



ENVIRONMENTAL DEFENDER'S OFFICE NSW

ANNUAL REPORT – 2006/07

eddo



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

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[ANDREW CHALK]

Chair's Report

Times of economic prosperity should be neither the reason nor moment when we, as a society, retreat from considered and inclusive environmental decision making. It is paradoxical that at the point when our relative wealth as a nation is greater than at any time since the gold rushes of the 1850s, our governments seem so determined to shut their eyes to the longer term costs of our apparent good fortune. Even more paradoxical is that this should be happening at a time when we are more conscious than ever of our impact on the planet and the scale of the environmental crises facing us. From salinity and soil degradation, global climate change and loss of bio-diversity to water scarcity and resource depletion, the indicators are alarming if not outright terrifying.

Despite this consciousness we show little inclination to direct a real share of that 'good fortune' to the very viability of the planet and its capacity to sustain future generations in reasonable health, let alone to protecting its beauty and magnificence. Why this wealth should dull our better judgement is not easily explained, other than by resort to a failure of our collective morality. But even those individuals, including many politicians, who are most committed to reducing their impact on the planet, suffer frustration

at the sheer complexity, scale and determinism of our economic and social systems. We sit and eat our future, knowing what it is that we are doing but feeling nonetheless powerless to avert the course.

Responding constructively to the challenges facing our planet without becoming utterly disheartened is, itself, no small challenge. It requires the mountaineer's temperament; putting one foot after the other, focussing on the next 10 steps, not dwelling too long on what is out of one's control, gazing up now and then to check the route, the weather, the time, and then another step.

"In terms of the organisation, 2007 was a good year for the EDO as this Report attests."

The EDO has tried to show that temperament, focusing its resources on supporting community groups in achieving what is achievable, often small steps in themselves but nonetheless important. Wins at a local level protect things that local communities consider important. In so doing, the EDO helps give groups confidence to carry on their own work knowing that they can be effective. This confidence also helps maintain vigilance against the erosion of rights such as



“Responding constructively to the challenges facing our planet without becoming utterly disheartened is, itself, no small challenge.”

found in the recent changes to the *Environmental Planning & Assessment Act 1979*. One advantage of being a multi-function Office is that we are at least as well placed to educate the community on what the government has done to their rights as to litigate on their behalf.

Assisting the community on critical environmental issues will increasingly mean developing detailed policies to address macro problems. So much environmental policy expertise has deserted our public institutions over the last decade that the role for an independent, community based, multi-disciplinary body is more critical than ever. While most community and environment groups focus on generating the political will to act, the EDO has always played an important role in helping our clients give government decision makers sound options on how they should act. Recognising the sometimes extraordinary complexity of the scientific, economic and social aspects of environmental problems and the consequent complexity of any regulatory response, the EDO is well placed to use its lawyers in conjunction with other experts, including the wide range of experts on its panel, to develop and test the detail of proposals before our

clients submit them to Government. The EDO's collaboration with the Wentworth Group of Concerned Scientists and others on land clearing reforms some years ago was a model in this regard.

In terms of the organisation, 2007 was a good year for the EDO as this Report attests. The volume and range of work undertaken has again been enormous. As always, we are deeply grateful for the faith which our major funders, the Public Purpose Fund and the MacArthur Foundation, have shown in us. Sadly, despite the achievements of the office, 2007 was also a year in which the wider objects of the EDO, public participation in the protection of the environment, endured serious setbacks, most particularly because of government decisions, at both State and Federal levels, that appeared to put rapid economic growth ahead of all else.

This is my last report as a Board member, having taken the view that now is the time for new blood in the Chair's role. I have always felt very privileged to be associated with the EDO. Over the years, it has slowly grown into a world class public interest NGO. From its inception it has enjoyed wonderfully dedicated and



[ANDREW CHALK]

"This is my last report as a Board member, having taken the view that now is the time for new blood in the Chair's role."

capable staff. It is most particularly the staff who have built the EDO, a bunch of people who epitomise the values of a better society; highly competent, ethical, self-sacrificing, conscientious and surprisingly good humoured. They are not the ones who gorged themselves while Rome burned. I know that I will miss my contact with them.

Unlike so many community organisations that go through regular cycles of success and failure, the EDO has moved from strength to strength. So much of this is due to the leadership of a succession of outstanding Directors from Brian Preston, to Nicola Pain, James Johnson, Lisa Ogle and, for most of the duration of my period as Chair, Jeff Smith. I owe special thanks to Jeff, since it has been his efforts that have made my own role so easy.

My fellow Board members, both current and past have always been a pleasure to work with. While always professional and committed, it has been the Board's diversity that has been its greatest strength. Although the EDO is fundamentally a law office, for two decades its Board has comprised scientists, public administrators, accountants, journalists, community campaigners, economists, planners, business

people, teachers and academics as well as a fair smattering of lawyers. The EDO's work, given its complexity, undoubtedly would have suffered were it not for the non-lawyers on the Board who have provided invaluable insights on matters of policy and direction. It has been their input and the way it crosses a legal outlook that has been especially stimulating. I wish to thank my colleagues on the Board for the support and patience they have shown me during my time as Chair.

The EDO is an extraordinary organisation. May it continue to support and inspire communities in their struggle to protect our precious planet.

Andrew Chalk
Chair

"The more things change, the more they remain... insane."

– *Over the Hedge* (Michael Fry and T. Lewis)

This quote from a comic strip about the perils of sprawling (sub)urbanisation, pithily sums up the past year, at least as far as our overall operating environment is concerned.

Change has indeed been afoot over the past year. At the external level, these changes have been disastrous, with new planning laws being used to dismantle public participation and actively fast-track major developments in NSW. We have witnessed a similar shrinkage in access to justice following reforms at the Commonwealth level.

Normally, of course, in a sane and sensible world, large-scale developments would attract the closest scrutiny: rigorous environmental assessment requirements and community involvement helping to ensure that the best possible decisions are made. But the principles of ecologically sustainable development – long a feature of environmental planning law and policy – seem to have been forgotten in the present environment. Testament to this trend is the *Major Development Monitor*, a publication of the Department of Planning, which tracks approvals solely by the amount of money and jobs they

are likely to generate for NSW. Economic and social considerations are crucial to achieving sustainability, however these considerations cannot be advanced in the name of ecologically sustainable development without proper consideration of the third pillar – namely, environmental factors.

These developments restrict the ability of communities to participate constructively in environmental decision-making and thus pose significant challenges for the EDO and others interested in protecting the environment and achieving good environmental outcomes. In a hostile operating environment, it is salutary to reflect on the value of public participation. I have previously argued, prior to the latest round of planning reforms, that NSW laws demonstrated a commitment to community involvement and were the best in Australia. These laws helped to ensure that good decisions were (usually) made based on the best possible information and/or that the “buy in” of the community was achieved (people may not like a decision but they are more likely to accept it if they have been given a proper opportunity to be heard). The recent NSW and federal reforms sweep away the edifice of public participation – ironically often in the name of “outcomes” – to what will be the detriment of the environment.

“In a hostile operating environment, it is salutary to reflect on the value of public participation.”

By contrast, changes within the EDO have been overwhelmingly positive. Thanks to a substantial funding enhancement from the Public Purpose Fund, the net result has been a bigger and, dare I say, better EDO. New positions have been created across the breadth of the Office's functions, reflecting a commitment to a multi-disciplinary approach to environmental problems. A new Office, EDO Northern Rivers, has also been piloted and evaluated throughout the year. The expansion of the Sydney Office, together with the advent of the Northern Rivers Office, has been tremendously exciting news and a tribute to the good works of the EDO over the years. The Public Purpose Fund has shown enormous faith in the Office and we are determined to repay that faith. The activities set down in this Annual Report are the first instalment of this endeavour.

As this Report attests, the work and throughput of the EDO over the past year is impressive. Space does not permit a detailed exposition here, so a schematic overview will suffice.

Litigation has been as varied and challenging as ever. Again, the Office has sought to undertake a

mix of judicial review and merits matters, for a range of strategic and supervisory purposes. A particular focus has been on climate change and the framework of Federal and NSW environmental and planning laws, reflecting a not too surprising concern from conservation and community groups that we are heading in the wrong direction in these areas. The litigation team has had to be innovative and determined in the pursuit of good environmental outcomes, in a regulatory climate that has sought to quarantine climate change and other important environmental issues from proper community oversight.

Policy work over the past 12 months has been even more intensive than usual, reflecting the (relative) luxury of having two dedicated policy positions. A strong emphasis has been placed on proactive policy initiatives, with a raft of consultancies and other projects complementing a prodigious output regarding work done for key conservation groups on submissions and Bills before Parliament. The policy team has also again played a key stakeholder role in many fora this year – for instance, sitting on the Ministerial Reference Group for Biobanking.

The Scientific Advisory Service has been similarly boosted by a doubling of its capacity, with two in-house scientists now employed. Together with around 100 members on the Register, the Scientific Advisory Service is a fantastic resource for the community. The work of the Scientific Advisory Service is itself a microcosm of the multi-disciplinary work of the Office, undertaking project work, providing technical input into policy work, supporting community education, and assisting with submissions regarding the efficacy or otherwise of development proposals.

“The past 12 months has seen a significant expansion of the Office...”

Highlights from our community education program include an intensive workshop program around rural NSW, the launch of our *Campaigning Handbook* and an agenda-setting conference with the Australian Centre of Environmental Law entitled *Beyond Environmental Law*. For the first time, the EDO employed an Aboriginal Liaison Officer, part of an attempt to broaden the focus and constituency of the Office.

Amidst all these changes, staff have been inspirational in a year

of immense change. The past 12 months has seen not only a significant expansion of the Office but the unfortunate loss of several senior members of staff. Despite all this, the Office has managed to move forward tirelessly in its efforts to protect the environment. Not surprisingly, the Office continues to attract committed and dedicated staff. Recently, a farmer – trying to decide whether to engage the EDO in a litigation matter - asked a neighbour what he thought of the Office. “I hate them”, the neighbour said, “they fight like cornered cats”. The farmer saw this as high praise indeed and duly came to us with instructions. Such tenacity may be appropriate for certain litigation matters but does not properly describe us. It has long been a hallmark of the Office that staff have tempered their passion for the protection of the environment with a professional and ethical approach. A multi-disciplinary Office allows us to “fit” the skills at our disposal to the problem at hand. This may require, depending on the circumstances, policy acumen, empowering and informing the public through community education, legal and scientific advice on a proposed development or, as a last resort, “cornered cats” litigation.

The Northern Rivers Office deserves particular praise, being subject to the most intense scrutiny

“The Northern Rivers Office deserves particular praise, being subject to the most intense scrutiny over its first 12 months of operation.”

over its first 12 months of operation. The Office has been subject to a rigorous, independent evaluation, while local expectations have been high (not surprising for a community with a rich history of environmental advocacy). Through all this, the Office has performed admirably. The 12 month report from the consultancy firm *WestWood Spice* was glowing in its praise for the Office and recommended, amongst other things, its continued existence and expansion. The report described the solicitors as “professional, sensible, helpful, committed, passionate, responsive, caring, dynamic, and hard-working” with there being “unequivocal praise about the services being delivered”.

The healthy state of the Office generally is due in no small part to the guidance and strategic direction of the Board. Importantly, the Board has provided stability and support as the Office has expanded and changed. Special mention must also be made of the Chair, Andrew Chalk, who has indicated his intention to step down from the Board at the next AGM. Andrew has held the Chair for the past five years. During this time the Office has moved from strength to strength and is immeasurably better resourced,

building on the foundations laid by those who came before.

It has been my good fortune to work with Andrew during his time as Chair. Five years is a long time for any relationship, let alone one forged in the highly charged environment in which the EDO operates. However, in my view the relationship has been of the highest order, being founded on respect and professional regard. Through this prism, the ongoing challenges faced by the EDO have been addressed. It is no exaggeration to say that I could not have done my job as I have, nor would the EDO be in the position it is, without Andrew at the helm. Andrew has devoted a good deal of his professional life to the EDO, and his absence will be sorely felt.

The work of the EDO is, of course, much more than the sum of staff and Board activities. The Office is a broad church which attracts the support of many – volunteers, barristers, scientific experts, seminar and conference speakers, workshop participants and clients amongst others. Without them, we simply, and literally, could not do the work that we do and we owe them a debt of gratitude.

As mentioned, the Public Purpose Fund has provided a tremendous foundation for the enhanced operating capacity of the EDO. We are also grateful to the Federal and State governments who provide triennial funding through the Community Legal Centre Funding Program, the Law and Justice Foundation for its support for indigenous engagement and the Environmental Trust, which has given us a LEAD grant for the next three years. All our funding enables us to work closely with the community to seek positive environmental outcomes.

I trust that this report does justice to the good works of the Office in 2006-2007.

[Postscript: In August 2007, the EDO was notified that the Public Purpose Fund would continue to fund the Northern Rivers Office. This is, of course, wonderful news, and a tribute to the fantastic effort of the two solicitors, Jessica Wood and Sue Higginson, in getting the Office off the ground.]



Jeff Smith
Director

Introduction

The EDO operates between 9am and 5:30pm Monday to Friday with a mission to empower the community to protect the environment through law. It does this by taking a multi-disciplinary approach to environmental problems. The EDO has a number of core areas of operation, with staff working together in a multi-disciplinary way to achieve the EDO mission.

This report reviews the performance of the Office across each of these key functions for the 2006-2007 financial year. They are:

- Litigation and legal advice
- Scientific and technical advice
- Policy and law reform
- Community programs
 - > Community legal education
 - > International capacity building
 - > Indigenous engagement
 - > Cultural and linguistically diverse outreach
- Communications and media

EDO Northern Rivers

On 3 July 2006, the EDO opened the doors of EDO Northern Rivers as an 18 month pilot project. Such an Office has long been sought in a region often described as the “birthplace of environmentalism”. The idea was essentially to trial a specialist centre at a community level. Advice work and community legal education formed the centrepiece of the Office’s activities in the trial period, with a particular emphasis on engaging with a broad constituency (rural landholders, resident groups and conservation groups). The Public Purpose Fund funded the pilot, with the consultancy firm *WestWood Spice* undertaking an independent evaluation over the first 12 months.

The results far exceeded expectations (even when these were high). There was “unequivocal praise about the services being delivered”. The Office was also seen as effective in informing clients, filtering issues and ensuring quality control (see pp 51, 52-53 and 56). The *WestWood Spice Report* stated that:

“Clients, both individuals and groups, of the EDO Northern Rivers reported that they felt better informed, more skilled and generally “empowered” about the environmental law issues they confront. Long time advocates reported greater confidence that



their lobbying activity would be effective without placing themselves and others at unintended risk of other litigation, in particular defamation action. The provision of practical assistance (letter writing, reviewing documents and providing verbal guidance) which is often part of the ideal of early engagement has been a significant and effective part of the EDO Northern Rivers service.”

The evaluation report from *WestWood Spice* is available in full on the EDO website at http://www.edo.org.au/edonsw/site/pdf/westwoodspice_report070718.pdf.

For present purposes, the conclusions of the Report are worth restating:

“In summary, the EDO Northern Rivers has achieved the goals outlined in the Operational Plan. They have delivered the service in a highly skilled and professional manner. They have made advice on environmental law issues far more accessible than was possible from Sydney. Through extensive Community Legal Education (CLE) they have contributed [to] broadening the base of “informed citizens” who possess a much better understanding of their rights, responsibilities and avenues for early resolution and legal redress.

Through education and casework the EDO Northern Region has been successful in filtering issues so that individual clients and groups are better placed to focus on substantive matters where they arise. This together with CLE and other activities has contributed to better access to justice which in turn has a positive impact on the cost of the administration of justice. The pilot has also been extremely successful in reaching a core target group – rural landholders.”

The work of the EDO Northern Rivers Office has been incorporated into the work of the Office generally for the purposes of this Annual Report.

“You have been just fabulous!”

-Client in the Bungendore matter

Litigation

The EDO represents individuals and community organisations in public interest litigation to protect the environment. In 2006-2007, the EDO litigated a variety of cases involving issues of significant public concern.

Tackling climate change

Drake-Brockman v Minister for Planning & Anor [2007] NSWLEC 490 (the CUB case)

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

The case challenged the application of Part 3A of the *Environmental Planning and Assessment Act 1979*, which grants the Minister for Planning broad discretion to approve major projects of State significance. It was argued, amongst other grounds, that the Minister failed to properly consider

the principles of Ecologically Sustainable Development when approving the development.

A decision is expected in the second half of 2007.

Anvil Hill Project Watch Association Inc v Minister for Environment and Water Resources & Centennial Hunter Pty Ltd [2007] FCA 1480

The EDO is acting for the Anvil Hill Project Watch Association Inc ('AHPWA') in Federal Court proceedings, challenging a decision of the delegate of the Federal Minister for the Environment and Water Resources, that the Anvil Hill project (a proposed large open cut coal mine in the Hunter Valley) is not a 'controlled action' under the *Environment Protection and Biodiversity Conservation Act 1999*.

The decision of the Minister's delegate means that the project will not have to undergo any sort of environmental assessment at the Commonwealth level because it is not, in the Commonwealth's view, likely to have a significant impact on a matter of national environmental significance. This case raises important issues about the extent to which, and the manner in which, the Commonwealth needs to consider greenhouse gas emissions arising from large mining or other industrial developments in Australia.



A decision is expected in the second half of 2007.

Fighting whaling in the Antarctic

Humane Society International Inc v Kyodo Senpaku Kaisha Ltd (2005) FCA 678.

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

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

After a successful appeal to the Full Federal Court on the issue of leave to serve the pleadings on Kyodo, HSI has now served the documents and is proceeding with its application for an injunction and declaration to restrain the whaling contravening the *EPBC Act 1999*.

A final hearing has been set down for 18 September 2007.

Protecting biodiversity

Nature Conservation Council of NSW Inc. Minister for the Environment and Heritage

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

The OTLF is a multi-species targeted fishery that operates within the habitat areas of the Grey nurse shark and a number of other threatened species. The NCC is seeking the implementation of fishery closures of specific key shark aggregation areas and the banning of the use of wire traces in deeper waters.

The matter was part heard in April 2007, with further hearings listed for July 2007.

Humane Society International Inc. v Minister for Environment and Heritage

The EDO is acting for Humane Society International Inc in the Administrative Appeals Tribunal appealing the Minister's declaration of the Southern and Eastern Scalefish and Shark Fishery

Wildlife Trade Operation under the *Environmental Protection and Biodiversity Conservation Act 1999*.

A mediation is set down for 10 September, with a further mediation and a hearing to occur in early 2008 if the matter is not resolved in mediation.

Preserving agricultural land

The Hub Action Group Inc v the Minister for Planning and Orange City Council

The EDO is acting for The Hub Action Group, a group of local residents opposed to the proposal of a major regional landfill with a capacity of 1.5 million tonnes, and an anticipated lifespan of 40 years. The case raises important issues relating to conservation of productive agricultural land. The proposal will limit the ability to use the land for agricultural purposes, even after closure of the landfill.

The EDO has commenced a merit appeal in the Land and Environment Court. This matter has been adjourned until 10 December 2007.

Supporting sustainable rivers

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

The EDO is representing the Darling River Action Group Inc to challenge the proposed auction of 8,000ML of water by the Director General, on the basis of significant

adverse impacts on the already severely stressed Darling River.

Protecting local amenity

Pindimar Bundabah Community Association Inc v Great Lakes Council & Ors [2007] NSWLEC 165

The EDO represented the Pindimar Bundabah Community Association (the Association) in proceedings brought in the Land and Environment Court against Great Lakes Council, Port Stephens Council and a developer. The Association challenged the decision to allow the first land-based abalone farm in NSW to be developed on the edge of Port Stephens estuary on the Mid-North Coast. The Association, a local community group, has been fighting the controversial development proposal for nearly six years.

The Association argued that the proposed abalone farm should be refused on the basis that it would impact on the wild abalone populations and seagrasses and would affect water quality and other aquatic ecological communities. It was also argued that the proposal was inconsistent with the Port Stephens Local Environmental Plan and State Environmental Planning Policy No. 62.

The Association were ultimately victorious with the respondents agreeing to the making of consent orders allowing the appeal.



Bungendore Residents Action Group Inc. v Palerang Council & Navaroo Constructions Pty Ltd [2007] NSWLEC 536

The EDO is representing the Bungendore Residents Action Group (BRAG) in its challenge of a Council decision to allow a subdivision of over 40 lots to proceed on an area of land at Bungendore, near Braidwood in the NSW Southern Highlands. BRAG opposes the subdivision because they are concerned about possible impacts of the development on already stressed town drinking supplies and the high density of the allotments proposed which are out of character with the adjacent village area.

The decision in this matter is expected in the second half of 2007.

Supporting access to information

Watt v Forests NSW [2007] NSWADT 197

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

Forests NSW initially refused access to the information under the *Freedom of Information Act 1989* based on various exemptions in the Act.

A decision in this matter is expected in the second half of 2007

WWF-Australia v Department of Agriculture, Fisheries and Forestry

The EDO is acting for WWF-Australia in the Administrative Appeals Tribunal against the Department of Agriculture, Fisheries and Forestry ('DAFF') in relation to a Freedom of Information matter. WWF-Australia is appealing the decision of the Australian Bureau of Agricultural and Resource Economics ('ABARE') to refuse access to the responses of a number of farmers to questionnaires used by ABARE to obtain information and views about land clearing in NSW. ABARE is a division of DAFF.

In May 2007, the NSW Farmers Association joined the proceedings. At 30 June 2007 the matter was before the Tribunal for further directions.

Representing environmental protestors

Mizzi v Forests NSW

The EDO represented Michael Mizzi in the District Court in Lismore in his appeal against convictions entered by the Magistrate in the Local Court for protesting in Ewingar State Forest in North East NSW.

Mr Mizzi was found guilty of various offences under the *Forestry Act 1916* and *Forestry Regulation 2004* including the charge of approaching a timber harvest operation. On this conviction Mr Mizzi was successful on appeal.

Legal Advice

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

Free Telephone Advice

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

In the past year, EDO staff dealt with around 1000 telephone inquiries on the *Environmental Law Line*. Of these, about 70% came from rural and regional New South Wales. Most of the inquiries concerned planning and development law. Other major areas of interest included mining and forestry, biodiversity management, pollution law and water management issues. Concerns about Local Governments, particularly the decision-making process, were also commonly expressed.

Callers were referred to the EDO from other community legal centres, conservation groups, the Land and Environment Court, members of Parliament and government departments.

In addition to legal inquiries, the EDO also responded to many hundreds of other requests for information during the year, such as requests for information about community workshops and publications.

Written Advice

“We would like to thank you for the very thorough research you have carried out on our behalf and the comprehensive advice you have provided.”

- Myall Koala and Environment Support Group

109 files were opened during the reporting period and 30 were closed. More than 100 detailed written advices were prepared, addressing a diverse range of public interest environmental law issues, including:

Biodiversity Conservation

- Letter to Coffs Harbour City Council and the Department of Environment and Conservation to alert them that clearing of Endangered Ecological Communities was occurring on private land.
- Advice as to the basis upon which the Roads and Traffic Authority could be prevented from widening Avoca Drive at Green Point, near Gosford and removing an endangered White Gum eucalypt and 24 Liquidambar trees.



- Advice regarding potentially illegal activities – such as road works and clearing - in core koala habitat in Coffs Harbour.
- Letter to the Department of Environment and Conservation regarding suspected illegal clearing of Endangered Ecological Communities.
- Letter to the Department of Planning regarding the impact of a proposed residential subdivision at South West Rocks on threatened species and cumulative impacts of the development.
- Brief to Counsel regarding potential Federal Court proceedings challenging the shark control program in NSW waters.
- Advice to a landholder on voluntary conservation measures.
- Advice on the prospects of challenging a decision to accredit the Shark and Scalefish Fishery as an approved Wildlife Trade Operation under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999)*.
- Advice regarding a potential challenge to a ministerial consent for the staged development of a tourist facility on high conservation land at Belongil Beach.
- Advice regarding an application for a major project residential

development on high conservation land at Hastings Point.

- Advice about grounds to challenge the biodiversity certification of the State Environmental Planning Policy for Growth Centres of Western Sydney.
- Advice to a community group resulting in them successfully seeking a stop work order regarding John Williams Hospital.

Water Management

- Advice on civil enforcement proceedings regarding the failure of Snowy Hydro Limited to build an outlet in the Jindabyne Dam as required under its licence.
- Advice on the use of environmental water trusts, including the pros and cons of different forms of entitlements and the relationship between different environmental water managers.
- Advice as to whether a development consent for springwater extraction had lapsed and whether Council would have any grounds to refuse to issue a construction certificate for the plant.
- Ongoing advice on the evidence required to establish that environmental flows released during November 2006 - February 2007 were unlawfully extracted by other water users.

- Brief to Counsel on the prospects for challenging the approval of the Kurnell desalination plant.
- Advice about the potential grounds for bringing proceedings for allegedly unlawful extraction of water from the Macquarie Marshes.
- Letter to the Minister for Water Resources (Qld) to request a statement of reasons for the decision to auction 8000 ML of unallocated water under the Warrego Resource Operations Plan.
- Advice to a community group on its legal rights to participate in the environmental assessment process in relation to the Sydney Catchment Authority's proposal to develop the Upper Nepean (Kangaloon) Groundwater Borefield.
- Advice in relation to the legality of Sydney Catchment Authority's test pumping program purportedly under its Water Management Licence.

Vegetation Management

- Advice about avenues to address potentially unlawful clearing of native vegetation and unlawful development at Pitt Town.
- Letter to Kempsey Council regarding illegal clearing of trees outside of a routine agricultural management activity (RAMA)

permitted width for a fence on a council road reserve.

- Advice on land clearing issues at Fame Cove, near Port Stephens.
- Letter to the RTA raising concerns about its clearing in National Parks without undertaking a specific Environmental Impact Statement or Review of Environmental Factors.
- Advice regarding litigation opportunities for challenging consents, Property Vegetation Plans, RAMAs, private native forestry and pre-emptive clearing on private property.
- Advice regarding the application of Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act 1979) to Riverina Redgum logging activities by Forests NSW and grounds for proceedings under the *EPBC Act 1999* for Forests NSW's Riverina Redgum logging activities.
- Advice and referral as to damage caused by a camphor laurel tree and remaining roots in Burwood.

Freedom of Information

- Advice on prospects for successfully appealing a Freedom of Information matter regarding Forests NSW to the Administrative Decisions Tribunal.
- Preparation of a Freedom of Information Application to Coffs



Harbour Council for access to documents relating to illegal tree clearing on koala habitat.

- Letter to Coffs Harbour Council seeking review of application charges.

Advocates' Rights and Responsibilities

- Advice on whether the arrests of protesters on a public road in a state forest were in breach of police duties under section 200 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.
- Ongoing advice about NSW defamation laws.
- Brief to Counsel regarding the potential unlawfulness of a proposed "protest website" which asks people to pledge to take nonviolent direct action in response to the construction of the Newcastle coal loader at Kooragang Island.
- Advice and referral regarding a copyright action by the Minerals Council of Australia.
- Advice on the Government's refusal to read emails as part of an environmental campaign on the basis that the emails breached the *Spam Act 2003*.
- Advice about issues to do with hostile takeovers of conservation groups.

Governance

- Advice regarding the provisions of the *EP&A Act 1979* relating to corruption and the impact of a finding of corruption on the part of a Councillor on the validity of a development consent.
- Advice regarding the rules of Incorporated Associations, particularly the resignation and removal of office bearers.
- Letter to the Office of the Director of Public Prosecutions seeking information regarding the details of the proceedings instituted against a Councillor for alleged corruption in relation to development approvals.
- Letter to the Department of Planning providing relevant information that the EDO obtained from the Office of the Director of Public Prosecutions regarding the corruption proceedings initiated against a Councillor.

Planning and Development

- Advice to local residents about the need for environmental assessments to consider cumulative impacts.
- Advice on the prospects of successfully challenging the Minister's decision to remove bus and bike lanes from the Cross City Tunnel project under Part 3A of the *EP&A Act 1979*.

- Letters to Ballina Shire Council regarding Boral's application to modify their development consent to operate their asphalt plant 24 hours a day 72 days per year.
- Advice regarding breaches of conditions of consent for the pre-construction phase of the Shannon Creek Dam.
- Submission to Clarence Valley Council on behalf of clients objecting to an application for a construction certificate which sought to rekindle a 1983 Development Application for the extension of a caravan park on Palmers Island.
- Submission to Council on behalf of a local resident regarding a development proposed to adjoin Morpeth Town Centre and its consistency with the Seniors Living State Environmental Planning Policy.
- Advice and assistance with mediation between Cape York Land Council and Cook Shire Council and the Queensland Department of Local Government and Planning on the Cook Shire Planning Scheme.
- Advice to a community group about the operation and implications of Part 3A of the *EP&A Act 1979*.
- Advice about the subdivision of a high school and the application of State Environmental Planning Policy 8 on surplus public land.
- Advice about grounds for review of Pitt Town Local Environment Plan.
- Advice to a resident group about the application of Part 3A of the *EP&A Act 1979*, including Environmental Impact Assessment requirements.
- Advice about State Environmental Planning Policy 8 – Surplus Public Land and how it related to an approved supermarket in Mullumbimby.
- Letter to Tweed Shire Council regarding unreasonable photocopying fees and an application for the development of an offensive industry in a rural residential zone.
- Advice on issues associated with powerlines under the *EP&A Act 1979*.
- Advice on a possible legal challenge to the anticipated approval by the Minister for Planning of the Catherine Hill Bay and Gwandalan subdivisions.
- Advice in relation to possible challenges to Tamworth Council's decision to approve a subdivision of existing high quality agricultural land.
- Submission to Lismore Council regarding a rezoning application from rural to rural residential.
- Advice on possible avenues of appeal of a consent to a large scale Seniors Living



Development on significant coastal land in Hasting Point.

- Advice on powers of Council to sell part of an aerodrome for Seniors Living Development.
- Advice regarding possible grounds to challenge two development consents for a major rural residential subdivision at Tamworth.
- Advice to a farmer on rural land objecting to a neighbour's Development Application for an intensive subdivision cluster development on prime agricultural land.
- Advice to a local resident about whether an oyster lease could be granted in the vicinity of North Arm Cove, surrounded by a sanctuary zone under the Great Lakes – Port Stephens Marine Park.

Aboriginal Cultural Heritage

- Letter to Ballina Shire Council requesting an archaeological assessment on coastal land subject to a development application at East Wardell.
- Meeting to discuss an agreement regarding the preparation of an Aboriginal heritage study in Ballina.

European Heritage

- Letter to the Heritage Council regarding the proposal to release effluent onto the Evans Head

Memorial Aerodrome (listed on the State Heritage Register).

- Advice on whether the redevelopment of Nobby's Head Lighthouse, which is Commonwealth Heritage, is a controlled action under the *EPBC Act 1999*.
- Advice regarding heritage implications of the proposed demolition of Lawson shops.
- Letter to the Heritage Office on behalf of a client about relevant heritage procedures not being followed by Local Council.
- Advice in relation to judicial review proceedings attempting to invalidate a development consent relating to George Frost House.

World Heritage

- Letter to the Commonwealth Minister for the Environment and Heritage regarding a proposal by Armidale Council to build a putrescible landfill adjacent to the Central Eastern Rainforest Reserves of the World Heritage Oxley Wild Rivers National Park.
- Letter to the Department of Environment and Water Resources outlining damage occurring to a World Heritage lagoon due to shipping activity and outlining obligations of the Commonwealth under the *EPBC Act 1999*.

Forestry

- Advice on third party enforcement options for logging under the South East Regional Forest Agreement. Specific advice in relation to activities that give rise to alleged breaches.
- Letter to Clarence Valley Council expressing the opinion that a proposed sawmill was very likely a designated development due to the volume of timber it intended to process.
- Advice about joining proceedings in the Land and Environment Court regarding an application for relocation of a sawmill in the Clarence Valley.
- Advice on the potential to challenge declarations of State Forests under the *Game and Feral Animal Control Act 2002* in the Bellingen area.
- Advice regarding possible challenges to the Minister's declaration to open up certain state forests for the shooting of game animals, as well as assistance with drafting a Freedom of Information application.
- Brief to Counsel about the lawfulness of Forests NSW failing to obtain a Species Impact Statement or an Environmental Impact Statement for forestry activities in the Riverina area.

Climate Change

- Legal and scientific advice on a local resident's submission on the proposed Anvil Hill Project.
- Brief to Counsel to provide advice as to the potential grounds to appeal the Part 3A approval of the Kooragang Coal Loader.
- Assistance to another law firm so as to advise their clients in relation to a long-term strategy for opposing the proposed South Bickham coalmine through legal and non-legal avenues.
- Advice on challenging a Part 3A approval of the re-development of the Carlton & United Brewery site, including the legal consequences of an individual taking such an action regarding costs.
- Advice on the lawfulness of the proposed expansion of the Appin 3 coal mine.
- Letter to the Department of Planning stating that the greenhouse assessment of the Anvil Hill project should:
 - > include emissions from the burning of the coal produced,
 - > take into account the proposed Newcastle coal loader; and
 - > estimate emissions from oxidation /spontaneous combustion.



Mining

- Advice on legal options for responding to an exploration licence and proposed mining lease in the Liverpool Plains area.
- Advice on the consequences of failing to comply with consent conditions for Colo Heights and Mangrove Mountain quarries.
- Advice to a community group about the existence of any legal or other grounds to challenge ruby exploration licences affecting National Parks.
- Advice to residents at Narrandera, on whether a quarry stockpile was designated development and advice on environmental assessment requirements.
- Letter to the Department of Planning regarding their refusal to make an Independent Hearing and Assessment Panel report available in accordance with the *EP&A Act 1979*.
- Submission to Lismore City Council on the environmental impacts of a proposed extractive industry and floodplain works in Lismore.
- Assistance to Traditional Owners regarding uranium issues in the Northern Territory.
- Advice as to whether grounds exist to take action in relation to the cracking of the Waratah Rivulet

as a result of longwall mining operations in the Douglas Area.

Pollution and Waste Management

- Brief to Counsel to advise on the prospects of challenging an approval of a major landfill and resource processing facility near Molong.
- Advice regarding a proposal by Richmond Valley Council to release effluent into the Evans River.
- Letters to NSW Maritime and the Department of Environment and Conservation about alleged heavy metal contamination in Long Bay, Cammeray, from Cammeray Marina.
- Advice to a community group about the modification of the M5 East to allow for portal emissions.
- Arranged for acoustics expert to conduct a noise test on a client's property to determine the noise being emitted from the neighbouring chicken farms with a view to organising mediation with the chicken farm.

Misleading and Deceptive Conduct

- Letter to the proponent for development of land in South West Rocks asking it to remove a misleading reference to the Friends of South West Rocks from its preliminary assessment documents

which formed part of an application for major project approval.

- Preliminary advice regarding possible action under the *Trade Practices Act 1974* against “clean coal” claims made in relation to a proposed 400MW coal-fired power station in the Latrobe valley.

Crown Land

- Letter to Ku-ring-gai Council advising it of limitations to its powers to convert land held on trust by the Council to operational land.
- Advice on the dedication of Crown roads to walking and horse riding trails and preventing their conversion to freehold.



“We would like to thank you for your support against the development application for the marina in Careel Bay. We would also like to congratulate you on your report which has had a big technical impact on the recent decision made by the Department of Planning.”

- Careel Bay Pittwater Protection Association

Scientific & Technical Advice

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

- pre-decision and casework
- compliance and monitoring
- community education.

I. PRE-DECISION AND CASEWORK

The Scientific Advisory Service comprises two in-house scientists and 100 experts on a Register. Members of the Expert Register provide scientific or technical advice on a range of matters. The Scientific Advisory Service assists EDO solicitors with their casework and also advises clients directly. In 2006-2007 we have:

- Reviewed environmental assessment documents and prepared an affidavit regarding the adequacy of the environmental assessment for the modification of the southern access road of the proposed Tugun Bypass.

- Reviewed environmental assessment documents and advised on merits issues and the adequacy of the assessment of the Chinderah Marina.
- Reviewed an Exploration Environmental Management Plan and advised on groundwater issues associated with the Caroon coal exploration licence area.
- Reviewed groundwater assessment documents and advised on merits issues and the adequacy of the assessment of the Ardmore Park Quarry, Bungonia.
- Reviewed environmental assessment documents and assisted with the preparation of submissions to the Department of Planning and the Department of Environment and Heritage on the proposed Anvil Hill coal mine.
- Engaged a noise expert to review noise assessments and appear before the Independent Hearing and Assessment Panel for the proposed Anvil Hill coal mine.
- Appeared before the Independent Hearing and Assessment Panel for the proposed

Anvil Hill coal mine on the adequacy of the greenhouse gas assessment.

- Reviewed environmental impact assessment documents and advised on merits issues and the adequacy of the assessment of proposed temporary desalination plants near Gosford, Central Coast.

- Reviewed the groundwater assessment for the proposed Moolarben coal mine and assisted in preparing a submission to the Department of Planning.

- Advised Environmental Law Alliance Worldwide (ELAW) on issues associated with a new air quality policy in South Africa.

- Reviewed environmental impact assessment documents, engaged experts, and assisted in preparing a submission to the Department of Planning on the proposed Gerroa sand mine.

- Engaged an expert to review threatened species assessment documents for the proposed road widening at Avoca Drive, Avoca.

- Reviewed a stormwater management plan for the proposed Dan Lands residential development and advised on the adequacy of the assessment and merits issues.

- Investigated and advised on the potential groundwater quality impacts of a derelict mine in Goulburn and the adequacy of a

proposed sampling and analysis plan for detecting potential impacts.

- Prepared a literature review on the environmental impacts of sewage ocean outfalls.

- Reviewed a Subsidence Management Plan and advised on its adequacy and merits issues for the proposed extension to Appin coal mine, near Cataract River.

- Engaged an expert to provide advice and prepare a report on ecological issues associated with a residential subdivision at Gwandalan.

- Reviewed technical documents and literature reviews on merits issues associated with the Ocean Trap and Line Fishery and the South East Scalefish and Shark Fishery.

- Reviewed environmental impact assessment documents for a proposed residential development at Vincentia to assist a client prepare submissions to the Department of Environment and Water Resources on threatened species issues.

- Reviewed environmental impact assessment documents for Kooragang Island coal loader and advised on the adequacy of assessment documents and merits issues.

- Engaged an expert to provide advice to a client on potential ecological impacts of a proposed residential subdivision at Maclean.



- Engaged an expert to advise solicitors on potential impacts of a proposal to relocate a flying-fox camp at Lismore.
 - Advised on the noxious marine weed *Caulerpa Taxifolia* in relation to the proposed Rose Bay Marina.
 - Reviewed environmental impact assessment documents for a proposed quarry at Lismore and advised on the adequacy of the assessment and merits issues.
 - Engaged an expert to assist in a Court case regarding a proposed coastal development on Phillip Island.
 - Liaised with experts and advised solicitors on noise impacts on fauna.
 - Reviewed environmental impact assessment documents and advised on the potential impacts of the redesigned Careel Bay marina.
 - Participated in multi-criteria analysis workshops to assess a range of pollutant impact mitigation options available to the coal fired electricity industry as part of a research project undertaken by the CRC for Coal and Sustainable Development
- ## 2. MONITORING AND COMPLIANCE
- The Scientific Advisory Service has also helped to supplement the traditional, supervisory role of the EDO. A number of services have been provided, including:
- Engagement of an expert to undertake an on-going independent review of the investigation of the environmental impacts of the Wunma barge zinc spill in the Gulf of Carpentaria.
 - Engagement of an expert to advise a client on gathering evidence of alleged illegal taking of environmental water.
 - Review of harvesting plans and other documents and engagement of experts to advise on the potential ecological impacts of alleged breaches of forestry operations in Ourimbah State Forest.
 - Review of soil contamination reports and advice to solicitors on the adequacy of assessments and merits issues associated with a contaminated residential site at Rockdale.
 - Preparation of a report on chemical pollution and a water quality assessment plan for the Richmond River.
 - Advice on noise issues associated with an existing chicken farm near Lismore.
 - Review of a noise assessment and liaison with a noise expert on issues associated with an existing ice factory in Lismore.
 - Provision of on-going advice to a client on scientific issues associated with the Board of Inquiry

investigating the Wumna barge zinc spill in the Gulf of Carpentaria.

3. COMMUNITY EDUCATION

The Scientific Advisory Service is also involved in a number of education activities, such as presentations including:

- Preparation of science fact sheets on environmental impact assessment in relation to groundwater, surface water, water quality, and greenhouse gas emissions.
- Preparation of a case note for members of the Expert Register on the *Weilangta* case and its implications in relation to assessment of cumulative impacts.

“Thank you for your contribution to NSW’s environment”

- Department of Environment and Conservation

Policy & Law Reform

The EDO plays a key role in influencing environmental policy and law reform in New South Wales. Policy and law reform activities undertaken by the EDO fall into three main areas:

- submissions on government proposals;
- provision of advice to environment groups; and
- engagement as a key stakeholder.

I. SUBMISSIONS ON GOVERNMENT PROPOSALS

The EDO regularly writes submissions in response to legislative reviews, government proposals and parliamentary inquiries. Over the past year, numerous submissions have been drafted with significant scientific input from the EDO in-house scientists, and on occasion, from members of the EDO Expert Register:

Public submissions prepared from July 2006 – June 2007 include:



- Comment on proposed amendments to the *State Environmental Planning Policy (Major Projects)*.
- Submission to the Productivity Commission Inquiry into Australia's Consumer Policy Framework.
- Submission to the Joint Select Committee on the *Threatened Species Conservation Amendment (Biodiversity Banking) Act 2006*.
- Submission on the proposed biocertification of the Draft Growth Centres Conservation Plan.
- Submission on A New Direction for Local Government Position Paper.
- Submission on the Prime Minister's Task Group on Emissions Trading - Issues Paper.
- Submission on the Regulatory Impact Statement - Investigation of Options to Reduce the Environmental Impact of Plastic Bags.
- Submission on the First Biennial Assessment of the National Water Initiative – NSW Implementation.
- Submission on the Draft Land Owner's Consent Policy 2006.
- Submission regarding the Possible Design for a National Greenhouse Gas Emissions Trading Scheme.
- Biodiversity Report – *The Status of Biodiversity Conservation in NSW: Recommendations for Reform*.
- Comment on the Draft Agreement between the Australian Government and the State of New South Wales.
- Submission on the *Environment and Heritage Legislation Amendment Bill (No. 1) 2006*.
- Submission on the National Chemicals Environmental Management (NChEM) Scheme.
- Submission on the National Pollutant Inventory NEPM Variation.
- Submission on Threatened Species Priorities Action Statement.
- Submission on the investigation into the burden of regulation in NSW and improving regulatory efficiency Draft Report.
- Submission on Discussion Paper on Strict and Absolute Liability.
- Submission to the Inquiry into Health Impacts of Air Pollution in the Sydney Basin.
- Finalisation of a report on the health effects of lead and lead compounds used in surface coatings and inks for the National Industrial Chemicals Notification and Assessment Scheme.
- Submission to the Rural Lands Protection Rate Review.
- Submission on the NSW Draft Code of Practice for Private Native Forestry.

These submissions have resulted in a number of substantial improvements to legislation and policy, at both a Commonwealth and State level. On the basis of our submissions, we are regularly requested to address inquiry hearings to provide further detail concerning recommendations made in our submissions. For example, EDO addressed a Senate Committee hearing in Canberra on proposed amendments to the *Environment Protection and Biodiversity Conservation Act 1999*.

2. PROVISION OF ADVICE TO ENVIRONMENT GROUPS

(i) Environment Liaison Office

The Environment Liaison Office (ELO) is a coalition of peak environment groups active in NSW. The ELO monitors legislation that is introduced into the NSW Parliament and coordinates the response of peak environment groups to these Bills. The EDO regularly advises the ELO group regarding the legal implications of Bills introduced into Parliament and whether amendments to a particular Bill should be sought. As part of this service, the EDO also provides legal and policy advice on potential amendments to members of the cross-bench and government during formal briefing sessions and meetings.

During the last financial year, the EDO – in its capacity as advisor to the ELO – has been closely involved in examining, and in some instances proposing amendments to, the following Bills in relation to public interest and environmental issues:

Spring Session 2006

- *Trees (Disputes Between Neighbours) Bill.*
- *Environmental Planning Legislation Amendment Bill.*
- *Threatened Species Conservation Amendment (Biodiversity Banking) Bill.*
- *Sydney Water Catchment Management Amendment (Warragamba) Bill.*
- *Water Industry Competition Bill and Central Coast Water Corporation Bill.*
- *Apiaries Amendment Bill.*
- *Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Bill.*
- *Western Sydney Parklands Bill.*
- *National Park (Lower Hunter Region Reservations) Bill.*
- *Crown Lands Legislation Amendment (Carbon Sequestration) Bill.*
- *Deer Bill.*

Budget Session 2007 (short session due to the State election)

- *Biofuels (Ethanol Content) Bill 2007.*



- *Energy and Utilities Administration Amendment (Climate Change Fund) Bill 2007.*

- *Protection of the Environment Operations Amendment (Waste) Bill 2007.*

- *Renewable Energy (New South Wales) Bill 2007.*

- *National Parks and Wildlife Amendment (Leasing and Licensing) Bill 2007.*

(ii) Policy Advice to Environmental Organisations

The EDO is regularly retained by various groups on a consultancy basis to provide policy advice on a particular area of law or to develop law reform proposals. Over the past year, the EDO has worked on consultancies for a number of key conservation groups, indigenous groups, scientific groups and government agencies.

Consultancies undertaken from July 2006 to June 2007 have included:

- Biodiversity Report.
- Longwall Mining Report.
- Plastic Bag Levy advice.
- Report on Indigenous Engagement in Natural Resource Management.
- Access and Benefit Sharing Report.
- Review of Regulatory Controls on Lead.

- Review of implementation of the National Water Initiative.

- Bushfire advice.

- Invasive Native Scrub advice.

- Advice on Australian Nuclear Science and Technology Organisation and handling of nuclear materials.

- Advice on the Central Coast Water Plan.

- Advice on state nuclear prohibitions.

- Critique of the current and potential future contribution of Australia's coal resource to national and global greenhouse gas emissions.

3. KEY STAKEHOLDER ROLE

Policy work also involves participation on various stakeholder panels. The input provided at such forums was not on behalf of environment groups, but rather as a crucial element of our key stakeholder role. In the last financial year, the EDO participated in:

- Major Infrastructure and Development Approvals Stakeholder Reference Group.

- Ministerial Reference Group for Biobanking.

- Biobanking Rule Based Assessment Tool Focus Group.

- Biobanking Credit Transactions and Register Focus Group.

- Biobanking Conservation Agreements and Other Legal Instruments Focus Group.
- Stockholm Convention Reference Group.

Community Programs

The EDO's Community Programs seek to empower the community to protect the environment through law. Traditionally, the EDO has reached a narrow section of the community, with some demographics being significantly underrepresented.

Recognising this, the EDO has developed a number of programs to strategically target particular demographics with a view to making the organisation more accessible to a wider cross-section of the community.

In 2006-2007 the EDO's community programs were:

- Community Legal Education Program;
- International Program;
- Indigenous Engagement Program; and
- Culturally and Linguistically Diverse Outreach Program

I. COMMUNITY LEGAL EDUCATION

The EDO Community Legal Education (CLE) program is the flagship of the EDO's community programs. It seeks to provide the community with the information and skills necessary to participate effectively in environmental decision-making and protect the environment through law.

The CLE program provides the following services to the community:

- community workshops designed to facilitate a working knowledge of environmental laws and how they can be used to protect the environment;
- seminars and conferences on key issues to promote law reform and encourage debate;
- presentations at various conferences and events to help promote the EDO and share the wealth of knowledge and experience of its staff; and
- plain language educational materials in a range of formats, explaining environmental law and policy.



“The good instruction and reading materials have opened a window for me and it is clearer now what needs to be done.”

- Participant of an Environmental Law Workshop

Community workshops

In 2006-2007, the EDO conducted community workshops on a variety of topics. These workshops were held in Sydney and in rural and regional areas around New South Wales. The Northern Rivers Office boosted the capacity of EDO NSW to deliver community education with the result that more rural and regional workshops were presented in the past financial year than ever before.

(i) Rural and Regional Workshops

Conservation on Private Land

Lismore

Water Reform in the Murray

Darling Basin

Barham

Rural Landholder's Guide to Environmental Law

Gloucester

Jilliby

East Gresford

Nabiac

Clybucca

Planning Law Reforms

Byron Bay

Port Macquarie

Coffs Harbour

Blue Mountains

Water Management

Broken Hill

Narrabri

Forbes

Environmental Law

Woy Woy

Milton

Newcastle

Biodiversity Conservation

Blue Mountains

(ii) Metropolitan Workshops

Protest and the Law

Sydney University (twice)

Environmental Law

Kogarah

Ku-ring-gai

Pollution Law

Ashfield

Water Management

Sydney

Planning Reforms

Sydney

A diverse range of participants attended these workshops, including conservationists, landholders, local and state government employees, students, legal practitioners and consultants. During visits to rural and regional areas, EDO staff took the opportunity to meet with clients and conduct site visits.

Seminars

The EDO seeks to promote informed debate about environmental law and policy via its public seminar program.

A seminar on the Part 3A reforms to the *Environmental Planning and Assessment Act 1979* was held in March 2007. Over 100 people attended the seminar to hear different perspectives on the controversial provisions of Part 3A. Speakers were Cate Faehrmann, Director of the Nature Conservation Council; Ken Morrison, NSW Executive Director of the Property Council of Australia and Councillor Sam Byrne from the Local Government Association of NSW. Jeff Smith, Director of the EDO, chaired the 2-hour seminar.

The EDO also hosted a seminar on the Australian Youth Ambassador for Development (AYAD) program, for which the EDO is a partner organisation. Cerin McMillan, a former AYAD volunteer, spoke about her time in Mongolia working with the Centre for Human Rights and Development.

Annual Conference

The EDO's 2007 Annual conference, entitled '*Beyond Environmental Law: Intersections between legal disciplines and the environment*' was held on 16 and 17 February 2007.

The conference was organised in partnership with the Australian Centre for Environmental Law, University of Sydney.

Speakers from a range of legal specialties were invited to consider how their area of expertise intersected with environmental law. The conference was attended by over 150 delegates and the topic proved to be extremely thought-provoking, not only for the attendees but also for the speakers.

Presentations

In 2006-2007, EDO staff made numerous public presentations, including:

- *EDO and the Public Interest: A Northern Rivers perspective*

Ballina Environment Society AGM; Northern Rivers Legal Aid; Southern Cross University Sustainable Environment Working Group

Sue Higginson, Solicitor
Jessica Wood, Senior Solicitor

- *The Rise and Fall of Public Participation in NSW*

Cumberland Plains Symposium

Jeff Smith, EDO Director

- *Biodiversity on the Brink*
NSW Parliament

Rachel Walmsley, Policy Director

- *Compliance and Enforcement Under the Native Vegetation Act 2003*



Environment and Planning Law
Association Conference

Rachel Walmsley, Policy Director

- *Part 3A of the Environmental Planning and Assessment Act 1979*

Young Lawyers Continuing Legal
Education

Ian Ratcliff, Senior Solicitor

- *Recent Changes in Environmental Law and Opportunities for NGO Campaigning*

Mittagong Forum

Jeff Smith, Director

- *Torts and the Environment*

University of Technology, Advanced
Torts Class

Jeff Smith, Director

- *NSW Environmental Law and Wetland Management*

Sydney Olympic Park Authority
Wetland Education and Training
Program

Josie Walker, Senior Solicitor

- *Climate Change Law in Australia*

Climate Change Law Conference,
Australian National University

Kirsty Ruddock, Principal Solicitor

- *Climate Change and the Law*

Young Lawyers Annual Conference
Kirsty Ruddock, Principal Solicitor

- *Climate Change and the Law*

Richmond River High School

Sue Higginson, Solicitor

- *Climate Change and the Law*

Byron Bay High School

Sue Higginson, Solicitor

Jessica Wood, Senior Solicitor

- *Climate Change and the Law*

Climate Law Forum, Sydney
University Law Society

Jacquie Svenson, Solicitor

- *The Nature of Public Interest Environmental Law*

University of Sydney, Foundations of
Law Class

Jeff Smith, Director

- *Analysis of the Proposed Amendments to the Lismore LEP*

Meeting of residents and
Councillors, McLeans Ridges

Jessica Wood, Senior Solicitor

- *Biodiversity Law*

Southern Cross University,
Environmental Law Class

Sue Higginson, Solicitor

- *Threatened Species Law*

Southern Cross University,
Environmental Law Class

Sue Higginson, Solicitor

- *Ecologically Sustainable Development and Recent Decisions of the Land and Environment Court*

Far North Coast Law Society Annual
Seminar

“The EDO website has been enormously helpful to me in my work”

- Environmental Engineer

Sue Higginson, Solicitor
Jessica Wood, Senior Solicitor

- *Native Vegetation Regulation in Urban and Rural Areas*

University of New South Wales

Rachel Walmsley, Policy Director

- *Coal Mining in NSW and Qld and Coal's Contribution to Greenhouse Gas Emissions in Australia*

EDO Climate Change Forum

Tom Holden, Scientific Director

- *Water Issues in Australia*

EDO training for visiting
Chinese officials

Louisa Rochford, Scientific Officer

Publications

- *Campaigning and the Law: A guide to your rights and responsibilities*

This publication is a plain-English guide to the laws regulating protest and campaign actions in NSW and on Commonwealth land. It also contains information to help individuals and groups stage effective and legal campaigns. It was launched in Lismore on 31 March 2007 and has been extremely popular with campaigners.

- *The Rural Landholder's Guide to Environmental Law in NSW*

This booklet was published in 2006 and has been the most popular EDO publication. Plans are underway to update and reprint this plain-English guide to land law and make it available for free to all NSW landholders.

Website

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

In the 2006-2007 period, an average of 18,800 pages were downloaded per month from the NSW site.

In line with our strategic focus on Part 3A planning reforms, we started a new page on the website dedicated specifically to providing people with information about the new regime.

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

2. INTERNATIONAL CAPACITY BUILDING

The EDO works internationally to develop environmental law and support environmental lawyers. With a particular focus on the South Pacific, 2006-2007 was a busy year for the EDO's International Program.



MacArthur Foundation

The EDO has been funded since 1998 by the MacArthur Foundation, based in the USA. In March 2007 this funding was renewed for a further 3 years. The new grant will see the EDO continue to support the Environmental Law Centre (ELC) in Papua New Guinea (PNG), as well as extending our support to the Centre for Environmental Law and Community Rights (CELCOR), also in PNG, and to other South Pacific nations as opportunities arise.

EDO Director Jeff Smith participated in a weeklong strategic planning workshop for ELC in August 2006, and EDO Programs Director Andrew Burke spent a week in Port Moresby in June 2007 to plan activities under the new grant. Upcoming activities for 2007-2008 include a week of litigation training for both ELC and CELCOR lawyers in Port Moresby, and assisting the Public Solicitors Office in the Solomon Islands in the implementation of a new civil law program focussed on land law and forestry abuses.

AYAD and VIDA placements

The EDO is an Australian Partner Organisation for both the Australian Youth Ambassadors for Development (AYAD) and Volunteering for International

Development from Australia (VIDA) programs run by AusAID.

As such, the EDO works with host organisations in applicable countries to place Australian environmental lawyers with those organisations for 12-36 month placements. The Australian government funds the travel and a modest income.

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

During 2006-2007 the EDO had two operational AYAD placements and one VIDA placement. Cerin McMillan spent 12 months with the Centre for Human Rights and Development in Mongolia, Jess Feehely (on leave from EDO Tasmania) spent 12 months with the Wantok Environment Centre in Vanuatu and Pepe Clarke started an 18 month placement as a Legal Officer for the IUCN in Fiji. In addition the EDO initiated a placement for Daniel King at the Community Legal Education Centre in Cambodia, and supported Gillian Duggin to take over from Cerin at CHRD, both of which will commence in 2007-2008.

IUCN

2006-2007 saw the commencement of the first IUCN Secretariat for the Oceania region, located in Suva, Fiji. The EDO supported this new office by facilitating the VIDA placement of Pepe Clarke as a Legal Officer with the Secretariat. The Australian network of Environmental Defender's Offices (ANEDO) applied for IUCN membership in 2006-2007, and EDO will continue to work with this important partner to build environmental legal capacity in the region.

Environmental Law Alliance Worldwide

EDO lawyers are active members of the Environmental Law Alliance Worldwide (E-LAW), an international network of public interest environmental lawyers. In February 2007, EDO Scientific Director, Tom Holden, attended the E-LAW annual meeting in Portland, Oregon on behalf of the EDO.

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

3. INDIGENOUS ENGAGEMENT

2006-2007 was an exciting year for the EDO with the commencement of the Indigenous Engagement Program funded by a grant from the Law and Justice Foundation. Neva Collings started work in

November 2006 as the EDO's first Aboriginal Liaison Officer.

The Program's key feature is *Caring for Country*, a project that focuses on improving the EDO's delivery of services to Aboriginal people, and which has three goals: to build better relationships with Aboriginal organisations, to publish a groundbreaking *Guide to Environmental Law for Aboriginal People in NSW* and to hold a number of workshops across NSW for Aboriginal communities.

An Aboriginal Advisory Committee was established in early 2007, including representatives from the NSW Aboriginal Land Council, the Aboriginal Legal Service, Native Title Services and the Department of Aboriginal Affairs. It is anticipated that the Guide will be launched in late 2007.

Caring for Country demonstrates the EDO's commitment to environmental justice, recognising the particular and often unique environmental legal challenges that Aboriginal communities face.

4. CULTURALLY AND LINGUISTICALLY DIVERSE OUTREACH

The EDO approaches its various programs with the intention of assisting a wide cross-section of individuals and groups. However, certain groups are



underrepresented in EDO programs, particularly those from non-English speaking backgrounds.

The Office has made concerted efforts over the past year to make our various services more accessible to people from linguistically diverse backgrounds.

In 2006-2007, the Office has:

- Updated contact details on promotional material and the website to include the number of the Translating and Interpreting Service so that people can call the EDO through this translation service.
- Budgeted for the cost of paying for calls that come through the Translating and Interpreting Service.
- Consulted with members of the Ethnic Communities Sustainable Living Project (ECSLP) on the best way to engage people from cultural and linguistically diverse backgrounds. The ECSLP is a NSW Government program that works with a range of targeted communities to develop and implement culturally appropriate environmental education programs.
- Presented an information session on the EDO and its various services to ECLSP bilingual educators so that they could pass the information on to their networks.
- Co-presented a bilingual pollution workshop for the Chinese

Community in Ashfield with the then Department of Environment and Conservation. Jeff Smith presented in English and Rachel Chan presented in Cantonese.

Multidisciplinary Office

Part 3A: A whole of office approach

In late 2005 the State government introduced a new Part 3A into the *NSW Environmental Planning and Assessment Act 1979* (the *EP&A Act 1979*). At the time, this planning reform was of great concern to the EDO as it had the stated objective of streamlining the approval process for large scale and high impact developments. The Minister was given broad discretionary powers to approve and assess large scale developments.

A close analysis of the amendments showed that the reforms were likely to severely curtail the ability of the community to participate in environmental decision-making. The types of decisions that were likely to result from such a pro-development planning process were also of significant concern to the Office.

In light of this, the EDO has placed strategic focus on matters arising out of the application of Part 3A. These reforms have been highly unpopular with the NSW public. Recognising this, the EDO has taken an active role in testing the reforms

and helping the community to do the same. This has required an 'all of office' response which highlights the truly multidisciplinary nature of the Office.

Over the past 12 months, the following action has been taken in relation to Part 3A

Legal Advice and Litigation

- Advice on the prospects of successfully challenging the Minister's decision to remove bus and bike lanes from the Cross City Tunnel project under Part 3A of the *EP&A Act 1979*.
- Several general written advices to a community groups about the operation and implications of Part 3A of the *EP&A Act 1979*.
- Commencement of litigation challenging the re-development of the Carlton and United Brewery site pursuant to approval of a concept plan under Part 3A.

Policy and Law Reform


- Submission on the proposed amendments to the *State Environmental Planning Policy (Major Projects)*.
- Advice to the Environment Liason Office on the *Environmental Planning Legislation Amendment Bill*.

Scientific and Technical Advice

- Review of environmental impact assessment documents relating to Anvil Hill, the Tugun Bypass and the Gerroa sand mine proposal, all Part 3A projects.

Community Legal Education

- Development of a webpage dedicated to Part 3A issues.
- Seminar on *Part 3A and the Public Interest*, with Council, development and conservation perspectives.
- Delivery of five workshops in both Sydney and rural and regional NSW on the planning reforms, with a focus on Part 3A.



National EDO Network

The Environmental Defender's Office (NSW) is one of nine EDO offices located across Australia. Collectively, these EDO offices are known as the Australian Network of Environmental Defender's Offices (ANEDO). ANEDO members share resources and ideas and meet annually. EDO NSW hosted the meeting in September 2006.

Green Office

The EDO has committed to reducing its greenhouse gas emissions. In the 2006-2007 financial year, the following steps were taken to move the Office towards carbon neutrality:

- The Office began purchasing accredited Green Power which sources electricity from renewable energy sources such as wind and solar; and
- The Office began offsetting all work-related travel. For example, all flight and car emissions were recorded and offset via an online organisation called 'Climatefriendly'.

Carbon neutrality is still a controversial topic but in its most simple form it involves offsetting carbon dioxide emissions. There are

various ways of recording and offsetting emissions, some of which are ineffective or counterproductive. Given this, the EDO engaged in significant research in an attempt to choose appropriate, effective and worthwhile methods.

Under the method chosen, staff log the distances they travel by car and air for work related purposes. Using an online tool, the EDO then calculates the amount of carbon dioxide released by such travel. A dollar amount is assigned to the total carbon dioxide emissions. Once a figure is arrived at for the year, the EDO 'offsets' its carbon emissions by paying Climatefriendly the appropriate amount. That amount is then invested by Climatefriendly into the renewable energy industry which creates a market for renewable products that do not release carbon dioxide.

Communications & Media

The media is important to the EDO as it provides an efficient and economical means of promoting both the Office and the issues we engage with. In 2006-2007 the EDO became involved in a number of matters that sparked media attention. In the process, the Office gained some widespread media coverage.

Examples of media coverage of EDO-run matters or EDO-related matters include:

- Stateline- 'Coal to Burn' (1 December 2006).
- The Sydney Morning Herald- 'King Coal Under Siege' (2-3 December 2006).
- The Sydney Morning Herald- 'Sartor Ponders the Court That Giveth and Taketh Away' (6 December 2006).
- The Australian- 'Activist Judge in Objection to Mine' (7 December 2006).
- The Australian- 'Editorial: Pie in the Sky on Coal' (7 December 2006).
- ABC Online- 'Land Council Takes Legal Action Over Mine Expansion' (8 January 2007).

- The Daily Telegraph- '\$2 billion Beer Battle: Sartor sued over brewery site approval' (9 March 2007).

- The Sydney Morning Herald- 'Sartor Offset Land Already Protected: Council Planner' (20 March 2007).

- The Sydney Morning Herald- 'Activist Takes on Sartor to Stall Coastal Housing Project' (28 March 2007).

- The Sydney Morning Herald- 'Court Battle to Get Grey Nurse Shark Off the Hook' (17 April 2007).

In the Northern Rivers Office, there was obviously a need to actively promote the new Office. A media strategy was a key part of this endeavour.

- Radio interview regarding the new EDO Office with ABC Northern Rivers (3 July 2006).

- Advertisement about EDO Northern Rivers in The Little Green Book published in The Northern Star (June 2006).

- Article in The Northern Rivers Echo (6 July 2006).

- Advertisement about a workshop in The Northern Star (11 July 2006).

- Article in the Byron Shire Echo (11 July 2006).

- Radio interview regarding the new Office BAYFM (12 July 2006).



- Advertisement about the Office launch in The Northern Rivers Echo (13 July 2006).
- Article in The Northern Rivers Echo (13 July 2006).
- Radio interview regarding the new Office with BAYFM (14 July 2006).
- Article in The Weekend Star (15 July 2006).
- News item about the Office launch on NBN TV News (15 July 2006).
- Article in The Northern Star (17 July 2006).
- Photos of the Office launch in The Northern Star (17 July 2006).
- Photos of the Office launch in The Northern Star (18 July 2006).
- Radio interview with Lismore Neighbourhood Radio 2NCR (29 July 2006).
- Article in the Richmond Landcare Newsletter (3 August 2006).
- Advertisement for the Byron planning reforms workshop in The Northern Star (10 August 2006).
- Article about the Byron planning reforms workshop in the Byron Shire Echo (15 August 2006).
- Radio interview about the Byron planning reforms workshop with BayFM (21 August 2006).
- Radio interview about the Byron planning reforms workshop with BayFM (22 August 2006).
- Radio interview about the Byron planning reforms workshop with BayFM (23 August 2006).
- Article about the EDO Northern Rivers in the Law Society Journal, Vol 44, No 8 (September 2006).
- Article about the EDO Northern Rivers in Tree Tops: Newsletter of Friends of the Koala Inc (September 2006).
- Article about the EDO Northern Rivers in the Farmer Bulletin (October 2006).
- Article in the Coffs Coast Advocate (12 October 2006).
- Interview in the Coffs Coast Advocate about logging at Corindi (19 October 2006).
- Interview with ABC radio regarding logging at Corindi (19 October 2006).
- Radio interview with Port Macquarie Radio regarding the Port Macquarie workshop (20 October 2006).
- Radio interview with Port Macquarie Radio regarding the Clybucca workshop (27 October 2006).
- Article about protected animals and plants in the Farmer Bulletin (November 2006).
- Article about land clearing in the Farmer Bulletin (December 2006).

- Article about macadamia farms in the Farmer Bulletin (January 2007).
- Article about koala protection in the Farmer Bulletin (February 2007).
- Television interview with NBN News about a Wooyung development proposal (9 February 2007).
- Radio interview with 2NCRFM regarding the launch of the EDO's publication - *Campaigner's Guide* (28 March 2007).
- Interviews with NBN News regarding the launch of the EDO's publication - *Campaigner's Guide* (31 March 2007).
- Article on dams in the Farmer Bulletin (April 2007).
- Radio interview with ABC Mid North Coast radio regarding Malcolm Turnbull's release of a report which included a plan to dam the Clarence River (13 April 2007).
- Article in the Coffs Coast Advocate about the Bellingen Rural Landholders workshop (21 April 2007).
- Article on land conservation in the Farmer Bulletin (May 2007).
- Article in the Precedent law journal on the EDO (May/June 2007).
- Interview with ABC radio on sea level rise (19 June 2007).
- Article in Nimbin Good Times Koala column about Koalas and Dogs (June 2007).
- Article in Tree Tops newsletter on the Companion Animals Act 1998 (June 2007).



EDO Clients

In 2006-2007, the EDO provided legal assistance to hundreds of clients, including a diverse range of individuals and community organisations. Organisations assisted by the EDO during the year and that have agreed to be published include:

Action for Council Truth Inc
Avoca Drive Action Committee
Ballina Climate Action Group
Blacktown and District Environment Group
Blue Mountains Conservation Society
Burrawang Coastal Club
Cape York Land Council
Caroona Coal Action Group Inc
Citizens Against Fluoridation Mid North Coast
Clarence Environment Centre
Climate Change Australia, Hastings Branch
Coast Watchers Association Incorporated
Evans Head Memorial Aerodrome Com Inc
Evans Head and District Water Committee
Foresters Bushrangers
Friends of Lindfield Inc
Friends of Ku-ring-gai Environment Inc (FOKE)
Greenpeace
Gumly Gumly Progress Association
Humane Society International
John Williams Neighbourhood Group
Lismore Legal Aid
Main Arm Residents Association
Narawallee Bushcare Group
Nature Conservation Council
Nimbin Residents Action Group
Pittwater Careel Bay Protection Association
Sandy Hearnes Action Group
Save Water Alliance
Sutherland Shire Environment Centre
Total Environment Centre
Wamberal Action Group
WATCH
West of the Ranges Landcare Group Inc
The Wilderness Society
Wooyung Action Group Inc
WWF - Australia

Staff Training & Development

All EDO staff members are allocated an annual fund to encourage them to undertake training and development courses. These courses improve the specific job skills of our staff and ensure that they keep abreast of the latest developments in the legal and environmental community. Staff have also participated in courses with a more diverse occupational health and personal development focus. This equips our staff with a broad skill base that facilitates their capacity to deliver high quality advice to the community.

In 2006-2007, EDO staff undertook a total of 75 training and development courses. These included external courses such as The Green Capital Debate; Practice Management; Annual Conference of the Ecological Societies of Australia and New Zealand; Conflict Management for Women; Expert Evidence in the Land and Environment Court; Climate Law Conference; First Aid; and a seminar on Class 1 proceedings. Additionally, the EDO hosted a number of in-house training seminars on advanced legal research, planning reforms, and occupational health and safety.

Acknowledgements

Volunteers

Every year, volunteers dedicate their personal time and resources to support the work of the EDO. In 2006-2007, our volunteer team generously contributed hundreds of hours of voluntary assistance, greatly enhancing the capacity of the Office to provide accurate and timely legal assistance. The EDO would like to thank the following volunteers from 2006-2007 for their commitment and hard work:

Odette Adams

Joy Albert

Kara Baker

Emily Besser

Jennifer Butler

Yvette Carr

Ron Carter

Justine Conaty

Melissa Cudzilo

Tim Dalton

Alice Drew

Emma Duignan

Aiden Fitzallen

Tess Fitzgerald

Lizzie Fuller

Taylor Gillespie

Jake Hennessey



Ramona Khodaverdian

Daniel King

Caroline Law

Brittany Lichtman

Ben Lipschitz

Elizabeth Lynch

Felicity Martin

Roland Miller McCall

Graeme Mills

Lachlan Nguyen

Adam O'Connor

Suzane Pippi

Alicia Powell

Benjamin Powell

Alex Pui

David Randle

Meryl Remedios

Nathalie Marina Romain

Wren Sainken

Tom Slocum

Kaspar Sollberger

Kenneth Ti

Frances Tse

Preethi Vallabhaneni

Cameron Weller

Elisabeth Young

Pro Bono Assistance

Legal

The legal community also lend invaluable support to the work

of the EDO, providing legal and advisory services for a reduced fee or, in many cases, for no charge.

The EDO is deeply grateful to the many barristers and solicitors for their ongoing commitment to the provision of pro bono assistance in public interest matters.

Scientific

Throughout the year the EDO regularly called upon the services of the Technical Advisory Panel and members of the Expert Register who provided pro bono advice on a range of scientific issues. The assistance of this group of scientists is invaluable to the work of the EDO.

Donors

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

Steve Allen

Geoffrey Ball

Chris Bennet

Steve Bolt

Alison Buchanan

Louise Byrne



Acknowledgements

Susan Caffin

Kirsten Cameron

Ian Cohen

Andrew Cox

Coastwatchers Association

DLA Phillips Fox

Pia Dollmann

Professor DC Dunphy

John & Patricia Edwards

Carmel Flint

Mark Graham

Sylvia Hale

Jenny and Charlie Handley

Murray Hogarth

Professor Michael Jeffrey QC

Robert Kinnane

Andrew Kelly

Judy Lambert

KA & BM Maher

Jonathon Milford

Jennifer Neilsen

Mary Newlinds

Nicola McIntyre

Tony Moody

Katherine O'Bryan

Oatley Flora and Fauna

Conservation

Jill Pain

Warwick Pearse

Angela Pollard

David Randle

Professor Patricia Ryan

Susan Robertson

Nicole Rogers

Susie Russell

James Ryan

Step Inc

Kate Smillie

Ann Smith

Mark Stables

Richard Smyth

Gregston Terrill

James Tender

Total Computer Solutions

John Weate

Michael Wood

Hal Wootten

Young and Wood

EDO People

Staff

At 30 June 2007, the staff of the EDO comprised:

Director

Jeff Smith

Principal Solicitor

Kirsty Ruddock

Senior Solicitors

Jessica Wood (Northern Rivers)

Ian Ratcliff

Josie Walker

Solicitors

Jacque Svenson

Sue Higginson (Northern Rivers)

Policy Director

Rachel Walmsley

Policy Officer

Robert Ghanem

Scientific Director

Tom Holden

Scientific Officer

Louisa Rochford

Programs Director

Andrew Burke

Aboriginal Liaison Officer

Neva Collings

Education Officer

Jemilah Hallinan

Education Assistant

Tisha Dejmanee

Operations Manager

Lesley Harris

IT Administrator

John Scanlan

Administrative Assistant

Diana Beaton

Book Keeper

Margaret Jones

During the past twelve months, increased funding received from the Public Purpose Fund has provided the opportunity for the EDO to create five new positions which strengthens the multi-disciplinary approach of the Office. New positions include two additional Solicitors for the Northern Rivers Office, a Policy Officer, a Scientific Officer and an Education Officer. Additional funding has also been granted from the Law and Justice Foundation to fund a part time Aboriginal Liaison Officer, with a role to promote indigenous involvement in the protection of the environment.

Kirsty Ruddock replaced Ilona Millar as Principal Solicitor; Programs Director Andrew Burke replaced Pepe Clarke, Lesley Harris replaced Matt Ridley as the Administration Manager and Julie Stokes, Receptionist was replaced by Diana Beaton.

Increase to staffing levels has also resulted in a reclassification of positions, where in the area of Policy, Science and Programs, new Director positions were created. In the Administration area, the title

of Administration Manager has been changed to Operations Manager, to more fully reflect the responsibilities of the position.

The EDO engaged three legal interns during the reporting period. Emily Besser, Daniel King and Frances Tse all joined the EDO as volunteers. They each proved to be so capable and committed that their services were retained on a semi-permanent basis.

Cameron Weller was our scientific intern. Like the legal interns, Cameron started out as a volunteer and was retained on a short term contract to assist the Science Director.

Board of Management

The EDO is a non-profit company limited by guarantee and its volunteer Board provides strategic direction and assistance to staff. The Board is elected at each annual general meeting. Board members attend six-weekly meetings, annual policy days and some community education events, and make a major contribution to the work of the Office, guiding its strategic development and devoting considerable time and expertise to the work.

2006-2007 saw few changes to the Board, with the majority of Board members continuing on, thus giving the EDO the benefit of consistency. We thank all on the Board for their ongoing contribution and commitment.

The Patron of the EDO is Mr Hal Wootten AC QC.

At 30 June 2007, the EDO Board comprised:

Chair

Andrew Chalk

Partner, Chalk & Fitzgerald Lawyers

Vice-Chair

Bruce Woolf

Partner, Woolf Associates

Secretary

Barbara Adams

Planner, Woollahra Council

Treasurer

Nicola McIntyre

Andrew Cox

Executive Officer, National Parks Association of NSW

Cate Faehrmann

Executive Director, Nature Conservation Council of NSW

Murray Hogarth

Managing Partner, ECOS Strategy

Frank Hubbard

Director Corporate Sustainability, Intercontinental Hotel Group ANZSP

Professor Michael Jeffery QC

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

Warwick Pearse

Manager OH&S Systems, Department of Ageing Disability and Home Care NSW (DADHC)



Funding & Financial Report

Funding

During 2006-2007 the EDO experienced a significant increase to funding due to the approval of a \$3.36 million grant to be received from the Public Purpose Fund over a three year period from 1 July 2006 to June 2009. The increase has given the EDO a great opportunity to increase staff levels in order to facilitate plans for a multi-disciplinary Office and move into premises to accommodate more staff. The EDO has adapted well to a higher number of staff and continues to review and implement strategies to ensure we take advantage of the broad knowledge and skill set our employees have to offer.

In addition to increased staff levels at the Sydney Office, services have been expanded to rural and regional areas, particularly in the Northern Rivers region due to the establishment of a pilot Office at Lismore. The Office has been staffed by two solicitors who have carried out a variety of activities including community education and legal advice to local community members.

Commonwealth and NSW State Government funding remains static, however contributes to the continuation of the EDO's work in administrative and educational activities.

Generated Income

Income from operating activities including education and legal

operations as well as interest, donations and sundries amounted to \$179,595 compared to \$196,924 in the previous year.

Litigation Restriction

As is the case for all the EDOs in Australia, the funding received from the Commonwealth Government continues to be the subject of a 'no-litigation' condition, namely, that it is not to be used to undertake litigation or litigation related activities. In the year under review Commonwealth funding amounted to \$86,945 or just over 5% of overall revenue.

Financial Performance

During the past 12 months the Board has continued to receive monthly summaries of expenditure compared to budget. More detailed reports are provided and regularly analysed by the Treasurer. Two reviews have taken place during the year to ensure costs were being contained close to budget expectations, one at mid year and one in March 2007, in anticipation of the end of the financial year. The EDO has taken a conservative approach to expenditure that has resulted in total expenditure being approximately \$28,000 below budgeted estimates.

Lower than anticipated expenditure coupled with an additional grant received for administration and MacArthur funding that relates to the previous and next financial year have resulted in a surplus of \$85,471. This surplus is welcome after the deficit experienced last financial year.

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2007

	2007 (\$)	2006 (\$)
CURRENT ASSETS		
Cash and Cash Equivalents	484,693	61,553
Trade and Other Receivables	123,367	270,546
Other Current Assets	32,206	55,988
TOTAL CURRENT ASSETS	640,266	388,087
NON CURRENT ASSETS		
Property, Plant & Equipment	55,559	69,619
TOTAL NON CURRENT ASSETS	55,559	69,619
TOTAL ASSETS	695,825	457,706
CURRENT LIABILITIES		
Trade and Other Payables	123,548	13,268
Short Term Provisions	109,505	67,137
TOTAL CURRENT LIABILITIES	233,053	80,405
TOTAL LIABILITIES	233,053	80,405
NET ASSETS	462,772	377,301
EQUITY		
Reserves	110,000	110,000
Retained Earnings	352,772	267,301
TOTAL EQUITY	462,772	377,301

**SUMMARISED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2007**

	2007 (\$)	2006 (\$)
OPERATING REVENUE		
Conference and Publications	25,378	29,048
Fees	108,600	112,632
Grants	1,377,295	728,862
Interest	27,787	19,066
Donations	9,294	6,536
Other Income	19,541	28,908
MacArthur Income	98,248	88,857
Foreign Currency Gain	–	734
TOTAL REVENUE	1,666,143	1,014,643
OPERATING EXPENDITURES		
Salaries and Superannuation	1,140,235	694,226
Overheads, including Rent, Insurance and Depreciation	97,400	83,827
General Expenses, including Accountancy	104,213	50,236
Daily Expenses, including Post, Courier, Phone, Stationery	63,769	62,273
Other, including Training, Practicing Certificates, Bad Debts	70,716	56,098
Conferences and Publications	45,255	24,745
Foreign Currency Loss	3,771	–
MacArthur Expenses	55,313	94,969
TOTAL EXPENDITURES	1,580,672	1,066,374
OPERATING PROFIT/(LOSS) AFTER INCOME TAX	85,471	(51,731)

Independent Audit Report

Scope

We have audited the financial statements, being the Directors' Declaration, Income Statement, Balance Sheet, Statement of Cash Flows and notes to and forming part of the financial statements of the Environmental Defender's Office Limited for the year ended 30th June, 2007. The company's directors are responsible for the financial report. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of the company.

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

view which is consistent with our understanding of the Company's financial position and performance as represented by the results of their operations and its cash flows.

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

Independence

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

Audit Opinion

In our opinion,

(a) the financial report presents truly and fairly in accordance with the Corporations Act 2001, applicable Australian Accounting Standards and other mandatory professional reporting requirements the financial position of the company as at 30th June 2007, and the results of its operations and cash flows for the year then ended.

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

LITTLEWOODS

Chartered Accountants

A. Reisen C.A.
Registered Company Auditor
Level 2, 89 York Street,
Sydney NSW 2000

Dated this 11th day of October, 2007.



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