

EDO NSW

Annual Report

12/13



NSW



**DEFENDING THE ENVIRONMENT
ADVANCING THE LAW**

EDO NSW

Annual Report

2012/13

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law

With over 25 years' experience in environmental law, EDO NSW has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise

EDO NSW is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services

As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

EDO NSW has an office based in Lismore to service the Northern Rivers area, and the Sydney office covers the remainder of the State. The offices are open Monday to Friday during business hours.

Any questions or concerns about the content of this report should be addressed to the Executive Director. EDO NSW also has a process for handling complaints. Any complaints should be directed to the Executive Director on 02 9262 6989.

This report was published on 23 October 2013.



This Annual Report has been printed on 100% recycled paper.

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From the Chair

As indicated in the report of the Executive Director, I have decided to retire from the Board of EDO NSW at this year's Annual General Meeting. I believe that, generally speaking, honorary officers in non-government organisations ought not stay too long; new blood and new ideas are always desirable.

I had intended to retire from the Board twelve months ago, at the last AGM. However, that seemed not a good time to go; we were then uncertain about future funding by the Public Purpose Fund (PPF), our most significant financier.

The PPF draws its income from interest paid by banks on balances in solicitors' trust accounts. In the wake of the global financial crisis, the equity markets were beset by prolonged uncertainty and interest rates fell. The result was a sharp reduction in the funds available for distribution by the PPF. At that same time, EDO NSW came under attack from some influential people who disliked the fact the office had acted (mostly successfully) on behalf of citizens and community groups opposed to particular coal-mining or coal seam gas projects. Our critics failed to distinguish between a campaigning organisation and an institution, like EDO NSW, which merely provides legal services to clients who are pursuing their rights under law.

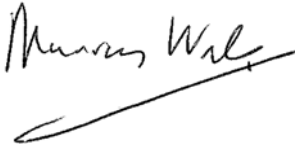
EDO NSW is not, and should never become, a campaigning organisation. The role of EDO NSW is to provide the same legal services to its clients that would be provided by a solicitor in private practice if the client were in a position to incur the expense and financial risk that attends private litigation. Sometimes our client is a campaigning organisation but, whether or not that is so, before we take it on, the case must satisfy strict criteria, including that its issues are strongly arguable and of general public importance. Given that the corporate or governmental opponents are invariably well-funded, EDO NSW does no more than provide the balance needed to assist the court to make a legally correct decision in the particular case which is, by definition, one of public importance.

Fortunately, both the PPF and the New South Wales Attorney-General (who must endorse PPF decisions) understood our position. In doing so, they were assisted by the representations and comments of numerous former clients, many of them individuals of limited means, and hundreds of our supporters. After an anxious couple of months at the end of 2012, we were notified that PPF funding would continue, although with a similar percentage reduction suffered by other PPF-funded organisations due to its post-GFC constraints.

On behalf of the Board, I thank everybody who came to our aid in this financial crisis. Your intervention was important, perhaps critical, in ensuring the continuance of our organisation and its important work.

I also express appreciation to the Executive Director, Jeff Smith, and all our staff. During a worrying time, everyone held their nerve and got on with the work. The staff reaction was consistent with the quiet professionalism that has marked their performance during the whole of my time as Chair. EDO NSW is fortunate to have such a competent and dedicated staff. I thank them, and also my fellow directors, for their support over the last six years. I leave my office confident of the organisation's future and its continuing contribution to our State and the protection, through law, of its diverse environment.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Murray Wilcox', with a long, sweeping underline that extends to the right.

The Hon. Murray Wilcox, AO QC
Chair

Executive Director's report

The last 12 months have been formative for EDO NSW, with new and old challenges alike as we look towards our 30th anniversary in less than two years' time.

Financial uncertainty caused by the ongoing impacts of the global financial crisis had a flow-on effect for our office. Following over a decade of relative stability and security, this more challenging period has brought out the best in our team and has powerfully demonstrated the support we enjoy from communities across NSW.

We were, of course, not alone in feeling the reach of the financial crisis but this did not mean it was any less keenly felt within the office. In particular, our major funder, the Public Purpose Fund of the Law Society of NSW reduced its allocations to most recipients from the fund in the coming year.

From big challenges, opportunities flow. As we faced up to a tougher financial operating environment, the community supported us unequivocally. It was heartening and inspiring for us to see the breadth and depth of support for our work and the institution of EDO NSW, founded in 1985. This support came not only from expected quarters - the legal fraternity and conservation groups - but from rural and urban communities across NSW. We will need to foster this community support, and keep faith with these communities, as we seek to move to a more sustainable funding model over the next few years.

The dynamic field of public interest environmental law also threw up the usual set of challenges. One example lies in planning. Faced with what is the biggest shake up of NSW planning laws in over a generation, EDO NSW responded with a suite of services to inform the community of the developments and engage constructively in the process. Spanning three stages - an independent review co-chaired by Tim Moore and Ron Dyer, a Green Paper and a White Paper - we provided sought-after feedback to the government and produced a set of resources to assist the community to understand the changes and engage in the reform process. This included legal advice, briefing notes, submissions, workshops and seminars, meetings with the Department and the Minister, participation in stakeholder reference groups and forums, blogs and video clips. Given we were operationally down in numbers, it was an extraordinary and valuable effort in an essential area of our work.

We also, of course, continued to run landmark cases for community groups with important environmental outcomes. For example, in the Bulga case, the Land and Environment Court overturned the approval of the Warkworth mine expansion because of its potential impacts on the residents of the small Hunter region village of Bulga, and on the area's biodiversity. Similarly in the Berrima Colliery case, the

Court refused the expansion of the mine as the project was not in accordance with the principles of ecologically sustainable development and the precautionary principle. These are but two of our valuable but challenging cases run on a shoestring budget, and representing local community groups seeking to achieve positive environmental outcomes.

All this would not be possible without the support of our funders, who provide a crucial underpinning for the work we do. In particular, major funding through the Public Purpose Fund has been instrumental over more than 15 years in allowing us to operate independently, and to provide communities across the State with high quality and accessible legal services. EDO NSW also receives vital grants from the Commonwealth and NSW Governments, the MacArthur Foundation (for international capacity-building), and the NSW Environmental Trust (through the LECG program). We are extremely grateful to all of our funders for their ongoing commitment to our work and the institution of EDO NSW.

After such a challenging year, it is important to properly acknowledge the wonderful staff and Board at EDO NSW. Our team members never cease to show their tremendous professionalism and dedication to stay true to their work - to assist the community to protect the environment through law. Their loyalty, resolve and good humour was a constant source of inspiration this year. The Board also provided crucial guidance and oversight of our operations, continually setting and expecting a high standard of governance and professionalism.

This year signals a certain changing of the guard at EDO NSW. Our Chair, the Hon Murray Wilcox AO QC, has announced his intention to stand down from the Board this year. Murray has had a long and pivotal association with the office, playing a key role in its conception then establishment three decades ago, and returning to the Board as Chair in 2007. Over this period, I have enjoyed immensely working with Murray, who has been a constant source of reason, reassurance and calm. On behalf of the Board and staff at EDO NSW, I would like to thank Murray for his years of dedication, his wisdom and counsel and his enduring faith in the work and mission of EDO NSW. Kirsty Ruddock, our Principal Solicitor since 2006, also left to take up a position at the Australian Competition and Consumer Commission. We wish her all the best, and I know that her absence is felt keenly by all of us, and also by communities across NSW who looked to Kirsty for legal guidance and support. I am delighted that an internal candidate Sue Higginson, who previously ran our Northern Rivers office, already has stepped into this vital role.

It is with considerable sadness that I note the passing of Professor Michael Jeffery earlier this year, a much-loved member of the EDO NSW family. Michael served on the Board for over ten years, making a sustained and marked contribution to EDO NSW. Our deepest sympathies go out to his partner, Donna Craig, and his family.

Finally, as befits a broad church, there are many others to thank at an organisation such as EDO NSW. Volunteers, barristers, scientific experts, seminar speakers,

and of course our clients all help to protect the environment through law. Without them, our work would be much harder and our reach and influence more limited. We owe them a debt of gratitude.

I trust you will find this Annual Report interesting and insightful.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Smith', written in a cursive style.

Jeff Smith
Executive Director

ACHIEVEMENTS 2012/13

EDO NSW assisted 19 individuals and community groups to defend the environment before the courts. We helped the Macarthur Bushwalking and Cycling Club to stop BHP's pollution of the Georges River in the Illawarra and ensure the protection of this valuable river system. We also helped the Bulga Millbrodale Progress Association in its challenge of the approval of a coal mine extension that would result in the clearing of four types of endangered ecological communities protected under threatened species laws.

We made over 40 policy and law reform submissions to the NSW and Australian governments on environmental planning law, natural resource management, climate change, Aboriginal cultural heritage, and access to justice.

We provided free initial telephone advice on environment and planning law to over 1,200 community members from across NSW, and over 190 detailed written legal advices to individuals and community groups.

Our new plain English publication *Mining Law in New South Wales: A guide for the community* was named a finalist in the United Nations Association of Australia 2013 World Environment Day Awards.

We held 26 workshops for the community and 6 seminars for professionals throughout NSW on environmental planning law, native vegetation, mining and CSG, Aboriginal cultural heritage, and effective engagement in government decision-making processes.

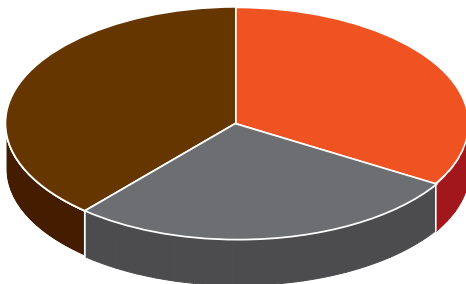
CORE FUNCTIONS OF EDO NSW

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law through our various functions: legal and scientific advice and litigation, policy and law reform, and community engagement and education.

Legal Advice and Litigation

EDO NSW has an active legal advice and casework program, and receives a large number of requests for legal assistance each year.

EDO NSW provides free initial telephone advice and, if appropriate, written advice and ongoing assistance on matters of environmental law and policy. Our toll-free Environmental Law Line is staffed by a duty solicitor between 2-5pm Monday-Friday in Sydney and 9am-5pm Monday-Friday in the Northern Rivers. In 2012/13 EDO NSW provided 1,288 telephone advices. About 68% of these were to clients in rural and regional NSW, which is an increase on last year in the proportion of advices provided to rural and regional NSW. The subject matter of these advices is varied, with common issues including environmental planning, tree disputes, natural resource management, zoning, public and private land management, pollution, and Aboriginal cultural heritage.



1,288 telephone advices provided during 2012/13

1 July 2012 – 30 June 2013

- Sydney, 418
- Northern Rivers, 342
- Rest of NSW, 528

Through our casework, EDO NSW contributes to transparent, open and accountable decision-making processes, and promotes access to justice. EDO NSW is selective about the matters that it takes on. Before taking on a matter, EDO NSW must be satisfied that the issue has significance beyond the material or financial interests of a particular individual or group.

EDO NSW will also consider whether the issue involves a real threat to the environment, whether engagement in the issue has the capacity to result in good environmental outcomes, whether the issue concerns the manner in which the environment is regulated, and whether the issue raises matters regarding the interpretation and future administration of statutory provisions. If EDO NSW determines that a matter is a public interest environmental issue, we may take the case on, provided we have the human and financial resources to properly act in the matter. 377 casework files were opened in 2012/13. Of these, 193 involved detailed written legal advice. Many of these advices included significant input from EDO NSW's Scientific Advisory Service. 347 casework files were closed in 2012/13.

EDO NSW also represents individuals and community groups in public interest litigation to protect the environment. Before proceeding to litigation, EDO NSW must be satisfied that a matter has reasonable prospects of success, and that there is utility or value in commencing proceedings. EDO NSW assisted 19 individuals and community groups in public interest matters before the courts in 2012/13.



In 2012/13 EDO NSW continued to receive many calls from the community for assistance, particularly in the areas of pollution and enforcement, environmental planning, and mining. As well as running test cases, EDO NSW has been involved in providing expert advice and assistance in a range of matters, and assisted in obtaining significant outcomes for the environment and local communities.

Policy and Law Reform

EDO NSW actively engages in environmental policy and law reform in NSW and nationally, as well as internationally, where relevant to domestic matters. EDO NSW's policy and law reform work reflects our status as an independent, specialist legal centre. We do not do campaigning work, but we frequently put

forward policy proposals suggesting ways that the law can be improved in NSW and nationally.

EDO NSW engaged in a range of environmental policy and law reform activities in 2012/13, at both the State and national level. Activities included drafting submissions to government on proposed law reforms, proactive law reform projects, providing advice on proposed legislation and preparing consultancy reports for environment and community groups, and engaging constructively with governments on environmental and planning law reform. In addition, EDO NSW's specific legal expertise on regulatory reform was directly sought by independent bodies such as IPART and the Productivity Commission.

In 2012/13 EDO NSW drafted over 40 submissions, prepared major law reform reports on mining, forestry, and threatened species, published articles in a range of publications on water reform, planning, biodiversity protection, was invited to present evidence at Senate Inquiry hearings on water, environmental assessment and biodiversity, and provided detailed legal advice to a range of environment and community groups.

Community Engagement and Education

Community engagement and education programs at EDO NSW comprise:

- Legal Outreach Program;
- Indigenous Engagement Program; and
- International Program.

Legal Outreach Program

The key objective of EDO NSW's Legal Outreach Program is to empower the community to protect the environment through law. This is achieved through a range of educational tools.

- Community workshops to enable practical participation in environmental decisions;
- Seminars on key issues to promote law reform and the implementation of new laws; and
- Plain English educational materials in a range of formats, explaining environmental law and policy.

Through the Legal Outreach Program, the capacity of the community to engage effectively in environmental decision-making and to respond to environmental issues is developed and enhanced.

The Legal Outreach Program promotes early engagement in issues, which is vital to achieving successful outcomes. Timely information and expert assistance helps

communities to take a more proactive approach to the environmental issues they face.

The Legal Outreach Program is focused on rural and regional NSW. This allows EDO NSW to stay abreast of the environmental issues facing rural and regional communities and to ensure its services are directed to areas where they are most needed.

In 2012/13, EDO NSW provided 26 environmental law workshops for the community. As part of our multi-disciplinary office, the Legal Outreach Program also provided 6 environmental law workshops for professionals in conjunction with our Policy and Law Reform team and our Scientific Advisory Service.

EDO NSW's legal outreach work in 2012/13 was heavily focussed on environmental planning law, with the NSW Government's release of both the Green Paper and White Paper and draft legislation that proposed a new planning system for NSW. As with previous years, EDO NSW also undertook a great deal of legal outreach work on natural resources law, including publishing our highly anticipated plain-English guide *Mining Law in New South Wales: A guide for the community*.

Indigenous Engagement Program

EDO NSW's Indigenous Engagement Program provides for the employment of an Aboriginal solicitor to allow more effective engagement with Aboriginal people and communities. This includes engaging in litigation, providing legal advice, working on law reform projects, and providing community legal education.

The Indigenous Engagement Program strengthens EDO NSW's relationship with existing Indigenous clients and facilitates the creation of new relationships by promoting EDO NSW's services to Indigenous communities throughout NSW.

The Indigenous Engagement Program commenced in 2006 and is guided by an Aboriginal Advisory Committee. The Committee provides guidance, feedback and expert advice on strategic direction for the Program from time to time. In 2012/13, EDO NSW has continued to respond to requests for advice and representation in matters affecting Indigenous clients, and has had success in protecting traditional Aboriginal knowledge and cultural heritage through our casework.

International Program

EDO NSW is committed to improving the effectiveness of environmental law as a tool for defending the environment regionally and internationally. For over 20 years, EDO NSW has worked with partner organisations to build capacity in public interest environmental law in the South Pacific, primarily in Papua New Guinea (PNG), Fiji and the Solomon Islands. EDO NSW is also an Australian Partner Organisation for the Australian Volunteers for International Development (AVID) programs. The AVID programs enable EDO NSW to create AusAID funded-placements for Australians with organisations in the Pacific and beyond, and to

participate in international networks.

EDO NSW has provided legal assistance to organisations in the South Pacific since 1991, and since 1999 has received funding from the MacArthur Foundation to conduct capacity-building work in the region. More information about the MacArthur Foundation can be found at www.macfound.org.

EDO NSW is a signatory to the Australian Council for International Development (ACFID) Code of Conduct, which is a voluntary, self-regulatory sector code of good practice. EDO NSW is committed to full adherence with the Code, conducting our work with transparency, accountability and integrity. For further information on the Code please refer to the ACFID website: www.acfid.asn.au. This site also includes information about how to make a complaint in relation to any breach of the Code by EDO NSW. EDO NSW is in the process of becoming a Full Member of ACFID, and anticipates being ratified for Full Membership at ACFID Council in November 2013.

EDO NSW's capacity building work has helped to build the knowledge and skills of environmental lawyers in the Pacific, facilitated linkages amongst environmental lawyers in the Pacific and globally, and provided much needed technical support. EDO NSW evaluates its capacity building programs both formally, through evaluation forms, and through informal feedback. EDO NSW uses these processes to continuously develop and improve its capacity building programs.

In 2012/13 EDO NSW's International Program work included legal, scientific and policy advice, technical skills training, and assistance with legal outreach to organisations in PNG, the Solomon Islands, Fiji, Vanuatu, Kiribati, Samoa and Timor-Leste, particularly on forestry, mining and climate change.

Scientific Advisory Service

The role of EDO NSW's Scientific Advisory Service is to provide objective scientific advice to EDO NSW and our clients on public interest environmental law matters. This advice contributes to the range of work undertaken by EDO NSW.

The Scientific Advisory Service comprises:

- In-house scientific advice;
- A Technical Advisory Panel, which is made up of academic experts who provide strategic advice to EDO NSW on specific issues on a pro bono basis; and
- An Expert Register, which is made up of over 140 scientific experts in a range of fields who assist EDO NSW on pro bono basis.

In 2012/13, 43 experts, including both members of the Expert Register and external experts, assisted EDO NSW and our clients in 14 key policy, litigation and outreach matters, for example by advising on the compliance of facilities with

regulatory requirements, acting as expert witnesses in litigation, informing EDO NSW's position on policy matters, and supporting the Legal Outreach Program by speaking at EDO NSW seminars including seminars on the planning reform process.

Communications and Media

EDO NSW has implemented innovative and creative ways to communicate with people throughout rural and regional NSW. Communications strategies include video links on our website and a new YouTube channel. EDO NSW uses social media including Twitter and Facebook to keep up-to-date with stakeholder networks, and EDO NSW solicitors write regular blog posts on topical environmental law issues and cases.

The mainstream media is important to EDO NSW as it provides an effective means of highlighting the issues we engage with and promoting our work to local communities. Over the past year EDO NSW placed a much greater emphasis on its media and communications work. EDO NSW and/or our matters have been mentioned over 100 times in in the past year in both print and online media. EDO NSW articles have featured in rural, regional, State and national press. EDO NSW team members have been interviewed for local and national radio programs, and also television. Notably, over 50 articles have been published in support of EDO NSW in the past year following news of pressures on funding for our services to the community.

The EDO NSW website contains an extensive range of information on our work and core functions, such as information on how to access services, plain-English information and resources on environmental law for the community, copies of policy submissions, case notes on litigation, information on up-coming workshops and seminars, and links to EDOs in other States and Territories.

EFFECTIVE LEGAL PROTECTION OF THE ENVIRONMENT

Environmental Planning

LITIGATION

Ensuring proper decision-making in planning matters

Friends of Malua Bay v Eurobodalla Shire Council

EDO NSW acted for Friends of Malua Bay in this legal challenge against approval of an application for subdivision of 30 lots on land in Malua Bay, near Bateman's Bay on the South Coast. The community group was concerned that approvals had been given for development in riparian zones and bushland areas, which would expose the coast to water pollution as a result of soil runoff.

The community group argued that the Council had failed to consider certain sections of its own rural local environment plan (LEP) that it should have considered before granting its approval. A key issue in the case was whether the Council had given consideration to the impact of the development on patterns of land use in urban expansion zones.

The case was heard by the Land and Environment Court, which has reserved its decision.

LEGAL AND TECHNICAL ADVICE

In 2012/13 EDO NSW provided detailed written legal advice to individuals and community groups for over 70 matters relating to environmental planning and development. Advice was provided to individuals, Indigenous and community groups from both rural and regional and metropolitan communities. Key issues raised by our clients included the NSW Government's reform of the planning system, major project development approvals, the making of local environmental plans, and the clearing of native vegetation as a result of development. As with previous years, many of the calls to our free Environmental Law Line were on environmental planning issues.

POLICY AND LAW REFORM

A key law reform focus in 2012/13 was the NSW Planning Green Paper and subsequent White Paper that proposed a new planning system for NSW. EDO NSW was invited to meet with the Department of Planning and Infrastructure to provide direct feedback in addition to drafting a detailed submission with 40 recommendations for reform. Once the White Paper was released, EDO NSW again published a preliminary analysis to assist individuals and the community understand the proposed reforms. Again, we were asked to provide direct feedback and advice to the Department and Minister's Office and participate in a stakeholder reference group. EDO NSW's policy and law reform team worked with the Legal Outreach Program to provide information on the reforms to the community through a series of workshops and seminars, as well as the publication of a number of online materials. Our detailed submission on the White Paper was released early to assist community members and made over 100 recommendations on issues that needed to be included in a new best practice planning Act for NSW.

Other NSW planning reform work included submissions on:

- *The Draft practice note on Schedule 1 in the Standard Instrument (Additional Permitted Uses)*;
- Proposed changes to NSW Exempt and Complying Development Codes;
- The Draft Metro Strategy; and
- A new Local Government Act.

At a national level, EDO NSW provided extensive advice to environment groups concerned about proposed COAG reforms to 'streamline' planning and environmental assessment laws. We prepared a detailed submission on the Productivity Commission *Issues Paper – Major Project Development Assessment Processes* on behalf of the national EDO network and were invited to meet with the Commission to discuss key issues.

Natural Resource Management

LITIGATION

Improving environmental outcomes

Bulga Milbrodale Progress Association v Minister for Planning & Ors

EDO NSW acted for the Bulga Milbrodale Progress Association, which appealed the NSW Government's approval of the expansion of a coal mine near the small village of Bulga in the Hunter region. The expansion would encroach closer to the village and allow the mining of part of a biodiversity offset that was required to be

protected by Warkworth as a condition of the existing open cut approval granted in 2003, which allows mining till 2021. The biodiversity offset, as well as providing habitat for threatened flora and fauna, acts as a buffer between the village and the mine. The expansion would also result in the closure and excavation of Wallaby Scrub Road and the clearing of approximately 766 ha of bushland, containing four types of endangered ecological communities protected under threatened species legislation.

Through EDO NSW's Scientific Advisory Service, expert witnesses provided advice in the Land and Environment Court in the areas of ecology (including the endangered Warkworth Sands Woodland), social impacts and economics.

As a result of the case, the Court overturned the NSW Government's approval, disapproving the extension due to its significant and adverse impacts on biological diversity, and the adverse noise, dust and social impacts on Bulga.

This was an important and precedent-setting case that attracted a lot of public and media attention. Key aspects included:

- The Court for the first time analysed the economic modelling and evidence put forward in support of a large mine, and criticised elements of Warkworth's modelling, in particular an attempt to put a value on non-market elements such as endangered ecological communities and social impacts. Ultimately the Court found that the economic benefits of the mine were outweighed by the negative impacts on social and environmental factors.
- The Court applied NSW Government guidelines requiring biodiversity offsets to provide flora and fauna species that are 'like-for-like', in that the offset must protect the same species that are being impacted by the development. This is in contrast to a trend towards governments accepting biodiversity offsets that do not require such a high standard of protection for threatened species.
- The Court for the first time recognised the detrimental social impacts of the noise and dust conditions routinely imposed by the Minister to mitigate the impacts of large mines, in particular conditions providing for the acquisition of properties in the most impacted areas.

This case is expected to have profound implications for the assessment of major developments, and will be scrutinised closely by industry and lawyers alike.

In particular, it is likely that the case will transform the approach taken to, and methodology underpinning, the economic assessment of major projects.

Southern Highlands Coal Action Group v Minister for Planning and Berrima Colliery

EDO NSW acted for the Southern Highlands Coal Action Group in appealing the NSW Government's approval of Boral Cement Limited's expansion of Berrima Colliery. The expansion would double the colliery's output to 440,000 tonnes per year and allow continued operation for eight years. The community group argued



that Boral did not adequately consider the impact the project would have on the local groundwater resources, groundwater biodiversity, and the Wingecarribee River in preparing its environmental assessment. It was argued that the impacts of the project on groundwater, groundwater ecologies, and surface water pollution were inconsistent with the principles of ecologically sustainable development and relevant environmental planning instruments.

The Land and Environment Court applied the precautionary principle and refused the project, finding that insufficient information about the impacts of the mine on groundwater and surface water was provided in its environmental assessment. The case sets an important benchmark in environmental decision-making that can now be applied to all planning decisions.

As a result of the decision, Boral will not be able to continue the operations until it submits and receives approval for a further environmental assessment. While this will have a significant impact on its operations, it emphasises the importance of ensuring detailed environmental assessments and baseline monitoring are completed prior to seeking approval for a mining project.

The Court had not in recent years applied the precautionary principle to refuse a mining operation, making the case important in strengthening the standards that apply to environmental assessment. It will also limit the use of 'adaptive management' to overcome the deficiencies in Environmental Assessments. This will ensure that the onus is on companies to show through baseline monitoring and other assessments that their projects are not likely to cause environmental harm.

The case will be useful for all communities affected by mining and will provide guidance to people making submissions on environmental assessments.

Ensuring proper decision-making in coal seam gas developments

Fullerton Cove Residents Action Group v Dart Energy & DTIRIS

EDO NSW acted for Fullerton Cove Residents Action Group, which challenged Dart Energy's proposal for the drilling of coal seam gas exploration wells at Fullerton Cove near Newcastle. Dart's Pilot Appraisal Exploration Program was to be located on a floodplain zone, in a high water table area, near an internationally listed Ramsar wetland. Fullerton Cove is surrounded by several national parks and State conservation areas, which include the Hunter Estuary National Park, the Tilligerry State Conservation Area, the Worimi State Conservation Area and the Worimi National Park.

The residents' group argued that the pilot was high-impact development, and that Dart should have prepared a full Environmental Impact Statement (EIS) and be subject to the formal public consultation processes under Part 5 of the *Environmental Planning and Assessment Act 1979* (the Act). It also argued that the project was not properly assessed under the Act, particularly in relation to potential impacts on groundwater, threatened species and ecological communities. The NSW Department of Trade and Investment had not been provided with any groundwater assessment by Dart before approving the project.

Late in 2012, the residents' group was successful in obtaining an injunction restraining Dart Energy from drilling the wells until the main case had been decided. The injunction was necessary because Dart refused to agree to stop work while the case was on foot. However, early in 2013 the Land and Environment Court dismissed the group's case, finding that although there was no consideration of any groundwater assessment, the Department had complied with its requirements to consider environmental impacts 'to the fullest extent possible' under the Act. The Court took into account the fact that this was a pilot project, and the Department had general knowledge of the geology of the area as well as information collected in reports for nearby exploration wells. The Court also found that there was no failure to consider biodiversity impacts, as the Department had 'general regard' to the Act's seven-part test for threatened species.

The Court agreed with the residents' view that the decision as to whether or not an activity was likely to have a significant impact was one that should be determined objectively by the Court, regardless of any opinion formed by the Department under Part 5 of the Act. However, the Court found that in this case the project was not likely to have a significant effect on the environment, and that therefore no EIS was required.

Ensuring compliance with the law

Macarthur Bushwalking and Cycling Club v Endeavour Coal and Illawarra Coal Holdings

EDO NSW acted for the Macarthur Bushwalking and Cycling Club in its case against Endeavour Coal and Illawarra Coal Holdings, subsidiaries of BHP Billiton. The local club sought orders to stop alleged pollution of the Georges River in the Illawarra, which is vitally important to the Botany Bay Catchment.



Image: Woolwash by Ken Hall, Australian Photography Tours (copyright)

The club went to Court because the community was concerned about a range of chemical toxicants including arsenic, zinc, copper, aluminium and nickel that had allegedly been discharged into the Georges River from the West Cliff Colliery via Brennans Creek for more than 10 years at levels well above the Australian and New Zealand Environment Conservation Council (ANZECC) Guidelines for healthy river systems.

The club argued that the pollution wasn't authorised by the relevant environment protection licence, and was therefore in breach of the *Protection of the Environment Operations Act 1997* (NSW) which prohibits the pollution of waters.

Just ten days after the case was filed in Court, the NSW Environment Protection Authority (EPA) issued a media release advising that it was looking to place limits on BHP's licence with respect to salt and metals being discharged into Brennans Creek. This was formalised when BHP applied to vary its licence seeking limits for a number of key pollutants. BHP's licence variation application, if granted, would effectively authorise much of the pollution alleged in the Court case. This meant that

the club's case was put on hold while the EPA made its decision.

After nine months of consultations and negotiations with BHP and the community, the EPA determined BHP's application by issuing a licence variation notice which authorises the pollution by setting limits for a range of pollutants including those alleged in the club's case. However, the EPA took the important step of requiring BHP to stop polluting, by requiring BHP to carry out works to achieve 95% species protection in Brennans Creek and the Georges River by December 2016. The EPA has also required ongoing monitoring of ecological impacts during this period while the works are being constructed.

Traditionally, licensing decisions have been made between the regulator and the licensee, with little (if any) public involvement. In this case, submissions made to the EPA included independent expert reports containing the results of water monitoring, assessment of ecological impacts and feasible treatment options. Members of EDO NSW's Scientific Advisory Service Expert Register provided advice on the alleged pollution and potential remediation measures. This case demonstrates the public's ability to constructively contribute to licensing processes, and should encourage the EPA to open up its doors to the community when major decisions are being made about how to deal with pollution.

LEGAL AND TECHNICAL ADVICE

EDO NSW provided detailed written legal advice to individuals and community groups for over 120 matters affecting the management of natural resources. Key issues raised by our clients included threatened species and ecological communities, mining and coal seam gas, pollution, and native vegetation.

POLICY AND LAW REFORM

In 2012/13 EDO NSW provided legal advice and made detailed submissions on a diverse range of natural resource management laws. Links to all our submissions on water, forestry, biodiversity, native vegetation, air quality, fisheries, mining and coal seam gas are available on EDO NSW's website. Some of the highlights are noted below.

Water

2012/13 was an active time for water reform at a national level with the development of the Murray Darling Basin Plan, and EDO NSW continued to provide extensive legal advice on this very technical area of law. In addition we made submissions on the:

- Environmental Water Recovery Strategy for the Murray-Darling Basin;
- *Water Amendment (Water for the Environment Special Account) Bill 2012*;
- *Water Amendment (Long Term Average Sustainable Diversion Limit*

Adjustment) Bill 2012; and

- *Environment Protection and Biodiversity Amendment Bill 2013 ('Water trigger' Bill).*

Through ANEDO, we were invited to address Senate Inquiry hearings to discuss our submissions. At a State level we provided feedback on proposed arrangements for shepherding environmental water in NSW, and made a submission to the Natural Resources Commission regarding the Review of 31 Water Sharing Plans in NSW. Articles on our water reform work were published in a range of publications.

Biodiversity

At a national level, proposed COAG reforms to 'streamline' environmental assessment and approval laws created significant advice work for EDO NSW. We provided ongoing advice to the *Places You Love* alliance of environmental NGOs concerned about COAG reforms. The alliance commissioned an ANEDO report - *Protect the laws that protect the places you love: An assessment of the adequacy of threatened species & planning laws in all jurisdictions of Australia*. This report formed part of a submission to a Senate Inquiry on threatened species legislation in Australia, where ANEDO was again invited to address a hearing to discuss our submission and our audit report. Similarly, we were invited to meet with Australian Government Departments of Finance and Environment and the COAG Taskforce to provide legal opinion on aspects of the reforms. A successful freedom of information application made on behalf of the Humane Society International ensured a transparent process on the proposed *Draft Framework of Standards for Accreditation of Environmental Approvals under the EPBC Act 1999*.

EDO NSW made a submission on the *Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012* and was also invited to address a Senate Inquiry hearing to discuss our recommendations. Biodiversity law reform work also continued at a State level, for example with submissions on the Review of the NSW Biodiversity Banking and Offsets Scheme and on public lands in NSW.

Native vegetation and forestry

EDO NSW has a long history of engagement in NSW native vegetation reforms, and continued this in 2012/13 with a submission on the review of the *Native Vegetation Regulation*. We also published an EDO NSW Briefing Note to help the community understand the proposed changes. Forestry submissions on private native forestry and prohibiting burning of native forest biomass were also completed.

Mining and coal seam gas

EDO NSW engaged in a number of law reform processes related to mining and coal seam gas in NSW. Our submission work included submissions:

- To NSW Resources Minister in response to June 2012 CSG policy announcements
- On the Draft Protection of the Environment Operations Amendment (Coal Seam Gas Activities) Regulation 2013
- On the Independent Review of Coal Seam Gas in New South Wales
- On Coal Seam Gas Exclusion Zones in NSW – draft Mining SEPP amendments
- On draft Gateway process for Strategic Regional Land Use Policy

At a national level, we also drafted ANEDO submissions on the Productivity Commission Issues Paper and Inquiry on Mineral and Energy Resource Exploration, and on the *Draft National Harmonised Regulatory Framework for Coal Seam Gas 2012*.

Related to our legal advice work with clients in mine affected communities, we also made submissions on topics of Upper Hunter air quality monitoring, impacts of air pollution on health, EPA licensing, and pollution data requirements.

Aboriginal Cultural Heritage

LITIGATION

Protecting traditional Aboriginal knowledge

Hunter Environment Lobby v Minister for Planning & Ashton Coal Operations Limited

In 2012/13, EDO NSW successfully gained special orders in the Land and Environment Court to protect culturally sensitive information on behalf of the Hunter Environment Lobby as part of a case challenging the decision of the NSW Government to approve Ashton Coal Operations Pty Limited's proposed South East Open Cut coal mine.

One of the issues in the case is whether the open cut mine should be allowed to go ahead over an area that Ashton Coal's own consultant said is of high cultural significance. As part of the case, the Court will hear evidence from a cultural heritage expert about the cultural values connected with the site. Ashton Coal sought access to the expert's research materials, which included documents containing sensitive information from traditional knowledge holders about their connection with country and stories passed on by Aboriginal elders. The

documents also included personal information of Aboriginal people obtained from Births, Deaths and Marriages.

The documents were produced to the Court by Ashton Coal's cultural heritage expert, which raised a question of whether or not access to the documents should be granted. This question was heard by the Court in June 2013, which found that the documents did contain personal and culturally sensitive material. The Court made special orders limiting access to the documents to certain individuals and, importantly, ordered that *no copies are to be made of any of the material*.

This is an important outcome because the Land and Environment Court has recognised that traditional Aboriginal knowledge is of a sensitive nature and must be protected. The orders provide a useful precedent for other cases where cultural information is used as evidence in the Court, and confirm that the wishes of the holders of Aboriginal customary knowledge must be respected.

LEGAL AND TECHNICAL ADVICE

During the reporting year EDO NSW provided advice to traditional land owners, elders groups and Indigenous individuals about a range of legal matters affecting Aboriginal cultural heritage including development, engagement and consultation with Aboriginal communities, protection of cultural heritage sites, and mining and coal seam gas.

EDO NSW provided assistance to Aboriginal clients predominantly located in regional north and north-eastern New South Wales.



Indigenous communities assisted by EDO NSW in 2012/13

POLICY AND LAW REFORM

The EDO NSW policy and law reform team worked to include relevant recommendations in relation to cultural heritage law reform in all our submission and report work in 2012/13. For example, our coal seam gas national harmonisation submission included specific references to improving Indigenous engagement on mining proposals. Our planning reform work included recommendations to improve Indigenous consultation and actual heritage protections.

Climate Change and Energy

POLICY AND LAW REFORM

Renewable energy was an important focus of climate change policy and law reform work in 2012/13. At a State level EDO NSW made submissions on the Draft NSW Renewable Energy Action Plan and the draft *Protection of the Environment Operations Amendment (Wind Farms) Regulation 2012*, and prepared a briefing note for the Total Environment Centre on solar access.

EDO NSW continued to work with the Sydney Coastal Councils Group advising on policies and instruments relevant to sea level rise and coastal planning, and was invited to provide advice to the NSW Coastal Panel on these issues. At a national level, EDO NSW provided comment on the Renewable Energy Target Review Issues Paper.

EMPOWERED COMMUNITY

Access to Justice

In 2012/13 EDO NSW continued to make law reform recommendations to improve access to justice. An example was preparation of a submission to the NSW Law Reform Commission on costs in public interest litigation based on extensive experience assisting public interest clients. In terms of improving transparency and accountability, a national level submission was made to the independent review of the national *Freedom of Information Act 1982* (Cth).

Encouraging open and accountable decision-making processes

Nature Conservation Council of NSW v DITRIS & Ors

EDO NSW acted for the Nature Conservation Council of NSW (NCC), which sought access to a range of documents from Forests NSW under the State's access to information laws. These included contracts between Forests NSW and sawmill companies for the supply of timber. The NSW Government agreed to release the contracts, but with key relevant information removed, including the resource allocation and/or description, the resource price and terms of the agreements. The reasons given for refusing access to this information related to the commercial nature of the information. NCC appealed this decision to the NSW Administrative Decisions Tribunal.

The Tribunal determined that the public interest in favour of releasing the details of the contracts outweighed any commercial interests in keeping them secret. While the Tribunal accepted that there might be some risk of the commercial interests of the sawmills being affected, it observed that 'there is considerable doubt in regard to the extent of those risks'. In contrast, the Tribunal accepted that there were strong public interest considerations in favour of release including:

- A clear public interest in an agency that is dealing with public assets being accountable for the manner in which it contracts to sell those assets;
- Furthering public policy development around the management of the publicly owned hardwood forest estate in NSW; and
- Encouraging community engagement with government about sustainability.

The Tribunal therefore ordered release of the contracts within 30 days of its decision.

Importantly, the decision recognises the community's right to access detailed information about government management of State forests and plantations, and builds on the Tribunal's earlier decision in *Watt v Forests NSW* in providing public access to information about the financial return on logging of public forests.

Community Engagement and Education

EDO NSW's legal outreach on environmental planning laws throughout 2012/13 saw an expansion in the range of services provided through the use of a wider range of resources to reach a greater number of communities in rural and regional NSW. To support local communities to assess the NSW Government's White Paper proposing a new planning system, EDO NSW presented community workshops and seminars in Sydney, Campbelltown, Newcastle, Wollongong, the Blue Mountains and Northern Rivers, and for Shelter NSW. As demand outstripped our limited resources, EDO NSW set up a dedicated webpage on the planning reforms to assist the community to engage in the process. The webpage resources included a series of video clips explaining aspects of the reforms, a blog on five key changes to the planning system, as well as a recording of one of the seminars, and a summary of the key issues to assist people with their submissions to the NSW Government.

EDO NSW also undertook legal outreach work on a range of natural resources issues in 2012/13. As was the case in 2011/12, mining and coal seam gas were key issues of community concern. In general, the community was looking for reliable information about how mining and coal seam gas activities are regulated in NSW and especially the rights of landholders to participate in decision-making processes.

EDO NSW published the book *Mining Law in New South Wales: A Guide for the Community* in December 2012, and has distributed over 4,000 copies to date (also available for download on our website). *Mining Law* was named as a finalist in the United Nations Association of Australia World Environment Day Awards 2013 under the Sustainability Education Award category.

"I have spent the weekend reading your new book, congratulations to you and your team. You have presented a plain English breakdown of the complexities of our mining laws. I have now joined the dots that I have been trying to connect for the past 18 months with many issues now clear and also a number I was unaware of. The book will be invaluable to all groups fighting to protect their environment."

EDO NSW held a number of community legal education workshops on the native vegetation framework reforms, responsible pet ownership, biodiversity conservation, and hunting in national parks. EDO NSW also released the updated 2nd edition of our plain-English book *Caring for Country: A Guide to*

Environmental Law for Aboriginal Communities in September 2012. This update is available on our website.

Workshops and Seminars

EDO NSW held a total of 26 legal education workshops for the community and six seminars for professionals on various environmental law issues throughout NSW during 2012/13. These workshops and seminars were all free to attend, and covered a range of issues including native vegetation law reforms, environment and planning law, wildlife, private conservation, mining and coal seam gas, and how the community can effectively engage in environmental decision-making processes.



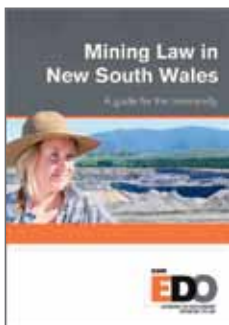
“We very much appreciate you all taking the time to travel to our town. The workshop was very worthwhile and I believe exactly what was needed. Please pass on our gratitude to the rest of your team.”

Workshops and seminars provided by EDO NSW in 2012/13

Publications

GUIDES TO THE LAW

Plain-English publications are an important feature of EDO NSW's community engagement and education work, and help us to provide in-depth information on topical issues and increase our engagement with local communities. Publications cover a wide range of subjects and come in various formats, all of which are available free to the community, either as hard copies or online.

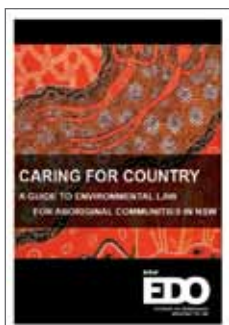


Mining Law in New South Wales: A guide for the community is a plain-English guide to the law on mining and coal seam gas (CSG) in NSW. It was released in December 2012.

The publication is aimed at mining and CSG affected communities, and is designed to help the people of NSW to understand their rights and obligations with regards to CSG developments, and assist them to use the law to the fullest extent possible to protect their interests and those of the environment.

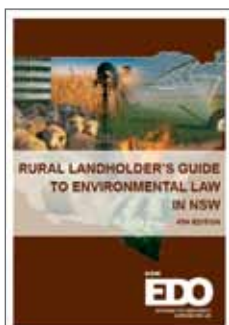
This publication was produced with the financial support of the NSW Government through its Environmental Trust.

EDO NSW has distributed almost 4,500 copies of this publication to date. It is also available online.



Caring for Country: a guide to environmental law for Aboriginal communities in NSW is part of EDO NSW's Indigenous Engagement Program. The purpose of this guide is to assist Aboriginal people to understand their legal rights and obligations under environmental and natural resource management law. This guide is written specifically for Aboriginal communities living in NSW, recognising that environmental issues don't affect everyone in the same way.

EDO NSW has distributed 3,000 copies of this publication to date. The 2nd edition of this publication was published online in September 2012.



The Rural Landholder's Guide to Environmental Law in NSW is designed to help landholders to understand their legal rights and obligations, and to assist them to manage their land in accordance with environmental and natural resource management law.

This publication was produced with the financial support of the NSW Government through its Environmental Trust.

EDO NSW has distributed over 50,000 copies of this publication to date. The 4th edition of The Rural Landholder's Guide was published online in December 2012.



Caring for the Coast: A Guide to Environmental Law for Coastal Communities in NSW is a guide to the various laws that address coastal environmental and planning issues in NSW. It aims to assist coastal communities to engage in decisions that affect coastal environments.

This publication was produced with the financial support of the Australian government's Caring for our Country program.

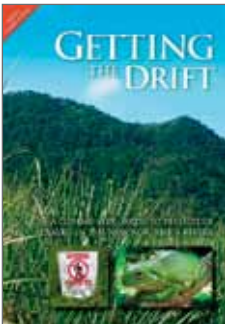
Over 6,000 copies of this publication have been distributed to date. The 2nd edition of Caring for the Coast was published online in November 2012.



A Guide to Private Conservation in NSW is designed to help landholders to understand the different private conservation options available and help them decide which option would be most suitable for their property and circumstances.

This publication was produced with the financial support of the NSW Government through its Environmental Trust.

Over 9,000 copies have been distributed to date. It is also available online.



Getting the Drift is designed to assist people in the NSW Northern Rivers to find out which pesticides could be sprayed near where they live, and what they can do about it.

The 1st edition of this publication was produced by EDO NSW in conjunction with the National Toxics Network, and was released in October 2010. The 2nd edition, which was published in September 2011, includes updated data, more crops, more case studies and a new section called 'What are my rights?'

This publication is also available online.



Campaigning and the Law in NSW: A guide to your rights and responsibilities is a comprehensive publication covering defamation, summary offences, rights and responsibilities in particular areas, arrest, bail and other relevant areas of law. This publication is now only available online.

PERIODICALS

EDO NSW's regular periodical *Impact!*, its eBulletin and its Climate Law Bulletin provide a range of targeted information. *Impact!* targets professional lawyers and conservationists and provides in-depth legal information and analysis on matters relating to public interest environmental law. The weekly eBulletin (delivered electronically) provides an overview of up-to-the-minute environmental law matters, as well as providing references for those wanting further information. The Climate Law Bulletin is a quarterly newsletter on climate law.

All three of these publications are excellent examples of EDO NSW's commitment to engagement with a range of stakeholders. They reflect the demand for the ongoing community outreach and education work of EDO NSW. For instance, the eBulletin and Climate Law Bulletin have almost 2,000 subscribers each, and *Impact!* is now in its 94th edition.

FACT SHEETS

EDO NSW has over 50 Fact Sheets on State and national environmental law, including planning and development, pollution law, natural resource management, native plants and animals, heritage, and government accountability. Fact Sheets can help to build the capacity of the community to engage in planning issues. EDO NSW's Fact Sheets are regularly visited and online views have increased significantly in 2012/13.

Indigenous Engagement Program

EDO NSW's Indigenous Engagement Program provides for the employment of an Aboriginal solicitor to allow more effective engagement with Aboriginal people and communities. This includes engaging in litigation, providing legal advice, working on law reform projects, and providing community legal education. The Indigenous Engagement Program strengthens EDO NSW's relationship with existing Indigenous clients and facilitates the creation of new relationships by promoting EDO NSW's services to Indigenous communities throughout NSW.

In 2012/13, EDO NSW has continued to respond to requests for advice and representation in matters affecting Indigenous clients, including:

- Holding mining workshops in the Aboriginal communities of Gunnedah, Moree and Walgett to further develop our relationships;
- Assisting the Dhariwaa Elders Group by advising on how to protect cultural heritage from the impacts of opal mining, and how to prevent a traditional trail to their sacred Barwon River from being acquired by private interests;
- Advising on the lack of cultural heritage reforms within the Department of Planning and Infrastructure's proposed reforms to the planning system; and
- Representing the interests of a number of Wonnarua stakeholders for the protection of a culturally significant landscape from the impacts of open-wall mining.

Our Aboriginal solicitor is also an active participant at a number of meetings on Indigenous issues. In the reporting period, this has involved:

- Providing advice to the Australian Law Reform Commission in his capacity as a member of the Aboriginal Advisory Committee;
- Providing advice to the NSW Law Society as a member of its Indigenous Legal Issues Committee; and
- Participating in quarterly meetings as part of the Indigenous Peoples Organisations Network, hosted by the Australian Human Rights Commission.

EDO NSW also enjoyed the continuing success of the *'Caring for Country'* publication. This booklet provides a snapshot of Indigenous rights with regards to land and cultural heritage and information on how Aboriginal communities can use the law to pursue their rights. EDO NSW continues to explore opportunities to provide further targeted legal education to Indigenous communities.

International Program

EDO NSW is committed to improving the effectiveness of environmental law as a tool for defending the environment regionally and internationally. For over 20 years, our team has worked with partner organisations to build capacity in public interest environmental law in the South Pacific. In 2012/13 this work included legal, scientific and policy advice, technical skills training, and assistance with legal outreach to organisations in PNG, the Solomon Islands, Fiji, Vanuatu, Kiribati, Samoa and Timor-Leste, particularly on forestry, mining and climate change.

As part of our Scientific Advisory Service, experts supported the International Engagement Program by providing advice on pollution matters and appropriate standards for environmental management in 2012/13.

EDO NSW also facilitated professional attachments in its offices for two environmental lawyers from the Pacific (Fiji and Samoa) under AusAID's Australian Leadership Awards Fellowship Program.

As an Australian Partner Organisation for the Australian Volunteers for International Development (AVID) program, EDO NSW created 11 AusAID-funded volunteer placements across the Pacific in 2012/13. The assignments were in the areas of climate change, biodiversity, environmental impact assessment, natural resource management, landowner advocacy, human rights and environmental management. Roles ranged from legal advisory roles, through to policy, education and advocacy positions. Host countries included PNG, Samoa, the Solomon Islands, Vanuatu, and Kiribati.

EDO NSW and its staff continued to participate in a range of networks, particularly the Environmental Law Alliance Worldwide (E-Law), an online international network of public interest environmental lawyers and scientists; and the International Union for the Conservation of Nature (IUCN), an international network of over 1,000 governments and NGOs and over 11,000 scientists, legal and other experts.

LEADERSHIP AND INFLUENCE

Professional Development

EDO NSW has long played an active role in promoting and furthering legal education in NSW. This is evident in numerous ways:

- Making presentations at external conferences, symposiums and universities (this includes areas such as environmental assessment, planning and major projects, pollution, natural resource management, and public interest environmental law). EDO NSW staff members were invited to present on a range of environmental law issues at various events, including:
 - A presentation on Indigenous issues in planning law to the 2012 Environment and Planning Law Association Conference;
 - A presentation on the NSW Planning reforms to the NSW Coastal Conference;
 - A presentation on private conservation to the Australian Network for Plant Conservation Inc. 9th National Conference;
 - A presentation on the legal framework for strategic biodiversity assessments to the 2012 Criterion Conference on Strategic Environmental Assessment;
 - A presentation on Law reform and litigation developments in relation to water and CSG in NSW to the Australian National University Water Law Conference; and
 - A presentation on mining and coal seam gas law at NTS Corp Western Bundjalung Native Title Day.
- Several papers published in academic journals.
- Training judicial officers, compliance and enforcement officers, prosecution authorities, academics and practitioners from outside Australia about public interest environmental law in NSW, including delegations from China.
- Publishing resources directly relevant to legal practitioners, such as case notes, briefing notes, the eBulletin, Climate Law Bulletin and *Impact!*
- Seconding solicitors from private firms, a collaborative approach which benefits all parties to the arrangement
- Running an active volunteer program, hosting 67 students and solicitors in the last year

“Thank you so much for giving me the opportunity to undertake Practical Legal Training with EDO NSW. It has been a great experience and I am in awe of what you achieve for the environment and people of NSW.”

- Making an enduring commitment to the professional development of staff, many of whom have gone on to work in government or private practice
- Participating in key bodies and articulating public interest perspectives to a broader legal and policy-making community such as the Land and Environment Court Users Group, the Law Society Environmental Planning and Development Law Committee, the Environment and Planning and Law Association, NSW Young Lawyers, the Contaminated Land management Subcommittee to the Environmental Trust, the Environmental Advisory Group run by the Department of Planning and Infrastructure, and the Australian Centre for Climate and Environmental Law

Australian Network of EDOs

EDO NSW is one of nine independent EDO offices located across Australia that formally operate together through the Australian Network of Environmental Defender’s Offices (ANEDO).

The different offices share information, resources and ideas and meet regularly as a network, either face-to-face or via teleconference. All EDOs have demonstrated a commitment to a more coordinated approach to national environmental issues and matters of national environmental significance falling within State and Territory boundaries.

A key focus of ANEDO (and thus EDO NSW) over the past year has been in the area of policy and law reform, with work done on the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), the Murray Darling Basin, Major Project development assessment processes, and renewable energy.

DYNAMIC SUSTAINABLE ORGANISATION

About EDO NSW

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. EDO NSW is the only legal centre in NSW that provides specialist advice about public interest environmental law matters. Since 1985, EDO NSW has pursued its mission of providing public interest legal services to groups and individuals to protect the built and natural environment.

EDO NSW is now acknowledged as a crucial element in the functioning of environmental law in NSW and Australia. Our vision is a sustainable environment protected through the rule of law, achieved by holding to account, building capacity and leading change. Our reputation is built on:

Successful environmental outcomes using the law

With over 25 years' experience in environmental law, EDO NSW has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise

EDO NSW is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services

As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

EDO NSW is part of a national network of similar community centres that help to protect the environment through law in their States and Territories.

EDO NSW People

Staff

At 30 June 2013, the staff of EDO NSW comprised:

Executive Director

Jeff Smith

Principal Solicitor

Sue Higginson

Senior Solicitors

Ian Ratcliff (Northern Rivers)

Josie Walker

Solicitors

Elaine Johnson

Mark Holden (Aboriginal Solicitor)

Belinda Rayment

Policy and Law Reform Director

Rachel Walmsley

Policy and Law Reform Solicitors

Nari Sahukar

Emma Carmody

Scientific Director

Megan Kessler

Outreach Director

Jemilah Hallinan (currently on parental leave)

Outreach Solicitor

Emily Ryan

International Programs Officer

BJ Kim

Operations Manager

Meredith MacDonald

Administrative Officers

Jo Groves (Northern Rivers)

Ana Carolina Napoli Carneiro

Roslyn Blake

Kirsty Jordan

Staff Changes

EDO NSW had some staff changes during the past year. Uncertainty regarding funding meant that vacated positions were not able to be filled, and it was not until the latter part of the year when greater assurances were received regarding funding at least to the end of 2013/14 that recruitment restarted.

The organisation continued to be led by Jeff Smith in the role of Executive Director and there were no changes in the Policy and Law Reform team or the Administration team throughout 2012/13.

Christine Ball left the position of Scientific Officer in October 2012 and, in light of the limited funding available at that time, this position has not been refilled.

The Director of the Outreach team, Jemilah Hallinan has been on parental leave from December and Emma Jukić, Outreach Solicitor, left the Northern Rivers office in January 2013. As at the end of the financial year, neither of these positions has been re-filled and, where possible, the work has been re-allocated to other staff.

While the Litigation team remained stable through much of the year, it lost three staff in April-May 2013 – Kirsty Ruddock, Principal Solicitor; Natasha Hammond-Deakin, Senior Solicitor; and Corrina Novak, Solicitor. Sue Higginson, Senior Solicitor in the Northern Rivers office stepped into the role of Principal, and two solicitors who had worked with EDO NSW previously re-joined the team – Belinda Rayment and Josie Walker.

EDO NSW has relied heavily on its volunteers to maintain its high levels of work this year despite the reduction in the number of paid staff.

Staff Training and Development

EDO NSW continues to support the training and development of its staff to enhance their capacity to deliver high quality services. It is committed to allocating funds for external staff training and development, utilising opportunities for free training, such as that provided through CLCNSW, as well as undertaking internal education sessions on specific topics with special relevance for EDO NSW's operations.

Board of Management

EDO NSW is a non-profit company limited by guarantee and its volunteer Board provides strategic direction and governance to the organisation. The Board is elected at each annual general meeting. Board members attend six-weekly meetings, planning days and ad hoc committees. They make a major contribution to the work of EDO NSW, guiding its development and devoting considerable time and expertise to the work.

EDO NSW Patron and members of the Board during 2012/13 comprised:

Mr Hal Wootten AC QC, Patron
The Hon. Murray Wilcox AO QC, Chair
Ms Barbara Adams PSM, Vice Chair
Mr Andrew Burke, Secretary
Ms Helen Gillam, Treasurer
Mr John Connor
Dr Ronnie Harding
Mr Frank Hubbard
Prof. Michael Jeffery QC
Mr Michael Kennedy
The Hon. Kevin Rozzoli AM
Ms Kate Smillie

Acknowledgements

Volunteers

The Sydney office has capacity for up to ten volunteers per day and the Northern Rivers office has one to two volunteers a day. Volunteers assisted across all functions of EDO NSW but primarily with the provision of legal advice and casework services.

Volunteers greatly enhance the capacity of the organisation to provide accurate and timely assistance to clients. EDO NSW would like to thank the following volunteers from 2012/13 for their commitment and hard work:

Jessica Baldwin	Chris Evans	Maryan Lee
Eleonora Bergamachini	Giselle Firme	Melissa Lee
Doug Brown	Martes Fry	Rosie Leo
Danielle Cavanagh	Kirsten Griffin	Juliana Liskov
Bobby Chen	Adam Guise	Peiwen Lin
Meaghan Clark	Alex Haake	Hannah Mangnall
Peter Clark	Jessica Harwood	Nick Markov
Kay Cotterill	Sophie Herrmann	Gareth Martin
Amy Cullen	Lucy Howard	Isobel McGarity
Saul Deane	Hala Hubraq	Millicent McGrath
Tasmin Dilworth	Shannon Kelly	Sarah McKenna
Phillip Divisek	Nicholas Krastev	Matt Meir

Sophie Millett	Edward Salib	Christine Story
Jacinta Mulders	Jonathan	Beau Talam
Jahan Navidi	Sathiendrakuman	Philip Travis
Sophie Norris	Pablo Schatz	Pavithra Vigneswaran
Elizabeth O'Brien	Roger Sejas	Clarissa (Kate) Watson
Hadley Olson	Deborah Sharp	Emma Webster
Dylan Osborn	Madeleine Sharp	Erran Woodward
Shanu Rana	Francis Shen	Andrew Wu
Alex Read	Darryl Shostak	Philip Wykeham
Prudence Roberts	Shenal Siriwardhane	
Brendan Ross	Jordan Sosnowski	

Pro Bono Assistance

The legal and scientific community also lend invaluable support to the work of EDO NSW, providing legal and advisory services for a reduced fee or, in many cases, for no charge. EDO NSW 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.

Legal Assistance

EDO NSW would like to thank the following barristers, solicitors and firms who provided their time and assistance with EDO NSW litigation and other matters in 2012/13:

Barristers

Fenja Berglund	Ingrid King	John Robson SC
Victoria Brigden	Jeremy Kirk SC	Mark Seymour
Louise Byrne	Richard Lancaster	Ashley Stafford
Simon Chapple	Ian Lloyd QC	Desmond Sweeney
Phillip Clay SC	Chris McGrath	Dr John Tarrant
Sandra Duggan SC	Verity McWilliam	Robert White
Nick Eastman	Christos Mantziaris	Neil Williams SC
Stephen Free	Anna Mitchelmore	
Reg Graycar	Scott Nash	Firms
Ian Hemmings	Jane Needham	Bolt Findlay Solicitors
Tom Howard	Bridie Nolan	DLA Piper
James Johnson	Dr Melissa Perry SC	Gadens Lawyers
Geoffrey Kennett SC	Fleur Ramsay	Gilbert & Tobin
	Tim Robertson SC	

Technical Advisory Panel

EDO NSW would like to thank our Technical Advisory Panel, which is made up of academic experts who provide strategic advice to EDO NSW on specific issues on a pro bono basis:

- Professor Chris Dickman, Professor of Terrestrial Ecology, University of Sydney;
- Associate Professor Nicole Gurrán, Urban and Regional Planning, Faculty of Architecture, Design and Planning, University of Sydney;
- Professor Richard Kingsford, Professor of Environmental Science, University of NSW;
- Dr Iain MacGill, Senior Lecturer in Energy Policy and Technology, University of NSW; and
- Professor John Quiggin, Risk and Sustainable Management Group, University of Queensland.

Scientific and Technical Assistance

EDO NSW would like to thank the following experts, both on and off the Expert Register, who provided assistance during 2012/13, and all those who provided assistance anonymously:

Glenn Albrecht	Peter Eriksen	Guy Marks
Robert Banks	Patricia Fanning	Martine Maron
Stephen Bell	Nicole Gurrán	Maria Matthes
Howard Bridgman	James Hazelton	William Milne-Home
Ian Campbell	Nick Higginbotham	Gavin Mudd
Roderick Campbell	Garry Hunt	Linda Selvey
Nicholas Coleman	Nasser Khalili	Tony Trujillo
Maria Cotter	Stuart Khan	Willem Vervoort
Mathew Crowther	John Lee	Scott Wilson
Matthew Currell	Michael Leggo	Ian Wright
Richard Denniss	Remko Leijds	

Donors

EDO NSW would like to extend our sincere thanks to all the groups and individuals who made donations to the organisation in the 2012/13 financial year, many for the first time. We are extremely grateful for this incredible show of support and appreciate the contribution of everyone who has donated money or time or written letters in support of EDO NSW. In particular, we would like to acknowledge the following individuals and organisations for their generous financial contribution:

Terry Barratt	Colin Hindmarsh	Dailan Pugh
Vicki Brooke	Bruce & Sarah Lay	Susan Russell
John Burke	George Lewin Foundation	Thomas Waddell
Simon & Trish Clough	National Parks Association of NSW	Hal Wootten AC QC
Friends of Turramurra		National Trust NSW

EDO NSW: A Green Office

Throughout 2012/13, EDO NSW continued its commitment to operating in an environmentally sustainable way.

As in previous years, EDO NSW measured its carbon footprint using the greenhouse gas calculator and offset emissions using Climate Friendly certified Gold Standard carbon offsets. This amounted to 39 tonnes of carbon dioxide equivalent offsets. In calculating the carbon footprint of the offices, we include:

- All work-related travel (excluding travel to and from work) by EDO NSW employees, but not by contractors;
- Emissions associated with office paper use and disposal, and paper used in EDO NSW publications; and
- Emissions associated with waste disposal and recycling.

We also calculate our emissions associated with electricity use but offset these at the time of purchase by purchasing 100% green power from our provider. Our emissions in 2012/13 were substantially reduction from the previous year of 58 tonnes of carbon dioxide equivalent. The reduction was predominantly due to a reduction in plane travel. Our 2011-2012 investment in more energy efficiency lighting also contributed to a 25% reduction in the energy use of our Sydney office.

In the past year we sought to reduce our ecological and carbon footprint by:

- Continuing to reduce our paper use by improving our use of electronic alternatives; and
- Continuing to purchase 100% GreenPower for both Sydney and Lismore offices.

Funding and Financial Report

Funding from Grants

EDO NSW is overwhelmingly dependent on grants to fund its operations at their current level. The major source of funding for the organisation is the Public Purpose Fund (PPF). In the past, this has been triennial funding and comprised about 70% of total funding over recent years. However, in the 2012/2013, this grant was only awarded for short periods, initially from July to December. From January, it was reduced by about 30% in real terms and then awarded quarterly. EDO NSW ultimately received \$1,421,064 from the PPF in 2012/2013 and has an assurance of funding from the PPF to June 2014 at the reduced level that it has had since January 2013.

Triennial funding is 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 2010–2013 and has been extended for another year to 2014. CLSP funds from the NSW Government accounted for \$174,945 or nearly 8% of the income of EDO NSW in 2012/2013; Australian government funding amounted to \$87,813 or nearly 4% of overall revenue.

EDO NSW also benefitted from an annual grant of \$74,000 from the NSW Government through its Environmental Trust under the Lead Environmental Community Groups Grants Program which contributes to the organisation's administrative costs.

The John D. and Catherine T. MacArthur Foundation is another major funder of EDO NSW with triennial funding of \$US210,000 from 1 July 2010 to 30 June 2013. This funding is for legal capacity building work in Papua New Guinea and the Pacific. This international capacity-building work was also supported through grants from the Australian government through AusAID, through donations and pro bono support.

In addition to the triennial grants outlined above, EDO NSW received a number of smaller grants allocated for a shorter time and for specific projects during 2012/2013. These were:

- The NSW Government through its Environmental Trust for *Mining and the Law: A Guide for the Community*;
- The NSW Government through its Environmental Trust for *Influencing Environmental Outcomes: A Guide to Having Your Say*;
- The Australian government through the Department of Sustainability, Environment, Water, Population and Communities Grants for Voluntary Environment, Sustainability and Heritage Organisations;

- The Australian government through AusAID's Australian Leadership Awards Fellowship Program; and
- The Environment and Planning Law Association (NSW) Inc. for an annual research fellowship grant.

Income Generation

In addition to the income received from grants, EDO NSW generated other income from fees charged for its professional services, memberships, donations and bank interest. This money enables EDO NSW to undertake work which is strategically important but cannot be done within the terms of funding contracts.

In 2012/2013, EDO NSW received other income of \$362,501 which increased from \$173,866 in the previous year and was the result of a concerted effort to increase funding from alternative sources which are independent of government. A proportion of this was income from professional fees (\$128,754). EDO NSW's fees for litigation are usually covered by grants of Legal Aid or capped at a low rate unless there is a successful costs award in favour of EDO NSW's client. Most significantly, income from memberships and donations increased from about \$20,000 last year to over \$180,000 this year, thanks to the support we have received from the community.

Financial Performance

In 2012/2013, EDO NSW achieved a surplus of \$81,579. This is consistent with the outcomes achieved in most years where the surplus/deficit is within 5% of annual revenue. The Board and management adopted a very cautious approach to expenditure during this financial year, given the uncertainty and short-term commitment of funding from the Public Purpose Fund. This included the deferral of discretionary spending and not filling positions if they became vacant. With the assurance of funding for the next year, EDO NSW has been able to move towards replacing some staff and the long-awaited redevelopment of its website as a significant means of providing environmental legal information to the community.

Directors' report for the year ended 30 June 2013

The Directors present this report on the company for the financial year ended 30 June 2013.

Directors

The following persons held office of director during the year and up to report date:

The Hon. Murray Wilcox AO QC, Chairperson

Appointed 24/10/2007

Retired Judge

Attended 7 of 8 meetings

Mr Frank Hubbard

Appointed 30/01/1996

Principal, Worthwhile Projects Pty Ltd

Attended 4 of 8 meetings

Ms Barbara Adams, PSM, Vice-Chair

Appointed 29/10/2002

Retired Senior Public Servant

Attended 6 of 8 meetings

Prof. Michael Jeffery QC

Appointed 26/11/2002, deceased 15/7/2013

Queens Counsel and Professor

(Environmental Law, University of Western Sydney)

Attended 7 of 8 meetings

Mr Andrew Burke, Secretary

Appointed 23/6/2010

Solicitor

Attended 5 of 8 meetings

Mr Michael Kennedy

Appointed 24/1/2011, ceased 17/10/2012

Campaign Director, Humane Society International (Australia)

Attended 1 of 4 meetings

Ms Helen Gillam, Treasurer

Appointed 28/10/2008

Lecturer (Accounting, University of Technology, Sydney)

Attended 4 of 8 meetings

The Hon. Kevin Rozzoli AM

Appointed 2/5/2012

Consultant

Attended 6 of 8 meetings

Mr John Connor

Appointed 1/12/2010

Chief Executive Officer, The Climate Institute

Attended 8 of 8 meetings

Ms Kate Smillie

Appointed 2/12/2009

Manager Revolving Funds, Nature Conservation Trust of NSW

Attended 8 of 8 meetings

Dr Ronnie Harding

Appointed 21/10/2009

Retired Academic (Environmental Studies, University of NSW)

Attended 8 of 8 meetings

Net Surplus After Income Tax

The net surplus of the company for the financial year was \$81,579 (2012 – \$34,098).

Review of Operations

A review of the company operations during the financial year and the results of those operations are as follows:

The company's operations during the year performed as expected in the opinion of the directors.

Significant Changes in State of Affairs

There have been no significant changes in the state of the company's affairs during the financial year.

Principal Activities

The principal activities of the company during the course of the year were:

- Provision of Environmental Law Services

There have been no significant changes in the nature of these activities during the year.

Short-term and Long-term Objectives

The company's long-term objective is to contribute to a sustainable environment protected through the rule of law.

The short-term objectives are:

- Effective Legal Protection of the Environment
- Empowered community
- Leadership & influence
- Dynamic sustainable organisation

Strategies

The company's strategies are:

- Public interest lawyering
- Policy and law reform
- Community legal education
- Multi-disciplinary approach supported by sound science
- Communications and media

Key Performance Measures

The company measures its performance through the use of both qualitative and quantitative indicators which are identified in the Strategic and Operational Plans of the organisation. These are approved and monitored through written reports to the Board of Directors. Copies of the Plans are available to members on request.

After Balance Date Events

No known matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the company's operations, the results of those operations or the state of affairs of the company in subsequent financial years.

Future Developments

The company expects to maintain the present status and level of operations. EDO NSW is largely dependent on grants as its major source of income and this is secure until 30 June 2014. If all its grants are not secured beyond 30 June 2014, it is working to increase its income from alternative independent sources such as donations and fees and will continue to operate but will reduce the level of staff, outings and service provision to meet the available income if necessary.

Environmental Issues

The company's operations are not regulated by any significant environmental regulation under a law of the Commonwealth or of a State or Territory.

Dividends

The Memorandum of Association of the company prohibits the company from paying dividends and, accordingly, no dividends have been declared or paid during the financial year.

Options

No options over issued shares or interests in the company were granted during or since the end of the financial year. Furthermore, there were no options outstanding at the date of this report.

Liability of Members

The company is incorporated under the Corporations Act 2001 and is a company limited by guarantee. If the company is wound up, the Articles state that each member may be required to contribute a maximum of \$10.00 towards meeting any obligations of the company. At 30 June 2013, the total amount that members of the company are liable to contribute if the company winds up is \$560.00.

Indemnities Granted

There have been no indemnities granted or insurance premiums paid, during or since the end of the financial year, for any person who is or has been an officer or auditor of the company.

Actions

No person has applied for leave of Court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of these proceedings. The company was not a party to such proceedings during the year.

A copy of the auditor's independence declaration as required under Section 307C of the Corporations Act 2001 is set out on the next page.

This statement is made in accordance with a resolution of the Board of Directors and is signed for and on behalf of the directors by:

Directors

Barbara Adams

Andrew Burke

Dated this 11th day of September 2013

Independent audit report

AUDITOR'S INDEPENDENCE DECLARATION UNDER SECTION 307c OF THE CORPORATIONS ACT 2001 TO THE DIRECTORS OF ENVIRONMENTAL DEFENDERS OFFICE LTD

I declare that to the best of my knowledge and belief, during the year ended 30 June 2013, there have been:

- (i) no contraventions of the auditor independence requirements as set out in the *Corporations Act 2001* in relation to the audit; and
- (ii) no contravention of any applicable code of professional conduct in relation to the audit.

Joseph Pien

Chartered Accountant

J. Pien CA

Registered Company Auditor

Sydney, 12th day of September 2013

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2013

	2013	2012
ASSETS	\$	\$
Current Assets		
Cash and Cash Equivalents	987,983	796,035
Accounts Receivable and Other Debtors	47,620	59,748
Other Current Assets	68,394	80,379
Total Current Assets	1,103,997	936,162
Non Current Assets		
Property Plant & Equipment	54,042	74,783
Total Non Current Assets	54,042	74,783
Total Assets	1,158,039	1,010,945
LIABILITIES		
Current Liabilities		
Accounts Payable and Other Payables	274,225	250,333
Employee Provisions	190,110	148,487
Total Current Liabilities	464,335	398,820
Total Liabilities	464,335	398,820
Net Assets	693,704	612,125
Equity		
Retained Surplus	693,704	612,125
TOTAL EQUITY	693,704	612,125

INTERNATIONAL AID AND DEVELOPMENT INCOME STATEMENT

	Note	2013	2012
		\$	\$
REVENUE			
Donations and gifts			
Monetary	1	30,000	30,000
Non-monetary	2	111,614	40,825
Grants – AusAid		25,439	28,453
– Overseas		22,049	38,390
Other income	3	2,782	10,000
TOTAL REVENUE		191,884	147,668
EXPENDITURE			
International Programs		191,884	147,831
Community Education		-	-
Fundraising Costs		-	-
Accountability and Administration		-	-
TOTAL EXPENSES		191,884	147,831
(SHORTFALL) OF REVENUE OVER EXPENDITURE		0	(163)

Notes

- 1 Funds allocated from unrestricted donations to the Environmental Defender's Fund operated by EDO NSW
- 2 This includes volunteers services valued at \$5,599 and pro bono services valued at \$106,015
- 3 Balance of funding for International Program taken from investment income of EDO NSW

Declaration

This International Aid & Development Income Statement has been prepared in accordance with the requirements set out in the ACFID Code of Conduct. For further information on the Code, please refer to the ACFID Code of Conduct Implementation Guidance available www.acfid.asn.au.

**DIRECTORS DECLARATION
FOR THE YEAR ENDED 30 JUNE 2013**

The directors of the entity declare that:-

1. The financial statements and notes, as set out on pages 6 to 30, are in accordance with the *Corporations Act 2001*:
 - a. comply with Australian Accounting Standards; and
 - b. give a true and fair view of the financial position as at 30 June 2013 and of the performance for the year ended on that date of the entity.
2. In the directors' opinion there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Andrew Burke
Director

Barbara Adams
Director

Dated this 11th day of September 2013

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF ENVIRONMENTAL DEFENDERS OFFICE LIMITED

Report on the Financial Report

I have audited the accompanying financial report of the Environmental Defenders Office Limited which comprises the statement of financial position as at 30 June 2013, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, notes comprising a summary of significant accounting policies, other explanatory information, International Aid & Development Income Statement and the directors' declaration.

Directors' Responsibility for the Financial Report

The directors of the Environmental Defenders Office Limited are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Act 2001*, and for such internal control as the directors determine is necessary to enable the preparation of a financial report which gives a true and fair view, and is free from material misstatement, whether due to fraud or error.

In Note 1, the directors also state, in accordance with Accounting Standard AASB 101 Presentation of Financial Statements, that the financial statements comply with International Financial Reporting Standards.

Auditor's Responsibility

My responsibility is to express an opinion on the financial report based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements, and that I plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the financial report which gives a true and fair view, in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have complied with the independence requirements of the *Corporations Act 2001*. I confirm that the independence declaration required by the *Corporations Act 2001*, which has been given to the directors of Environmental Defenders Office Limited on 11th September 2013, would be in the same terms if given to the directors as at the time of this auditor's report.

Auditor's Opinion

In my opinion:

- a. the financial report of Environmental Defenders Office Limited is in accordance with the *Corporations Act 2001*, including:
 - i. giving a true and fair view of the company's financial position as at 30 June 2013 and of its performance for the year ended on that date; and
 - ii. complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Regulations 2001; and
- b. the financial report also complies with International Financial Reporting Standards as disclosed in Note 1.

Emphasis of Matter

I draw attention to Note 14 to the financial statements, Future Developments, which describes the uncertainty relating to future Public Purpose Fund grants for the company beyond 30 June 2014. My opinion is not modified in respect of this matter.

Joseph Pien

Chartered Accountant

J. Pien CA

Registered Company Auditor

Sydney, 12th day of September 2013

PROFIT AND LOSS STATEMENT FOR THE YEAR ENDED 30 JUNE 2013

	2013	2012
	\$	\$
INCOME		
Public Purpose Fund Grant	1,421,064	1,642,127
Commonwealth CLSP Grant	87,813	95,525
NSW CLSP Grant	174,945	188,824
NSW Environmental Trust Grants	119,327	115,810
AusAid Grants	24,545	28,454
EPLA Research Grant	5,000	5,000
Commonwealth GVESHO Grant	1,500	0
MacArthur Grant	22,049	38,390
Donations, Memberships & Fundraising	181,248	20,900
Conferences, Publications & Workshops	1,750	3,536
Professional Fees	128,754	78,321
Interest Received	43,325	68,030
Miscellaneous Income	7,424	1,776
	2,218,744	2,286,693
EXPENDITURE		
Auditor's Remuneration - Financial Statements	12,895	8,628
Accountancy and Bookkeeping	35,162	37,442
Bad Debts Written Off	0	-
Bank and Government Charges	3,320	4,276
Board Costs	2,146	1,917
Casual Staff	0	1,348
Conferences, Publications & Workshops	50,205	55,609
Consultants Fees	45,798	500
Depreciation	22,902	22,563
Disbursements - non recoverable	1,445	2,448
Doubtful Debts	-1,339	1,095

Employees Entitlement Provision	41,623	-32,784
Employee Expenses	5,701	10,747
Fundraising	20,758	910
Information Technology Expenses	36,651	15,849
Insurance	13,009	13,525
Light & Power	12,014	13,066
Loss on Disposal - Fixed Assets	1,819	-
MacArthur Expenses	22,604	30,032
Office Costs	18,915	17,729
Organisational Development	48,559	44,771
Postage & Couriers	3,407	5,699
Printing & Stationery	14,161	18,640
Rent - Office	172,038	153,618
Repairs & Maintenance - General Repairs & Maintenance	1,522	4,215
Salaries & Wages	1,373,435	1,596,480
Staff Training & Welfare	7,952	14,105
Staff Amenities	4,114	8,258
Staff Recruitment	362	2,084
Subscriptions	15,386	24,669
Superannuation Contributions	118,533	135,955
Telephone & Internet	17,990	18,042
Travelling Expenses	14,078	21,159
	2,137,165	2,252,595
OPERATING PROFIT BEFORE INCOME TAX	81,579	34,098

Abridged report

This is an abridged copy of the Financial Report for the year ended 30 June 2013. For a full copy of the Report, please see our website: www.edo.org.au/edonsw/site/annualreports.php or contact the offices of EDO NSW.

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NSW



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ADVANCING THE LAW**

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