out an activity or grant approval for an activity that is likely to significantly affect the environment unless the agency has "obtained or been furnished with or has examined and considered an environmental impact statement in respect of the activity", (s 112).

The case is important in relation to the question of "substantial compliance" with the requirements of the Act and its regulations. Further, the case is unusual in terms of the fact that the Judge was obliged to refer to the then current political situation relating to the announcement by the then New South Wales Cabinet of a proposed declaration of two national parks affecting part of the area proposed to be logged. Finally, the case is interesting because of the comments made by the Court in relation to the role of public interest groups in enforcing the Act.

The case concerns the harvesting of timber in two areas near Eden in the south east corner of New South Wales. Area "A" is said to include a wide range of topographic features and vegetation types. It includes tableland edged areas of moderate relief, an escarpment of varying steepness and mainly rugged foothills. The forest was stated to be likely to support one of the richest arboreal mammal populations in the region and evidence of possibly Australia's rarest animal, the long-footed potaroo has been found. It also contains wet lands with a diverse and unusual range of plant species. This area was not significantly eroded or showing effects of earlier selective logging. A further area, "B" included an area of state forest with small clumps of rainforest, important visual landscape and important plant species. The evidence suggested that the area was unusually rich and diverse in fauna including yellow bellied gliders and eastern pygmy possums. Area "B" was significantly more eroded that Area "A" and some eleven of the twenty nine compartments into which the area was divided were already logged to some extent. Growth areas had been subjected to significant wildlife damage, and in Area "B" certain compartments had been subjected to pre- and post-log burning.

The general area involved was very extensive, being some 300,000 hectares, from Bermagui, down to the Victorian border and westward from the coast to Bombala and near

Nimmatabol Area "A" comprised some 36,000 hectares, and Area "B" comprised some 14,000 hectares. In terms of the way in which the case was argued by the Forestry Commission, it was important to realise that the area had a long history of timber production, and licences for the taking of pulp wood from the general area had been issued from as early as 1970. The current agreement, which was part of this dispute, was entered into in 1975, and provided for the taking of 530,000 tonnes p.a. up to 1989.

Under the procedures of the Forestry Commission, the licences purported to consent to the taking of timber in identified areas, but operations could not be commenced until preparation and approval by the Commission of a harvesting plan for particular compartments pursuant to conditions as to branding of trees or other authorisation by the Commission.

THE LEGAL CHALLENGE

The applicant, Wendy Jarasius, was a resident of Wyndham, New South Wales and a member of an unincorporated association, The Towamba Valley Catchment Protection Association. Declarations and other orders were sought relating to the lawfulness of licences and approvals granted by the Forestry Commission and related to works carried out by it which enabled logging or harvesting of timber. It was recognised in the case that harvesting operations in the area were "integrated" because they provided both saw logs, for the saw milling industry, and pulp logs for woodchip export. Apart from the Commission and the company, the other four respondents included three saw mills in the area and contractors and workers engaged in the timber industry.

An interesting aspect is that the Forestry Commission entered into an agreement at an early stage of this case with the Environmental Defender's Office (EDO), which acted on behalf of the Towamba Valley Catchment Protection Association. The undertaking given to the EDO was to give at least 14 days notice of the commencement of any further roading and harvesting operations in the area "A". At the time of the negotiation, the Commission declined a request to undertake or prepare an EIS pursuant to the EPA Act in relation to those activities.

FEDERAL AND STATE REQUIREMENTS

Another aspect of this case concerns the interaction between the State and Federal requirements for environmental impact assessment, and in particular the adequacy of the Federal requirements for the purposes of the State law. The approval by the Australian Government of the export of woodchips from Eden was due to expire at the end of 1989, unless renewed. The Forestry Commission intended to seek such renewal and prepared two documents under the Commonwealth **Environment Protection (Impact of Proposals) Act** 1974 which were described as "draft" and "final" environmental impact statements for the Eden woodchip operation for the period 1989 to 2009. There was also a "supplementary document" to the draft EIS's. The Federal Government had advised the company that it required an EIS for the issue of the export licence and that an EIS was needed under the EPA Act for a State licence to harvest the forests. As is usual for operations of this kind, procedural guidelines to be followed for development for both Commonwealth and State operations were the subject of an agreement in an attempt to avoid duplication of work. Harris-Daishowa was also said to be anxious to avoid unnecessary costs and initially merely wanted to update a 1979 EIS. However the Court stated that it became clear that such an EIS fell far short of the EPA Act requirements and it did not canvass change to forestry procedures since that time.

The Minister for the former federal Department of Arts, Heritage & Environment advised the New South Wales Minister for Planning & Environment that a formal direction had been issued to Harris-Daishowa for the preparation of an EIS. The DEP was apparently under the belief that an EIS would be prepared and processed in accordance with both State and Commonwealth procedures, including Part V of the EPA Act. The DEP advised the Federal department that its guidelines for an EIS at that stage clearly covered effects of previous harvesting operations on flora and fauna ecology components, so that some basis could be provided for the assessment of the proposed operations. The State Minister indicated that there were possibly areas of conservation importance within some of the forests that should be considered in an EIS before any decision was taken. However the Forestry Commission indicated that it would await the EIS done for federal purposes before deciding whether it was necessary for an EIS to be done for purposes of the State Act.

The Federal Minister for Agriculture then informed the State Minister that it was agreed that the draft EIS did not provide sufficient detail in relation to integrated logging operations for saw logs and pulp wood. The Commission was therefore instructed to prepare the supplement to the draft EIS.

The director of the DEP then advised requirements for the EIS, as he is obliged to do under the EPA Regulations, specifying nineteen matters. The Commission produced a supplementay report and notified the DEP that the Director's requirements had been addressed to "substantially meet the requirements". The DEP told the Commission of the need to prepare an EIS. Harris-Daishowa then proceeded with the preparation of a final EIS for federal purposes. The Federal Minister came to the view that the documentation was adequate to enable an assessment to be undertaken and stated that in normal circumstances it would be his intention to indicate that the objects of the federal Act had been met. However, in the light of the requirements that might be sought under the EPA Act he declined to make any recommendation at that stage.

THE ORDERS SOUGHT

The applicants sought the following declarations and orders:

1. That the approval sought was for an activity that was "likely to significantly affect the environment".
2. That no valid EIS had been prepared for the granting of the approval under Part V of the EPA Act.
3. That the construction of roads and/or burning off was the carrying out of an activity likely to affect the environment.
4. That no valid EIS had been prepared for the carrying out of the activity itself.
5. That the Commission had failed to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment pursuant to s 111.
6. That the respondents be restrained from issuing licences, preparing harvesting plans or causing the carrying out of any logging, roading, burning off or other harvesting activities or any other activities until the Commission obtained or had been furnished with and examined and considered an EIS in accordance with Part V (s 112).
7. That the Commission demolish and re-establish all the roads within the area such as to enable the land upon which these roads were constructed to return to natural habitat.

The respondents claimed that if an EIS was required, the various statements and environmental reviews before the Court satisfy the requirements of the EPA Act and that in any event they had taken into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the activity in question.

The main point at issue was the nature and extent of the obligations of the Commission as "the determining authority" under Part V of the EPA Act in relation to the activities in the area. The Court set out at length the way in which the Forestry Commission managed all aspects of the timber industry on Crown timber lands in New South Wales. It was stated to be common ground that the works for which the Forestry Commission was responsible, including roading, clearing and harvesting and snigging, removal of litter and dispersal of bark and post log burning were all activities within the meaning of Part V.

DEFINITION OF "ENVIRONMENT"

One unusual aspect of this case is the consideration of the definition of "environment" as found in Section 4 of the EPA Act. It is defined as including "all aspects of the surroundings of man, whether affecting him as an individual or in his social groupings". (It may be noted here that the New South Wales legislature has as yet not seen fit to remove the sexist language in this definition; the Federal Government recast its definition of environment in 1987 to include "all aspects of the surroundings of human beings, whether affecting them as individuals or in their social groupings"). The Forestry Commission stated that this definition was in the widest possible terms and that the Court ought to look at the whole undertaking of which the activity in question formed a part. It submitted that the environment embraced at the very least the whole of the 300,000 hectares of State forests in the general area. The characteristics of the area were said to include the history of the area in terms of saw logs and chipping, the fact that these operations were carried on over a large area with varying degrees of intensity, that there were extensive roads in the area as well as gravel quarries, that even in its natural environment the forests were subject to soil erosion, that the forest has in the past and will be in the future the subject of wild fires which can cause catastrophic damage. It was also stated that the environment comprised forest which had been for many years dedicated as such under the Forestry Act and were thus "impressed" with a land use zoning which includes their management for, inter alia, the logging of timber. In addition to the impression on the environment of such land use, the environment was a "very limited logging and burning activity in a very limited area of an overall environment which has been subjected to that 'treatment' in the past and by all expectations will be in the future; such treatment being man-induced and natural".

In putting these submissions the Forestry Commission was thus seeking to point out that the various activities in the whole Eden wood-chip concession area must be looked at when the signigicance of the activity is being considered for the purposes of Section 112 of the Act. It was submitted that "the activity must be considered in the light of a certainty that logging will continue and be expanded outside areas "A" and "B". The Court stated that "The existing use of the regional environment is said to be a forest which has been burnt and logged over many years. Put shortly, the respondents admit that the logging and associated works will not give rise to a change in a 'working' forest which is other than ordinary." It was submitted that because the word "significantly" was not defined in the EPA Act the meaning in the Macquarie Dictionary ought to be applied; the Judge thus adopted the definition "important" and "more than ordinary".

The applicant, on the other hand, argued that environment for the purposes of Part V should have a more restricted meaning in the geographical sense. It submitted that the existing and intending harvesting plans for both areas "A" and "B" were for an environment which comprised State forests which were largely unlogged, rather than that the relevant environment could only be the whole region and as defined by an agreement between the Commission and the company.

The Court indicated that the more restricted meaning was favoured. The Court accepted that it was open to examine the whole undertaking of which the relevant activity formed a part (following **Kivi v Forestry Commission** op.cit.) and that most of the matters set out by the respondents as being characteristics of the area were relevant to the determination of what the "environment" was for these purposes. The Court however conceded that in different localities the environment can be the individual forest; that site specific activities may be proposed in those forests and they can have an identifiable environment from that of the region. The Court found that for the proposed activities and for the relevant licences and harvesting plans, areas "A" and "B" had "different" environments. It was found that the relevant environment for

the approvals and associated works was the forest area within which the activity was located. The Court also held that it was not reasonably open to the Commission to conclude that the relevant environment was the region or agreement area.

The applicant also argued that the definition of environment included not only the physical environment but also the social effects thereof and the impact of those effects on the relations between "social groupings". It was submitted that it was a relevant consideration as to whether there was likely to be "significant effect" on the environment that the activity was a substantially controversial one. The Court stated that "if that submission means that an activity which is otherwise not likely to significantly affect the environment could be seen to do so merely because it excited opposition by a section of the public, then I reject it". It would appear that the submissions in relation to the "social environment" may have been either inadequately understood by the Court. Wherever the truth lies, it is clearly open for an applicant in such a context to argue that the impacts of a proposed activity such as logging operations can have a significant effect on human beings, and that this effect is a relevant one for the purposes of Part V. Social impacts have been recognised in other cases before the Court, and the whole field of social and economic impact assessment has become much better established in recent years in this country. Given the fleeting references to this aspect of the case little more can be said; however it is clear from the recent New South Wales election campaigns, that the social impact of allowing or not allowing logging was certainly a significant aspect of the strategies of both major political parties, as well as of a number of "green" Independent candidates.

The applicant further submitted that the test to be applied to determine the likely effect on the environment was a simple "before and after" exercise. It was argued that a relatively unlogged old forest with limited access was to be compared to a locality cut by roads used by heavy timber vehicles which reduced tree cover by up to 90% and which was then subjected to post-logging burning. The equilibrium of the locality was alleged to be changed and severely disturbed for generations. The visual impact was said to be one of devastation and scorched earth in the short term of up to 5 years and then would be significantly different in form with uniform regrowth in the longer term. There were also said to be immediate and severe impacts on flora and fauna distribution and survival as well as inevitable erosion and impact on the hydrology. It was submitted by the applicant that it would take 100 to 180 years for the forest to restore itself if left undisturbed.

SIGNIFICANT EFFECTS

The Commission did not deny that logging had a significant short term effect on both the ecosystem and appearance of the area but that its management practices ensured the regeneration of the forest for the future logging in the long term and that the significance of the impact should be considered in that context and as part of the region as a whole. The Court held that "by its very nature the integrated logging activity, whether on a local or regional viewpoint has inevitably a significant effect of converting the environment from that of an old forest to that of a different and regenerated forest. The forest must be fragmented and flora is likely to be reduced in species and diversity . . . . . The process of removal of the old forest and regeneration has, in my opinion, immediate short and long term effects on the environment and notwithstanding (and sometimes as a consequence) of management procedures of the first respondent, such effects are likely to be significant."

The Court was satisfied that as a consequence of the activity it was likely that many species of fauna would be adversely affected by logging and that this effect was likely to be compounded by fire. Further that if current logging operations continued for a long term that it was likely that arboreal populations would significantly change and that existing management procedures did not guarantee the maintenance of composition and distribution.

It was further held that erosion and increased turbidity was likely in the short term but the Court was not satisfied that logging was likely to cause changes in excess of naturally occuring fluctuations. The construction of roads with associated drainage, timber clearing, cutting, filling, excavation and retaining walls was held to have a significant effect on the environment. Control burning associated with logging was likely to cause sheet and gully erosion before regeneration and that regular burning was likely to affect the diversity of plant and animal communities and their habitat to a significant extent. The Court thus held that the activities of the Commission and the other respondents were likely to significantly affect the environment within the meaning of Section 112. The Court also came to the same conclusion in relation to the approvals and associated works, whether such environment was limited to areas "A" and "B" separately or together or even the agreement area as a whole.

DUTY UNDER S 111

The Court canvassed the role of Section 111 in Part V. Section 111 reads:

> "For the purpose of attaining the objects of this Act relating to the protection and enhancement of the environment, a determining authority in consideration of an activity shall . . . . . examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity."

The Court emphasised that the duty under Section 111 arose at the time of its consideration of "activity" and that this was in addition to the duty under Section 112. The Court considered that Section 111 retained its pivotal role in respect of Part V. It was stated that its requirements were manadatory and "are intended to draw attention to the responsibility imposed on the determining authority to protect the environment against the potential harmful effect of a projected development." However the Court followed the Court of Appeal decision of **Guthega Development Pty Ltd v The Minister for Planning & Environment** (1987) 7 NSWLR 353 at 336, to the effect that the duty imposed under S. 111 was an obligation to consider to the fullest extent **reasonably practicable** matters likely to affect the environment.

The respondents had contended that the documents which were put before the Court, when considered "realistically", substantially complied with the requirements of the regulations in terms of both public exhibition and substance. Thus the Forestry Commission, although acknowleding that it was in breach of Section 112, because it had not examined and considered an EIS, argued that there had been "substantial" compliance with the regulations which enabled sufficient consideration of the activities pursuant to Section 111. It was therefore argued that "the Court would not in the exercise of its discretion grant an injunction so as to require further preparation of an environmental impact statement thereby duplicating work and consideration which has already been done and given." The respondents submitted that the documents included "a most thorough and comprehensive review of all relevant environmental factors" and that the Eden area was the most fully researched forest area in Australia. It submitted that the applicants challenge failed to take into account the totality of the reviews before the Court and merely picked the odd and very isolated criticism between experts which had been answered in any event.

The Court noted that none of the documents had been submitted to the DEP as an EIS, that the documents were not certified by the person who prepared them and that they were not advertised and exhibited in accordance with the Regulations.

It concluded that the respondents had never examined or consideres an EIS pursuant to Section 112, nor had they examined or taken into account to the fullest extent reasonably practicable all matters affecting or likely to affect the environment by reason of that activity.

NATIONAL PARK PROPOSALS

A further matter of interest related to the fact that at the conclusion of evidence, before the Court had had a view and final submissions were taken, a Cabinet decision was announced that additional parks would be created in the south-eastern forests of New South Wales, which included all of the area "A" and the southern part of area "B". These were to be known as the Coolangubra National Park and the Tantawangalo National Park. The Court noted that an election for the Parliament of New South Wales had been called for 19 March 1988 and that the Opposition had declared that if it were to be elected it would not proceed with the decision to declare these national parks. Hemmings J. said "I am confident that, although unstated, such Opposition policy would contemplate logging therein only after due compliance with the provisions of Part V and completion of a consultative process." At the time of writing it remains to be seen whether the Court's optimism is justified.

In any case the Court held that the Cabinet decision, if it were implemented, had obvious consequences for the nature and approriateness of the relief sought. An application by each party to re-open the case was granted to receive evidence as to the likely consequences. Undertakings were given by the Commission that no harvesting plans would be granted, nor would roads or other associated works be carried out until the fate of the national park proposals was determined.

ROLE OF THE COURT

The Court then went into an extensive examination of the role of the Land & Environemt Court in terms of its responsibility for the protection of the environment. This analysis was apparently carried out in order to emphasise its power to grant injunctions in cases of this kind. It was stated that it has an extremely wide charter to determine as it thinks fit the nature of the order to restrain the actual or threatened breach and that it must at all times have regard to the pursuit of the objects of the EPA Act. The Judge referred with approval the passage in **Hannan (No.2)** where Street CJ canvassed the scope of the "standing" section of the EPA Act, s 123. It was there said that the objects of the Act made it apparent that the "task of the Court was to administer social justice in the enforcement of the legislative scheme of the Act. It is a task that travels far beyond administering justice inter partes . . . there could hardly be a clearer indication of the width of the adjudicative responsibilities of the Court." (**F. Hannan Pty Ltd v Electricity Commission of NSW** , Unreported, CA31 of 1985, 28 August 1985, p.12)

Hemmings J. then went further in examining the responsibilities of the Court and the scope of its discretion. His statement goes a long way to justifying the existence of a body such as the Environmental Defender's Office in an open system such as that existing in New South Wales. It is quite clear that the EDO, as a politically neutral and independent agency, is needed to bring these kinds of cases in circumstances where it is politically impossible for the Act to be otherwise enforced.

Hemmings J. stated:

> "I am most conscious that the orders sought by the applicant concern the enforcement of a public duty imposed by and under an Act of Parliament, by which Parliament has expressed itself on the public interest which exists in the orderly development and use of the environment . . . I have found that there has been a breach of that public duty, and such breach is substantial and not merely technical. If an applicant has established that a breach of the law has occurred and that, further, a continued breach is threatened, it is entitled to an injunction to restrain the threatened breach upon the ordinary principles on which the Court acts in granting injunctions. Equal justice may not be secured unless there is an upholding in the normal case of the integrated and co-ordinated nature of planning law. An injunction would preserve the status quo so as to enable compliance with the requirements of the law, and ensure participation by the community and all interested public authorities in a proper consideration of matters affecting or likely to affect the environment."

The Court alluded to the fact that this case had arisen out of a serious dispute between the Department of Environment & Planning and the Forestry Commission relating to the nature and extent of obligations of the Commission under the EPA Act, which the Court had to determine. It is perhaps relevant to note here that one of the primary witnesses to appear for the applicant was the (then) Director of the DEP. In a rare insight into the workings of government, the Court stated:

> "The first respondent also clearly demonstrated a resentment to the participation of the Department of Environment & Planning or other public authorities in any decision-making process in relation to activities in Crown timber lands. It contends, and undoubtedly believes, that in the performance of its functions under the Forestry Act and the attainment of its s 8A objects, all relevant matters relating to the environment are taken into account by it."

The Court then referred to the specific objects of the Forestry Act as inserted in 1972. These objects were subjected to analysis in Boer and Preston, **Forestry-Reform and Regeneration** (1987) 4 EPLJ 80 at 85. Hemmings J emphasised that the prime consideration of the Commission was its responsibility to meet its quota under the agreement with the company (which clearly followed from the tenor of its objects). He stated that steps taken to conserve fauna and flora and the preservation and enhancement of the environment appear to be secondary objects and limited to that which the Commission considers necessary or desirable. He wryly commented "what is considered by it to be necessary or desirable appears to be markedly different from that of the National Parks & Wildlife Service, the Department of Environment & Planning and sections of the public."

The applicant maintained that notwithstanding the proposed harvesting program of the Commission and the offer of an appropriate undertaking, the application for injunctions to restrain the activities in both areas would be maintained. In ordering that the activities found likely to significantly affect the environment should cease until an EIS was prepared, the Court was mindful of the fact that this could be done relatively quickly and that after due compliance with the Act's provisions it was more than likely that harvesting and associated activities could be approved in the short term. In the exercise of the Court's discretion such orders were suspended with respect to a part of area "B" to permit continuation of activities until the expiration of the current licences. Further submissions on the nature and extent of the orders to give effect to the judgment and costs were left to a later hearing.

It appears that the reason why the judgment was delivered in this way was in order to ensure that injunctions could be imposed without further delay. It is also possible that the Court was more than mindful of the fact that there was an election campaign under way, and that it was not going to be pipped at the post by a quick decision on the future of the area by a new government unsympathetic to the proposals to declare two national parks for the area.

* This article will appear in the June issue of the **Environment and Planning Law Journal** (1988) 5 EPLJ 165-172. **Impact** gratefully acknowledges the kind permission of the author and Law Book Co. to reproduce the article here.

LEGAL BRIEFS

LAW REFORM INITIATIVES

Through work at the EDO the need for reforms in the environment law area has become apparent. Solicitors at the EDO therefore decided to convene a legal reform policy group to identify and research these area so that effective lobbying of government in relation to areas of reform can be implemented.

Representatives of various conservation and environment groups and interested individuals were asked to attend the first meeting. Numerous issues at the state and federal level were highlighted by the group as possible areas in which law reform should be promoted. Obvious problems at the federal level included the lack of broad standing provisions in Commonwealth legislation and difficulties in the application of the World Heritage Properties Act.

Because of the numerous issues raised it was decided to hold monthly meetings which would concentrate on particular problems. As the new Freedom of Information legislation has recently been announced by the NSW State Government, the first two meetings have been spent looking at the new FOI Bill and formulating submissions about its shortcomings.

We would welcome further interest in the group. Anyone interested in being part of the group should ring Nicola Pain at the EDO for further details.

NEW BOARD MEMBERS

The Board has been fortunate in welcoming a new member recently. Mr. Harvey Sanders, town planner, from Wellings Smith & Byrnes has kindly agreed to join the Board. With his background in the planning area and his involvement with the **Urban Action Group of the Australian Conservation Foundation** his skills will be of great benefit to the EDO.

With the resignation of Mr. Bernard Dunne from the Board the job of Treasurer also fell vacant recently. Mr. Harry Hamor has taken over as Treasurer.

The Board Members are now:

David O'Donnel, Solicitor
David Farrier, Lecturer
Jeff Angel, Assistant Director of the TEC.
Judith Preston, Solicitor
Harry Hamor, Architect
Ian Armstrong, Environment Officer
Linda Pearson, Lecturer
Harvey Sanders, Town Planner

The Board is also hoping to have a National Trust representative in the near future.

COMMISSION OF INQUIRY AT COFFS HARBOUR

The office was asked to act on behalf of a group calling themselves the Northern Beaches Effluent Committee (NBEC). The group was concerned about a proposal by the Coffs Harbour Shire Council to dispose of sewerage through an ocean outfall at Woolgoolga Headland, on a beautiful part of the NSW coast to the north of Coffs Harbour. This proposal was suggested to the Council by the Public Works Department as the only reasonable solution to the problem of sewerage disposal in the area.

A Commission of Inquiry was called for by the Council, presumably because of the considerable public controversy about the matter. The Inquiry was held over three separate sessions in Coffs Harbour and about forty submissions regarding the matter were received by it from individuals, government departments and interested resident groups. The EDO successfully applied for a limited grant of legal aid on behalf of the NBEC and this paid for a barrister to represent the group at the Inquiry. The group also had to conduct an extensive fund-raising campaign itself as the legal grant covered only half of the legal and expert fees incurred by the group.

The NBEC wanted the Council to consider a land-based sewerage disposal system. The group called two experts on marine biology to discuss the effects of ocean outfall. An expert from Hawkesburry Agricultural College was called to discuss the option of land disposal, using a wetland system. Such systems have been employed successfully in the USA and in other parts of Australia.

The Commission recently handed down its decision and ultimately recommended an ocean outfall disposal system from a different headland to that proposed by the Council, with a higher level of treatment of the sewerage that was originally proposed by the Council.

The Inquiry highlighted the difficulties experienced by volunteer groups in mustering resources to put up alternative arguments against those proposed by government departments, such as the Department of Public Works, on which considerable sums have been spent. Such groups have difficulty mounting an adequate 'alternative' argument when they have insufficient funds to brief experts or obtain legal advice and representation.

EDO PARTY

On 2nd June 1988 the EDO held a party to celebrate the 'launch' of its refurbished premises at 8th floor, 280 Pitt Street, Sydney. The EDO moved into these premises in July 1987. However, the refurbishment of the premises including new paintwork and carpet was only completed earlier this year. The occasion was an opportunity for EDO supporters over the years to come and see what the office was up to.

The EDO would like to thank all the people who came to the party and, in particular, Mr. Justice Wilcox. Mr. Justice Wilcox officially launched the EDO in 1984 and kindly 'opened' our new premises. The office was also pleased to welcome the Chief Judge of the Land & Environment Court, Mr. Justice Cripps, Mr. Justice Bignold of that Court, Mr. Justice Beaumont of the Federal Court, Mr. Justice Pain of the District Court and the Chief Assessor of the Land & Environment Court, Mr. P. Jensen.

The new Minister for Environment, Mr. Tim Moore also attended. The party introduced the office to the Shadow Minister for the Environment, Mr. Pat Rogan and representatives who attended from the office of Mr. David Hay, the new Minister for Planning.

Other supporters included long-standing Friends and members of the Bar who have ably assisted the office during its years of operation.

All who attended seemed to enjoy themselves and we look forward to more successful functions such as this one.