



Pat Murphy on his property showing us the nearby coal mine

## Helping Maules Creek farmer Pat Murphy access justice

You may have seen news reports about Pat Murphy, a farmer whose land is within 2km of the Maules Creek Open Cut Coal Mine near Boggabri in northern NSW. Pat's family is regularly suffering from noise and dust impacts from the mine.

Since the mine started up in 2014, Pat says it has taken over his life. Pat lives and works on his farm next door to the mine. His entire livelihood is derived from farming his property at Maules Creek, supporting his wife and four young daughters.

Since Pat called our environmental law line in September last year, we've been helping him understand his legal rights. Normally when the Government approves a mine, it puts noise and dust limits on the mine's operations to limit the impact on nearby properties that haven't been purchased – or agreed to be purchased – by the mine's operators.

These property specific limits are an important protection for surrounding landholders. The landholder can hold the mine to the limit that applies to their property and enforce their rights to be as safe from the harm of dust and noise impacts as the law provides.

In Pat's case, the usual approval process appears to have proceeded without proper consideration for Pat and his family. **More on page 2.**

When Whitehaven Coal's predecessor was granted approval for the Maules Creek Coal Mine in 2012, it was considered that the noise and air quality impacts on Pat's property would be so significantly above acceptable limits that he was given voluntary acquisition rights rather than limits. This means that when the noise and dust gets too much for him and his family, he can ask Whitehaven to buy his land. But he can't seek to hold Whitehaven Coal to account to operate at levels safe to him and his family.

It is important to note, as Whitehaven Coal points out, the mine is subject to noise and dust restrictions. However, these provisions do not apply to Pat's property – they relate only to other properties. Clearly the mine's operations trumped the safety of Pat and family to live and work at his property.

Pat had no idea how badly the mine would impact him, his family, his farm and the local environment. He is now in an extremely difficult position, caught between the public interest of seeking to hold the mine to account, and the private interest of seeking the best outcome for his family. Pat's story featured on the ABC's Australian Story on Monday 27 July 2016.

Pat Murphy is just one of the thousands of people who contact EDO NSW every year looking for help in understanding their rights. For community members wanting to know their rights, information can be hard to find, and can differ depending on who they contact. That's why our environmental law line is so important: we offer independent, expert legal advice to guide people through the labyrinth of laws and policies that regulate development and environmental protection.

## A word from our International Programs Coordinator BJ Kim

I'm the International Programs Coordinator at EDO NSW. Essentially, my role is to transfer the knowledge and expertise that we develop in environmental law in Australia to our partners in the Pacific. At the moment, our key partner organisations are in Fiji, Solomon Islands, Papua New Guinea and Vanuatu. A number of these organisations are modelled on the EDOs of Australia and seek to help local communities in their respective countries protect the environment using the law. We provide mentoring and technical support to lawyers in these partner organisations. For example, if a partner organisation is running a case enforcing a consent for logging in PNG, we might provide feedback on their court documents or source an expert for them. Or, if a partner is commenting on fisheries law in Fiji, we might provide policy and law reform support by reviewing their policy analysis.

My plan was always to use my legal experience to do some good. After some years in private practice, I started looking into work that would assist our transition to renewable energy. During this period, I discovered EDO NSW and the ground breaking climate change law work it was doing. I started here in April of 2009 and it's been the best move I've ever made.

The struggles our partners and their communities face in the Pacific are often much more severe than here in Australia. For example, in one PNG matter our partners were running a case concerning the logging of 174 kilometres of pristine forest in the Western Province by a Malaysian logging company. The logging took place on the promise of a road from Kiunga to Aiambak, which was never constructed. The plaintiff landowners in that case won a significant judgment in their favour, however the victory was symbolic only as the defendant company didn't have any assets and couldn't pay the judgment debt. This is just the tip of the iceberg. I should mention also that the gratitude expressed by partners when we provide assistance is always incredibly heart-warming and humbling.

The EDO NSW International Program is presently funded entirely by the generous support of the David and Lucile Packard Foundation and the Critical Ecosystems Partnership Fund.

**Thank you for making this possible.**



EDO NSW International Programs Coordinator BJ Kim with Center for Environmental and Community Rights lawyer Lynette Baratai-Pokas

## Proposed Biodiversity laws: What we're doing about it.

The NSW Government has released a new draft Biodiversity Conservation Bill, a Local Land Services Amendment Bill, and information about proposed land clearing codes. The proposed law and policy package is a serious retrograde step as it involves removing many of NSW's long-held environmental protections.

EDO NSW has been making recommendations for strong biodiversity, native vegetation and land management laws since 1995.

We were heavily involved in the development of the current Native Vegetation Act between 2002 and 2005. In 2014, we met with the Independent Biodiversity Legislation Review Panel during their deliberations and produced *A Legal Assessment of NSW Biodiversity Legislation* to assist the panel.

We engaged with representatives of the Office of Environment & Heritage, Department of Primary Industries and Department of Planning and Environment during targeted stakeholder consultations prior to the public exhibition process of the current proposed reforms.

We raised a number of key concerns and made recommendations in these meetings based on our extensive expertise in NSW environmental law. Unfortunately none of these fundamental concerns or recommendations were addressed in the package developed for public consultation. Public submissions on the package closed on Tuesday 28 June 2016.

During the public consultation period, we participated in a series of workshops, seminars and forums, where we spoke to local communities, Landcare members, Local Land Services officers, local councils, ecological consultants, private land conservation agreement holders, Aboriginal people, conservationists, wildlife carers, and private individuals. Areas covered include the Hunter, Greater Sydney, North Coast, Northern Tablelands, South East and Central West. We discussed the reforms with over 600 people. With the exception of representatives of the NSW Farmers Association, no-one we spoke to thought the proposed laws were an improvement on current laws, and almost all participants were seriously concerned at the implications of the new regime for biodiversity.

Our submissions on the current proposals detail our conclusion that the proposed laws are a retrograde step for NSW biodiversity and land management. While the proposed investment in private land conservation is welcome, once this money runs out, we will be left with weak laws that offer no real protection for our unique threatened species and ecological communities and will facilitate ongoing decline in biodiversity. Consequently, we cannot support the proposed package.

You can read our submissions and supporting information at:  
[http://www.edonsw.org.au/biodiversity\\_legislation\\_review](http://www.edonsw.org.au/biodiversity_legislation_review)

If you'd like to receive updates you can subscribe to our eBulletin. Just email us at [education@edonsw.org.au](mailto:education@edonsw.org.au) or call us on 02 9262 6989.

We believe an empowered community is better equipped to use the law to defend the environment from harm. Would you like us to hold a seminar or workshop for your community group or in your town? Please contact us at [education@edonsw.org.au](mailto:education@edonsw.org.au) or call us on 02 9262 6989 to request a workshop.



*"EDO are a priceless service to the community as they struggle for some balance and consideration for future generations."*

- Murwillumbah community member

**Thank you for donating to our Environmental Defence Fund. Your support will ensure we can continue to help communities to protect the environment through law.**

## NAIDOC Week 2016

This year we celebrated NAIDOC Week by reflecting on the work we do for our Aboriginal clients. One of our long-standing Aboriginal clients is the Dharriwaa Elders Group.

Dharriwaa Elders Group is an incredibly vibrant grassroots organisation based in Walgett, and is made up of Aboriginal people over the age of 60 who live in Walgett and surrounds. The Group's programs aim to support Aboriginal elders to resume leadership roles in the community, help them to stay active and healthy, promote local Aboriginal cultural knowledge and identity, and develop the Walgett Aboriginal community. Our work with the Group started back in 2012, when they invited us to Walgett to run a community workshop for elders about planning laws, mining laws, and culture and heritage protection laws. At the workshop, elders expressed a real concern that these laws do not adequately protect their culture and heritage, particularly in relation to impacts from opal mining.

Since the 2012 workshop, we have represented the Group in its dealings with the NSW Government to try to improve safeguards for culture and heritage from the impacts of opal mining. This has included requesting proper assessment of culture and heritage impacts when new areas are opened up for opal mining, and proper protection and mitigation measures during mining. The Group has found this to be an uphill battle, with the Government declining to conduct substantial culture and heritage assessments when new areas are opened up, relying instead on the less stringent Review of Environmental Factors process.



Dharriwaa Elders Group conducting a Culture and Heritage inspection

However, the Group has found willing allies in local landholders, who share a common interest in wanting to protect the environment and biodiversity values of their properties from opal mining, as well as being eager to help the Group to protect their culture and heritage.

Our work has involved helping these two communities – local Aboriginal groups and local landholders – work together to protect cultural heritage. We work with elders from the Group as they conduct culture and heritage inspections of properties, and advise them on how to draft affidavits outlining the culture and heritage values identified. Landholders then use these affidavits in the arbitration process for Access Management Plans, with the aim of having strong protection and mitigation conditions imposed on opal prospecting and mining on their properties.

We are privileged to be able to help Aboriginal communities protect their culture and heritage and look forward to continuing this important work. Working with strong Aboriginal community groups such as the Dharriwaa Elders Group is important to us in fulfilling our commitment to use our expertise, professionalism and deep commitment to assist and stand with our Aboriginal clients as they protect and promote their Country, culture and heritage through law.

**We hope you had a great NAIDOC Week.**

## Friends of Kur-ring-gai Environment fundraising event



EDO NSW Outreach Director Emily Ryan with FOKE members and Mayor of Ku-Ring-Gai Cr Cheryl Szatow

FOKE is a community group with membership drawn from across Ku-ring-gai, who oppose inappropriate and unsympathetic overdevelopment within Ku-ring-gai, and defend and promote cultural and natural heritage. Our Outreach Director, Emily Ryan (pictured top right) joined FOKE for a Mother's Day luncheon and forum exploring the topic 'Biodiversity Matters – Ku-ring-gai Matters'.

The speakers, who also included Cr Cheryl Szatow, Mayor of Ku-Ring-Gai, and Janet Harwood, 2016 Ku-ring-gai Lions Award recipient for Service to the Environment, spent the day discussing how the community can engage in the biodiversity law reform process and have their say about the proposed removal of many of our long-held environmental protections.

We're incredibly grateful that FOKE also used this as an opportunity to raise funds for our vital work helping the community to protect the environment.

**If you'd like to hold a community fundraiser, contact us on 02 9262 6989 or email [fundraising@edonsw.org.au](mailto:fundraising@edonsw.org.au).**

## What a night!

In April we held our 2016 Gala Dinner. The purpose of the evening was to raise funds for EDO NSW and to create an event that allowed our supporters to connect and have a great time. Julie McCrossin delighted attendees as the Master of Ceremonies at Sydney's Doltone House. We were lucky to have Uncle Chicka Madden deliver a beautiful Welcome to Country.

Professor Tim Flannery and The Hon Michael Kirby AC CMG both presented on the importance of our work in the face of current environmental issues, including climate change and increasing rates of extinction.

The generosity and goodwill from our community saw us reach our fundraising target of \$60,000. The funds raised are already going towards our vital work helping the community defend the environment through law.



EDO NSW Solicitor Ross Mackay with Julie McCrossin

**We are so grateful to everyone who supported the event – our sponsors, speakers, donors, bidders and attendees.**

## Our volunteers are the unsung heroes of our work.

We'd like to introduce you to two talented, dedicated and passionate young people who have volunteered their time and skills to help protect the environment. They are just two of the thousands of volunteers who have given their time to help us defend the environment and advance the law over our 31-year history.

**Christine Ai** grew up in Smiths Lake, a small seaside town on the Mid-North Coast. She thinks it may have been the stark differences between country and city life that sparked her interest in environmental protection.

**'I really enjoy being a "vollie" at EDO NSW,' Christine says.**

**'I've been lucky enough to work on some amazing projects, such as the People for the Plains Inc. v Santos CSG case. I find that every day I get to take on challenging tasks. It's also great to be around such a passionate group of people and committed mentors.'**

After completing her Juris Doctor degree at UNSW earlier this year, Christine is now studying for a Graduate Diploma of Legal Practice at the College of Law.

Christine believes that improving environmental literacy is the best way for us to prepare for tomorrow's environmental challenges.

**Peter Clarke** has been volunteering with EDO NSW since 2012. Over that time he has undertaken a variety of roles, including helping produce our weekly eBulletin and creating website content. He's currently helping various solicitors with their caseloads.

**'I like being able to lighten the load for the solicitors who are juggling so many complex matters at once,' Peter says.**

**'I believe it's our responsibility to be good stewards of the Earth, and to leave this planet for our kids in the same or better condition than we inherited it from our parents. We can enjoy an ecologically sustainable society if we're all prepared to work towards it.'**

Peter recently completed his Practical Legal Training with the College of Law and is working toward completing a Master of Environmental Law at the University of Sydney.

Thank you to all our volunteers – your skills, dedication and passion make our work possible.



**Thank you for your contributions. Your support will allow us to continue defending the environment from harm.**

*EDO NSW recognises the traditional owners and custodians of the land, seas and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander elders past and present, and aspire to learn from traditional knowledge and customs so that, together, we can protect our environment and cultural heritage through law.*

**EDO NSW**  
ABN 72 002 880 864  
Level 5, 263 Clarence Street  
Sydney NSW 2000  
AUSTRALIA  
E: [edonsw@edonsw.org.au](mailto:edonsw@edonsw.org.au)  
W: [www.edonsw.org.au](http://www.edonsw.org.au)  
T: +612 9262 6989  
F: +612 9264 2414

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