



Environmental
Defenders Office

Impact Report

2019/2020



An aerial photograph of a long, straight red dirt road stretching from the foreground into the distance. The road is flanked by sparse, low-lying green shrubs and bushes on a reddish-brown soil. In the far distance, a flat horizon line is visible under a vast, cloudy sky. The clouds are soft and grey, suggesting an overcast day. The overall scene is a typical Australian outback landscape.

Acknowledgement of Country

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

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Our Vision

Our vision is a world where nature thrives; where robust laws protect our plants, animals and climate; and where communities across Australia are empowered to fight for environmental justice.



A New Era for EDO



Dear friends,

Uniquely, this report spans a year in which the organisation transformed itself. At its beginning there were eight Environmental Defenders Offices and now there is one. A single Environmental

Defenders Office (**EDO**) dedicated to protecting the Australia-Pacific region by delivering legal solutions for peoples, nature and our climate. All of us are exceedingly proud of this achievement.

I began as the CEO of the EDO in September 2019. This then is my first message to our friends, supporters, and clients right across Australia and the Pacific Region. It is a strange message to write too, given the year it has been. To say it has been a turbulent year would understate it.

The first nine months of this year were focused on completing the merger, building our fledgling team and undertaking the processes to bring us all together. Of course, all the while continuing to deliver best-in-class legal services. That work was done against the backdrop of the worst fires in living memory and the third bleaching of the Great Barrier Reef. We were all affected in varying degrees by these profound events, which brought home the importance of our work.

Then, in March, the Covid-19 pandemic closed our offices as well as schools and childcare centres and confined many of our staff to home. In a supremely stressful time, I am so proud of how the EDO responded. Our new team banded together. We became stronger and more resilient in the face of the crisis. Though it all it became clear that looking after one another must be a hallmark of our organisation.

The year is difficult to summarise, but there are four key themes I have in mind as we look to confront the challenges of the future.

Our legal expertise continues to set us apart.

A key imperative for the merger was the ongoing focus on our unique value proposition, the legal experts in our region, in our field. This year we again delivered extraordinary impact, bringing and winning landmark cases, educating communities, and putting forward the innovative legal thinking.

Our underlying strength is derived from both our new approach and our shared 35-year history.

We have deep connections to the community, we have a reputation built on excellence and impact, we have a network of experts and barristers willing to give their time and expertise to our clients' causes and we have elite lawyers. The merger provides the right framework to build upon these strengths. During this year, we have begun building the elements of a modern EDO. We've established a leading fundraising, communications and marketing team capable of telling the stories we need to. We've started building best-practice technology integrations. Above all, we are emphasising the importance of investing in both our people and our processes across the board.

New partnerships will be crucial to our future success.

The EDO operates in a rapidly changing context, particularly in the climate space. As more and more organisations, businesses and individuals become concerned with the climate's current trajectory, there are exciting opportunities for the EDO to work differently, with new faces and engage in partnerships of impact.

We need to focus our energies and choose

where we want to have impact. I like the concept that a not-for-profit's success hinges on making deliberate choices about which balls to drop. When everything is important and pressing, it is easy to be distracted. Time is our most precious and easily wasted resource, and with so many issues we could address, it is easy to spread ourselves too thinly, compromising our impact in the process. If we

are to contribute as substantially as we can to our vision of **a world where nature thrives**, we must be focused and resolved to make hard decisions about what we do and don't do. Our new Strategic Plan and organisational restructure set us up to make these difficult decisions and prioritise our work. Working with the board and our staff to realise our new strategic plan and undergo the restructure to deliver it, has been a great privilege. Our plan sets our focus, it reflects our desire to work more closely and respectfully with First Nations and Indigenous peoples and commits us to being a more diverse, equitable, inclusive, and just organisation. It has been a lot of work and we can be rightly proud of where we land at the end of this financial year.

2019/20 was our formative year and we certainly did not plan for the year it turned out to be. What we did do, however, was to set out to build a great organisation. Fortunately, you, our supporters, saw that vision too. You have supported us with your time, your money, your expertise. You have inspired us with your dedication, commitment, and resolve.

Despite the challenges we've experienced, and those which loom large ahead, I am confident the EDO is well placed to play a crucial role in the response to the ecological and climate crisis in the decades ahead and we are building the organisation to ensure that it does.

Stay safe and well, my best



David

“What David, his board and his management team have achieved in the last 12 months has been amazing. As we know, Australia's environmental laws are largely inadequate and often poorly enforced. It was clear to me that if we were ever to better protect our environment and stem the loss of biodiversity we needed a stronger voice. We needed ONE EDO. I was convinced that by eight state and territory organisations coming together it would make for a more robust organisation and, from a funder's perspective, a chance to make 1 plus 1 equal 3! This was a compelling story to take to funders, underpinned by a clear strategy and committed management and board.

The coming together of ONE EDO is a great success and one of the most important stories in the environmental space over the past decade. I am honoured to be part of this and will continue to encourage other funders, large or small, to join me in ensuring a financially strong Environmental Defenders Office. We need it now more than ever.”

Rob Purves AM,
Director Purves Environmental Fund



A Word from the Chair



I wish to start by paying my respects to First Nations peoples and, in particular, elders past, present, and emerging. I specifically wish to acknowledge the Yuin people and their country, which is where I live.

What an extraordinary 12 months it has been!

After four years of preparation, and on the back of years of conversations, eight state-based EDO offices joined together to become ONE EDO. Our ability to execute this merger so successfully in the midst of the climate chaos of the summer we just had, only to be trumped in disruption by the pandemic we are still living through, is thanks to the hard work and good will of each individual management committee, the professional approach of the new skills-based board, the skill and commitment of the staff, the support of donors and most importantly, the leadership and vision of our new national CEO, David Morris.

While there are many achievements which you will read about in this report, I would like to highlight two areas of specific focus by the board:

1. **Financial security:** Our goal to achieve financially security as a national entity included an audacious goal to become, within 3 years, an \$8m + p.a. revenue organisation. We concluded 2019/20 with revenue of \$6.9m. I would specifically like to thank our generous funders, large and small, who have backed the vision of ONE EDO. We are off to a very good start.

2. **Building organisational and leadership capacity:** Coming together gave us an opportunity to build on the strengths of individuals within existing offices, grow organisational capacity - particularly in the smaller regional offices - provide career path opportunities for existing staff and attract exceptionally talented individuals to new roles. As you will read about in more detail in the report, this has been a key achievement of our first 12 months.

I would like to conclude by thanking the board of EDO Limited for their tireless work this year and for the faith they have placed in me as Chair. I would also like to acknowledge the extraordinary contribution and leadership of David Morris our CEO. Finally - our EDO staff. Thank you for embracing a national vision and for continuing to deliver such important outcomes for the environment while coping with the inherent uncertainty a merger brings. Doing this through bushfires, drought, and now Covid -19 is an experience I am sure we all look forward to putting behind us.

Dr Bronwyn Darlington
EDO Limited Chair



Challenges and Opportunities

This was a year of unprecedented financial challenges for EDO. In May, we learned that the NSW Public Purpose Fund (PPF) would, for the first time, not be supporting our work in 2021. The loss of this support was a significant blow, which came as our new national organisation was still taking shape.

However, with unprecedented challenges come incredible opportunities and we are grateful to the donors who have stepped in to support EDO in the coming financial year. As we move forward, we do so with greater financial independence. This makes us more resilient and helps to ensure that we can continue to deliver world-leading environmental legal services and outcomes for all Australians.



Safe Climate

Millions of Australians felt the impacts of the climate crisis first-hand this year. From the months-long bushfire disaster to the devastating big dry along the Murray-Darling Basin, the effects of a warming planet have never been more apparent.

Our legal experts are taking bold, groundbreaking action to address the causes of climate change here and around the world. As a new national organisation, EDO is in a unique position to lead on the pursuit of climate justice.



Challenging Clive Palmer's Mine Over Human Rights Impacts

In May, we launched Australia's first challenge to a coal mine on human rights grounds, arguing on behalf of our clients Youth Verdict Ltd and The Bimblebox Alliance Inc that the climate impacts from Clive Palmer's Galilee Coal Project limit the human rights of young people in Queensland as well as threatening the existence of the Bimblebox Nature Reserve.

Youth Verdict is a diverse group of young Queenslanders. They argue that the mine will breach their human rights including the right to life and the rights of the child. Indigenous members of the group argue the mine impacts their right to culture.

The Bimblebox Alliance are landholders from the Galilee Basin, who have been opposing the mine for more than a decade. They are fighting to protect the Bimblebox Nature Refuge - an almost 8,000-hectare woodland property that's home to dozens of species of native plants and animals, including vulnerable species.

This historic case is expected to be heard in May 2021.

Top left: Mel McAuliffe of Youth Verdict outside court.
 Middle, top: Galilee Coal Project Briana Collins and Sean Ryan visit Brimblebox Nature Refuge. Middle, bottom: Bird at Brimblebox Nature Refuge, Queensland.
 Top right: Bylong Valley sign.



“The judgment allowing BVPA to join the appeal has significantly improved access to justice through recognising the important role public interest objectors play in the legal framework. It sets a strong precedent for the rights of public interest objectors to participate in judicial review litigation.”

Special Counsel Rana Koroglu

Massive Bylong Valley Mine Refused

In September 2019, our clients the Bylong Valley Protection Alliance (BVPA) had a significant win, when the NSW Independent Planning Commission (IPC) refused a major new coal mine in their community, in part because of the climate impacts. The Bylong Coal Project is a proposed 6.5 million tonnes-per-year open-cut and underground coal mine which would remove 400 hectares of the state’s most productive agricultural land.

Throughout the four-year assessment, the EDO had retained independent experts on behalf of the BVPA, who provided evidence to the IPC on the adverse environmental impacts. The IPC’s decision also built on our historic Rocky Hill win earlier in 2019.

In December 2019, the Korean mining company KEPCO launched an appeal against the IPC’s refusal. The EDO, representing BVPA, applied to join the proceedings in February 2020. The IPC declined to take an active role in the legal proceedings.

In April 2020, we won the application to join the court proceedings. The Court found that there was a public interest in having a contradictor that was able to respond to KEPCO’s contentions. This is the first time that a public interest objector has been able to join judicial review proceedings to defend a consent authority’s refusal of a project.



EDO Supports Communities After Our Black Summer of Bushfires

The spring and summer of 2019/20 brought an unimaginable bushfire disaster to dozens of communities around Australia. Large swathes of bushland were razed - from the Sunshine Coast to Kangaroo Island and all down the NSW coast to Gippsland in Victoria. Our cities were shrouded in acrid smoke, while an estimated three billion animals were affected.

The EDO stands with bushfire-affected communities. A disaster of this scale calls for a robust legal response to protect what's left of our plants, animals and landscapes and to address the key driver of these intense fires – climate change.

Bushfire Survivors v Environmental Protection Authority

Few areas of the NSW coast were spared by the fire season that began in August 2019 in some parts of the state. And yet the agency charged with protecting the environment in New South Wales does not have a policy that addresses climate change and does not currently regulate the state's greenhouse gas emissions as a form of air pollution and waste.

In April, the Environmental Defenders Office took legal action against the EPA on behalf of the Bushfire Survivors for Climate Action group to encourage and, if necessary, compel the EPA to develop policies and guidelines to regulate greenhouse gas emissions and ensure a safe climate.

The EPA has the power to create Protection of the Environment Policies, issue licenses to control pollution, as well as putting caps and prices on substances which are harmful to the environment.

EDO will argue that the agency is not only explicitly empowered by its legislation to take strong action on climate by controlling the emission of greenhouse gases, it is also required to do this under its own laws.

It's a case with the potential to help our communities emerge from the current COVID-19 crisis stronger, smarter, and more resilient to catastrophic climate change.



Far Left: A lone Australian Rural Firefighter observes the damage caused by bushfires in Queensland.
 Middle, top: A burnt tree flourishing with new growth after bush fires. Middle, bottom: Bushfire survivor, Jo Dodds.
 Left: Mount Solitary on fire with apocalyptic smoke plumes billowing up into the air and settling in the valley.

Protecting Unburnt Habitat at Manyana

EDO assisted the Manyana Matters Environmental Association in its efforts to protect one of the last pieces of unburnt bushland in Manyana on the NSW South Coast from a residential development.

After launching proceedings in the Federal Court our client was successful in securing a voluntary undertaking from the proponent, OzyHomes, to give two weeks' notice prior to commencing any work.

The proposed development was then referred by the proponent to the Federal Environmental Minister who decided the development required assessment under the EPBC Act for its impacts on threatened species.

Bushfire Royal Commission

The Royal Commission into National Natural Disaster Arrangements (known as the Bushfire Royal Commission) was established in February 2020 and received more than 1,700 public submissions.

EDO's submission considers national climate and environment legal frameworks, and makes recommendations for strengthened, ecologically sustainable, science-based laws, regulations and strategies to protect life and property and the environment from the impacts of bushfires and other natural disasters.

NSW Bushfire Inquiry

In April 2020, EDO lodged a submission to the NSW Bushfire Inquiry.

We focused on the key environmental drivers of bushfires, principally climate change, and how these should be addressed in ecologically sustainable, science-based laws, regulations and strategies to protect life and property and the environment from the impacts of bushfires.

“Bushfire Survivors for Climate Action has been really thrilled to work with the EDO on our landmark case against the EPA NSW. We work hard to make sure survivors’ voices are heard so that decision-makers and the public are aware of the real and terrible cost of climate change. Having the EDO on our side has increased our impact hugely.

We need urgent reductions in greenhouse gas emissions, to keep communities safer from bushfires. This case has attracted worldwide attention. And with the help of the EDO’s policy team we’re not just holding the EPA to account, we’re providing policy directions towards a safer future. In both these ways, the EDO is helping Bushfire Survivors for Climate Action protect Australians from worsening bushfire conditions.”

Jo Dodds, Bushfire Survivors for Climate Action

The Gas-led Covid-19 Recovery – A New Legal Fight for the Climate

All around Australia, communities are seeking advice and taking action to prevent the damaging impacts of a new wave of onshore and offshore gas extraction projects.

Now more than ever, these communities need your support to mount the strongest possible legal challenge to dangerous gas developments. As governments pin our futures on a gas-led Covid-19 recovery, your financial support can supercharge the legal line of defence against fossil fuel expansion.

The Community Says No to Narrabri

It's difficult to overstate the level of opposition to Santos' Narrabri Gas Project proposal – a CSG development on Gomeroi land and within the Pilliga State Forest in -western New South Wales.

The Narrabri Gas Project is one of the most contested in Australia, with around 23,000 public submissions made during the community consultation process, the vast majority of which opposed the project.

The \$3.6 billion project is proposed for an area known for its rich agricultural land. Santos sought approval for 850 wells to be located over 425 sites including part of the Pilliga Forest and grazing land. The project is expected to have a lifespan of 20-25 years.

The Environmental Defenders Office acts for the North West Alliance and its member groups who oppose the proposal. They argue that there is no demonstrated need for the project, that it's not in the public interest, and that the project is contrary to the principles of ecologically sustainable development.

On behalf of our clients, the EDO made a strong case against this development on three main grounds – its Groundwater, Climate and Ecological impacts. A public hearing is scheduled for July.



Fracking in the Northern Territory

This year we have continued to focus our efforts in the Northern Territory on the potential development of fracking in the Beetaloo sub-basin. We continued closely tracking the NT Government's implementation of the 135 recommendations made by the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, including through our participation in a Community and Business Reference Group, preparing multiple submissions on law and policy reforms and engaging directly with government departments. We have also provided advice and assistance to clients and community members concerned with environmental risks associated with the unconventional gas industry to help them understand and participate in regulatory and approvals processes, and to ensure compliance of gas companies and the NT government with the legal framework.

Burrup Hub LNG Project – WA

This year we continued to work closely with an NGO client to engage with multiple ongoing environmental assessment processes for a proposed major expansion of the LNG industry in WA's Pilbara region, known as the Burrup Hub Project. The project has raised major concerns as if it goes ahead, it will produce greenhouse gas emissions to rival Adani's Carmichael Mine. Aspects of this vast project also threaten the ancient Murujuga rock art of the Burrup Peninsula, which has been placed on the World Heritage register tentative list. Due to the scale and complexity of the proposal, the environmental assessment processes are ongoing and are expected to continue well into the next year.

At the same time, EDO and our clients advocated for the WA Environmental Protection Authority to update and strengthen its policy on the assessment of greenhouse gas emissions for significant projects. EDO is now working with our client to assess the EPA's application of its new policy to fossil fuel projects.

Left: A Santos gas site in northern NSW.



Fracking in Western Australia

We are providing ongoing assistance to WA community campaigners seeking to prevent destructive environmental impacts from onshore oil projects that use fracking. No fracking is currently taking place in Western Australia, but several areas are considered prospective by the oil and gas industry, and the year saw the lifting of a State Government moratorium on fracking in parts of the state.

EDO advises clients on the progress of the Government's implementation of its election commitments on fracking, which include the introduction of mandatory public environmental impact assessment, and veto rights for Native Title holders and private property owners.

EDO has also assisted fracking campaigners in making submissions to the environmental assessments of onshore oil production projects in areas the industry considers prospective, and which are therefore at risk of having fracking introduced at a later stage.

“Due to the recent trend for state and Federal governments to rush through environmental legislation, it has never been more important for the EDO to ensure that any legislation and/or guidelines are underpinned by best practice scientific methods and ESD principles.

“As an expert ecologist providing advice to the EDO, I was able to recommend how to apply scientific principles to bring the NT Government's Strategic Regional Environmental and Baseline Assessment guidelines into line with the intent of the Fracking Inquiry Panel, to ensure that regional assessments were comprehensive and representative both in terms of area covered and biota surveyed.”

Renata Bali, Director Ecosense Consulting

Climate Ready Planning Laws for NSW: Implications for current projects

In March 2019, EDO NSW released Climate ready planning law for NSW – Rocky Hill and beyond, a report that recommended changes to the NSW planning system to ensure we reduce further contributions to global greenhouse gas (GHG) emissions, and make preparations to live with the current and projected impacts of climate change. This follow-up report builds upon the reform work and discusses some key factors for consideration in decisions being made about new fossil fuel developments in NSW today. issues was no doubt a catalyst for these reforms.



Advocating for a Climate Change Act for the NT

Given the vulnerability of the Northern Territory to climate change and the serious impacts it will have on Territory communities, in particular remote First Nations communities, EDO has developed a comprehensive proposal for a Climate Change Act that we consider would play a vital role in supporting a climate justice approach. Our work culminated in our publication in June 2020 of our proposal for “A Climate Change Act for the Northern Territory”.

In our publication, we argue that failing to implement an adequate legal response to the serious and system-wide impacts of climate change will have far-reaching and long-term consequences for Territorians, as well as for the spectacular natural environment at the heart of the NT lifestyle and economy.

As part of our climate justice advocacy, we also attended two Climate Justice Forums, held in Darwin in September 2019 and in Alice Springs in April 2020. These forums have been focused on ensuring that traditional custodians and Aboriginal communities are at the centre of the NT’s responses to the complex challenges posed by climate change.

Gillian Duggin Managing Lawyer, Darwin

ACT Passes Climate Reforms

Significant new climate reforms in the ACT planning law are set to come into effect in July 2021. These require GHG emissions statements to be included in development applications for high-emitting developments. EDO advocated for these reforms.

Climate and Systemic Change

Our newly formed national Systemic Change team will split our climate work into two areas, Coal & Human Rights and Gas & Corporate.

By creating two focused teams we can continue to build on the 2019 Rocky Hill judgment - which took into account the emissions from Australian fossil fuels burned overseas – as well as develop new areas of climate litigation and advice work, including corporate and consumer law, and human rights.




EDO Lawyers Recognised for Climate Work

In April, EDO Special Counsel Brendan Dobbie, was recognised as 2021 Lawyer of the Year for his work in Climate Change Law in Sydney.

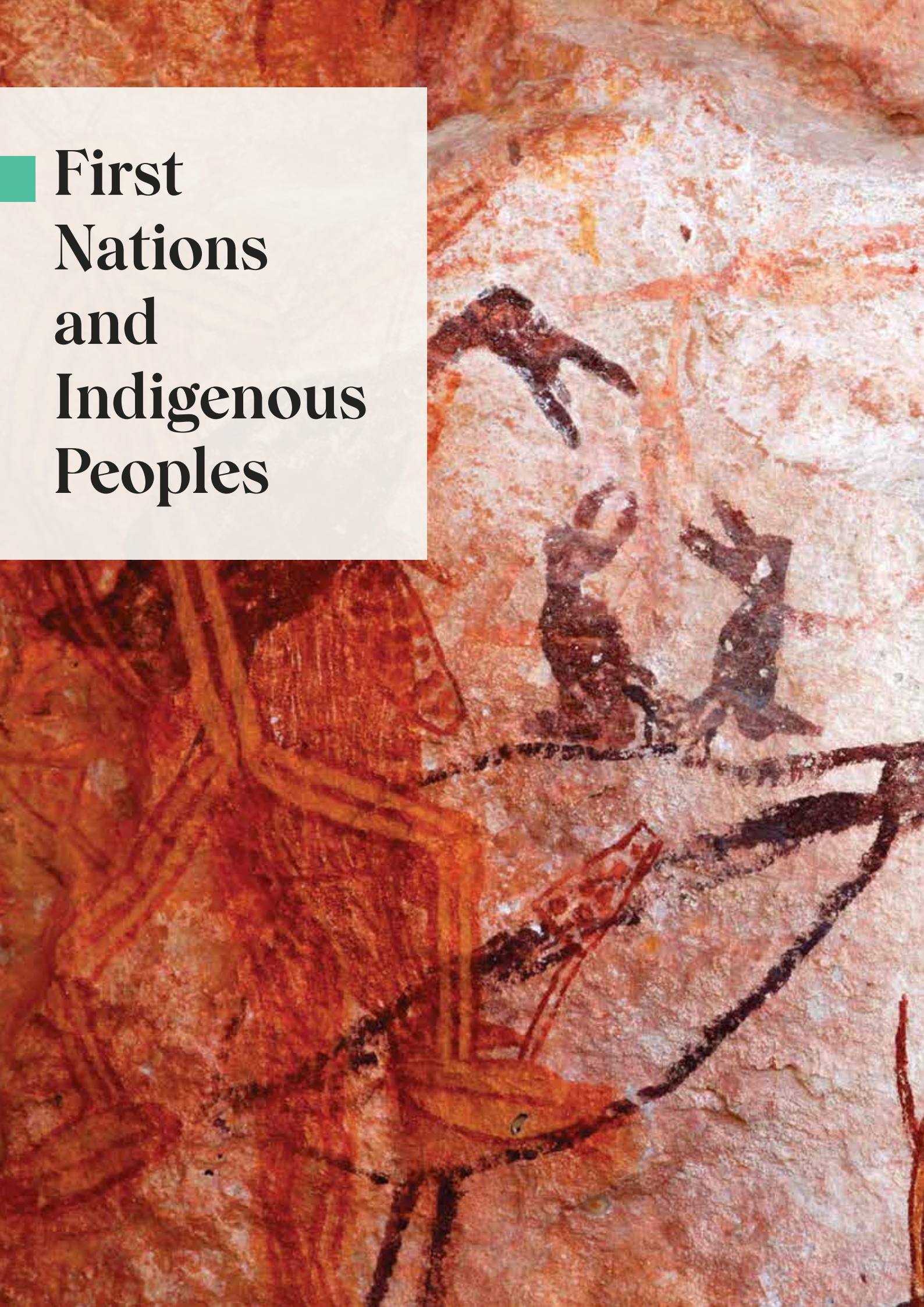
Brendan was honoured by Best Lawyers - the oldest and most respected peer-review publication in the legal profession.

Several other EDO lawyers were also named by Best Lawyers with Rachel Walmsley, Director Policy and Law Reform, Sydney, and Sean Ryan, Principal Solicitor, Brisbane, named in the Climate Change field, Special Counsel Emma Carmody listed in Water Law and Planning and Environmental Law, and Elaine Johnson, Principal Solicitor Sydney, and again Sean Ryan named Best Lawyers in Planning and Environmental Law.

Right: Lawyer of the Year, Brendan Dobbie.



First Nations and Indigenous Peoples



“The destruction of one of the Juukan caves in Western Australia’s Pilbara region by Rio Tinto is shocking, but not surprising. It is not Rio Tinto’s fault alone either. Their actions, which were immoral and lacked credibility, were condoned by the laws of Western Australia and not affected by the protections in Commonwealth law.

Unless things change, it will not be the last time Traditional Owners are left devastated and emotionally tormented when a place of immense significance is destroyed against their wishes.

Apologies cannot replace what is lost. We advocate for a better way to honour the things lost by reforming our national psyche, our laws and our values.”

EDO Director Joe Morrison

EDO CEO David Morris

Establishing a First Nations and Indigenous Peoples Program (FNIPP)

In May 2020, our National EDO Board endorsed a new national strategy for 2020-2023. Working and partnering with First Nations and Indigenous peoples in Australia and the Pacific was seen by both staff and directors to be a key aspect of the direction the organisation wants to take into the future. This was reflected in the strategic plan, which adopted the strategic goal to support First Nations and Indigenous peoples to protect their Country/Land, and centre understanding of and respect for their perspectives in our work.

This goal is supported by three strategic objectives. Firstly, to understand the Australia and Pacific region’s true history, First Nations’ sovereignty and the central role First Nations and Indigenous peoples play in the protection and restoration of nature. Secondly, to ensure staff have the necessary skills to assist and empower First Nations and Indigenous peoples to protect their Country/Land. Finally, to establish trusting relationships and long-term partnerships with First Nations and Indigenous peoples and organisations.

To facilitate this work, EDO is establishing a First Nations and Indigenous Peoples Program.

A First Nations and Indigenous People’s Working Group has been established and a consultant will be brought in to steer the development of the program and ensure its success. In the next financial year, we’ll be looking to fill the role of Director, First Nations and Indigenous Peoples, which will sit in the organisation’s Executive Team, and will be an Aboriginal and Torres Strait Islander identified position.

Traditional Custodians Oppose the Shenhua Watermark Mine

The legal battle over the Shenhua mine in north-western New South Wales highlights how our laws fail to provide adequate protection to important sites of Indigenous cultural heritage, effectively placing the fate of millennia-old cultural sites in the hands of a government minister, and pitting cultural heritage values against the desire for perceived economic gain.

The Shenhua Watermark coal mine is a huge \$1.2 billion project proposed for the Liverpool Plains, an area known for its rich, fertile black soil.

The site of Shenhua's proposed three open-cut pits are located on the ancestral lands of the Gomeroi peoples. The area includes irreplaceable Aboriginal cultural heritage such as large grinding groove sites, scarred trees and interlinked ceremonial corridors and sacred sites. The Shenhua Watermark mega-mine would destroy these places forever.

EDO's client is Veronica "Dolly" Talbott, a member of the Gomeroi Traditional Custodians. Dolly Talbott sued the Environment Minister in the Federal Court, alleging the Minister made an error of law in deciding not to make a declaration to protect the Aboriginal heritage.

Under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSHP Act), the Environment Minister has the power to protect an area of cultural heritage if the Minister is satisfied the area is of particular significance to Aboriginal peoples in accordance with Aboriginal tradition, and that the area is under threat of injury or desecration.

In July 2019, four years after the Gomeroi Traditional Custodians lodged their application, the Minister refused to make a declaration to protect the significant areas. This is despite her findings that the areas "retain immeasurable cultural values and connection to Country" and "are of particular significance to Aboriginal people." She also agreed that the Shenhua Watermark coal mine will destroy or desecrate the areas.

The Minister's decisions were made with the understanding that a declaration would stop the Shenhua Watermark coal mine from going ahead. She concluded that the economic and social benefits of the mine outweighed the loss of the immeasurable cultural heritage in the significant areas.

EDO represented Dolly Talbot in a Federal Court hearing in May 2020. The EDO is continuing to work with Dolly Talbott on behalf of the Gomeroi Traditional Custodians, to support her fight to protect their cultural sites from the mine.



An Innovative Wetland Restoration Project

EDO lawyers in Far North Queensland are working closely with our client Jarugun, a science-based Indigenous enterprise focusing on water quality and best farming practices to create training and employment for Traditional Owners. It's headed by a Traditional Owner and elder in the Babinda region of the Wet Tropics.

Jarugun has developed a whole-of-catchment wetland restoration program. This is the first such project in Queensland that has the support of all tiers of government, Traditional Owners, cane farmers, universities, scientists and the general community. The project is expected to have significant scientific benefits because, while the catchment covers around 0.17% of the whole Great Barrier Reef catchment, it currently produces an estimated 10% DIN (dissolved inorganic nitrogen), a significant contribution to GHG emissions and climate change.

As part of this partnership, EDO provides governance and legislative framework information and advice to Jarugun and liaises with government.



Left: EDO CEO working with a community member in the Gulf of Carpentaria. Above: Dolly Talbot and supporter outside court with EDO Lawyers Nadja Zimmerman and Brendan Dobbie.

Outreach on Fracking

This year, EDO lawyers travelled to the remote Northern Territory communities of Elliott and Borroloola to provide advice and support to First Nations communities in relation to fracking activities proposed in the Barkly and Gulf of Carpentaria regions in the Northern Territory.

McArthur River Mine

EDO also provided ongoing advice and representation, including through outreach in the remote town of Borroloola in the Gulf of Carpentaria, in relation to the ongoing operations of the controversial open cut McArthur River Mine.



"Jeannette and I are proud to support the EDO as a champion and defender of the environment.

"The EDO has shown itself to be courageous, determined and resourceful in presenting a strong voice to challenge those with vested interests in the destruction of Aboriginal cultural heritage and our fragile eco systems.

"As Australia faces a climate-related crisis, we need the EDO more than ever, to ensure that we do everything we can to protect Australia's unique environment for future generations."

Keith Ince

Biodiversity

Our vision is a world where nature thrives.

Independent Review of the EPBC Act

The 10-year statutory review of Australia's most important biodiversity legislation, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) began on 29 October 2019. This is a once-in-decade opportunity to consider how well the Act is operating and whether any changes should be made to better protect Australia's environmental values.

EDO met with independent reviewer Professor Graeme Samuel AC, and prepared a detailed submission outlining our vision for a new national Environment Act to effectively address the extinction and climate crisis.

Our expert submission debunked the myth of 'lawfare' and made 83 recommendations for reform, including for strong national leadership, new institutions, such as a National Environment Protection Authority (EPA) and a National Sustainability Commission, and for clear national environmental standards and processes to deliver environmental outcomes. We assisted numerous groups and community members to engage in the review through webinars, briefings and advice.

The Interim Report released in June 2020 confirmed the failings of the current Act and identified significant areas for reform, particularly noting the need for clear and enforceable national environmental standards to deliver environmental outcomes.

EDO was subsequently appointed to a Consultative Group to work with Professor Samuels on the key reform issues to be addressed in the Final Report which is due in October 2020.

The Legal Fight for the Bight

In February, our clients the Wilderness Society (South Australia) celebrated the news that Norwegian multinational Equinor had abandoned its plans to drill for oil in the Great Australian Bight.

It came after EDO's Federal Court action on behalf of The Wilderness Society SA to overturn the project's environmental approval, granted at the end of 2019 by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

The controversial project involved deepwater drilling to explore new oil reserves located under protected areas of the Bight off the coast of South Australia.

The pristine marine environment of the Bight is a haven for whales and dolphins, including the world's most important nursery for the endangered southern right whale.

Any oil spill as a result of drilling in the Bight would pose catastrophic risks to marine and coastal life across southern Australia.

Following this terrific result for our client, the case was discontinued.





“One critical aspect of ensuring the sustainable protection of Earth’s natural resources – including lands and waters, soils, ecosystems and species – lies in the law. Effective environmental laws represent an enduring way to assist in the prevention of environmental damage and create systemic change. The Ian Potter Foundation is pleased to support the merger of the eight regional Environmental Defenders Offices into a united national body, which is more strategic and sustainable, and therefore more effective in promoting the public interest and improved environmental outcomes through the informed use of the law.”

Mr Charles Goode AC,
Chair of The Ian Potter Foundation

Developing the Wilderness

Lake Malbena Heli-tourism

EDO has been representing clients in a number of cases over a proposed helicopter-accessed tourism development at Lake Malbena in the Tasmanian Wilderness World Heritage Area (TWWHA). These cases examine what role the public has in decisions about development of Tasmania's wild places.

Halls Island, is within Lake Malbena and the Walls of Jerusalem National Park – part of the TWWHA and the Tasmanian Wilderness National Heritage place.

The area, known for its wild rivers and lakes, remoteness, biodiversity, scenic beauty and cultural values, is popular with bushwalkers and anglers.

Wild Drake Pty Ltd proposes to use and develop Halls Island for luxury tourist accommodation, with guests accessing the site by helicopter.

In 2019, EDO successfully represented The Wilderness Society (Tasmania) Inc (TWS) in an application to the Federal Court challenging the Federal Government's decision that the development does not require a detailed assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act), the Federal environmental law. In remaking her decision in 2020, the Minister decided that the proposal does require an assessment under the EPBC Act and that assessment is presently underway.

In 2019, EDO represented TWS, the Tasmanian National Parks Association, and two individuals in the developer's appeal to the Resource Management and Planning Appeal Tribunal against the refusal of a planning permit. Our clients joined the appeal to argue that the Council's refusal of a permit should be upheld. After an intensive seven days of hearing, the Tribunal decided in December 2019 that a permit should be granted to the proposal.

In January 2020, EDO appealed against the Tribunal's decision on behalf of our clients to the Tasmanian Supreme Court. The appeal to the Supreme Court was limited to points of law.

Kur-world Discontinued

In a huge win for the north Queensland community, a massive 'eco-tourism' resort proposed for the Kuranda rainforest near Cairns was discontinued in December 2019.

The news followed over three years of community action to reject the highly inappropriate development in an extremely sensitive location adjacent to the Wet Tropics World Heritage Area.

EDO assisted the community in their objections, providing advice and sourcing expert evidence for submissions in the planning process.



Protecting Toondah Harbour

EDO has been working with the local community and environment groups since a large marina, retail, residential and tourist waterfront development at Toondah Harbour in Brisbane's Moreton Bay was first proposed in 2015.

Moreton Bay is an internationally significant wetland and a Ramsar site, protected under the EPBC Act. It is also habitat for many vulnerable species such as dugongs and turtles.

This year, we are acting for Redlands 2030 in the Queensland Civil and Administrative Tribunal seeking access to a key agreement between the State Government, the developer and Redland Council.

EDO is also advising clients about the ongoing Federal assessment of the project, various other approval processes and potential law reform to improve protection of the Ramsar site.

Kangaroo Island Tourism

In South Australia, EDO lawyers provided advice to members of the community concerned about the controversial tourism development in Flinders Chase National Park on Kangaroo Island. There are concerns the development could impact vulnerable native wildlife.

A New Environment Protection Act for the NT

This year has seen a hugely significant milestone in environmental law in the Northern Territory – the introduction of a new Environment Protection Act. The Environmental Defenders Office has been at the forefront of this work.

For almost 40 years, the principal Northern Territory law aimed at protecting the environment from the impacts of major development, including mines, was the *Environmental Assessment Act 1982* – a piece of legislation a mere six pages in length.

EDO has been involved in numerous projects over the years which illustrated the failure of the EA Act to operate as a proper safeguard against major environmental risks. These include the approval of the conversion of the controversial McArthur River Mine into an open cut mine, requiring the diversion of the McArthur River; the construction of Port Melville, off the coast of Darwin, and the approval of over 20,000ha of clearing of native vegetation at Maryfield Station without a proper environmental impact assessment, despite this clearing potentially amounting to 18.5% of the NT's annual greenhouse gas emissions.

Given this history, the EDO had long called for a complete overhaul of the failed system for environmental assessment and approval. Our work leading up to the passage of the new Act through the NT's parliament included three detailed written submissions on draft versions of the Bill and Regulations, and appearing at the Legislative Assembly's Scrutiny Committee hearing on the Bill. With many of our recommendations in place, the *Environment Protection Act 2019* was passed in September 2019 and commenced on 28 June 2020.



Maryfield Landclearing Win

In September 2019, the Northern Territory Supreme Court revoked a permit to clear more than 20,000 hectares of native vegetation at Maryfield Station, southeast of Katherine. This landmark decision came as a result of a powerful legal challenge by EDO on behalf of the Environment Centre NT.

In the case, EDO argued that the Northern Territory EPA failed to follow the requirements of its own Act and did not lawfully consider whether the land clearing would have a significant impact on the environment in terms of its contribution to greenhouse gas emissions.

This was the first case to challenge a land clearing approval on climate change grounds in the Northern Territory. It is also the first time the decision-making processes of the PLB and the NTEPA under this legislation have been challenged in the Northern Territory Supreme Court.

The Court found that the NTEPA had not made its decision lawfully. As a consequence, the permit for the clearing was set aside. Although the court did not address the climate change grounds in the judgment, the decision was very important in highlighting the poor decision-making processes of the NTEPA.



Reef Sharks Appeal

In September 2019, EDO secured a win in the Federal Court to stop the Queensland Government culling sharks in the Great Barrier Reef Marine Park.

Despite media reports playing on people's fear of sharks, our lawyers put forward an evidence-based defence of these iconic animals and the ecosystems they support.

The case questioned the use of baited drumlines to catch and kill 19 species of shark, in the World Heritage site. Since July 2016, at least 432 animals had drowned on the drumlines and at least 91 sharks were found alive and then shot dead by a contractor employed by the Queensland Government.

Acting for client Humane Society International – Australia (HSI), EDO first took the case to the Administrative Appeals Tribunal (AAT), challenging the Great Barrier Reef Marine Park Authority's decision to permit the state to continue its lethal control program for another 10 years.

In April 2019, the AAT found that the lethal component of the Shark Control Program does not reduce the risk to swimmers from sharks on the reef and that the killing of sharks caught on a drumline "should be a last resort, and not occur as a matter of practice".

The AAT also applied the precautionary principle in refusing to permit the lethal aspect of the program because of concerns that killing tiger sharks could have significant adverse impacts on the health of the reef.

The Queensland Government appealed against the decision. In September 2019, the Federal Court upheld the decision on every ground.

In December 2019, the Great Barrier Reef Marine Park Authority issued a new permit to the Queensland Government reflecting the orders made by the AAT.



Turtle Protection Appeal

In June 2020, two community groups secured improved conditions to protect endangered marine turtles from a development on Queensland's Sunshine Coast through court action.

EDO assisted one of those groups, the Sunshine Coast Environment Council, in a planning appeal against a controversial 2018 approval by the Sunshine Coast Regional Council for an intensive high-density mixed use-development in a sensitive beachside location at Yaroomba.

Spectacled Flying Foxes

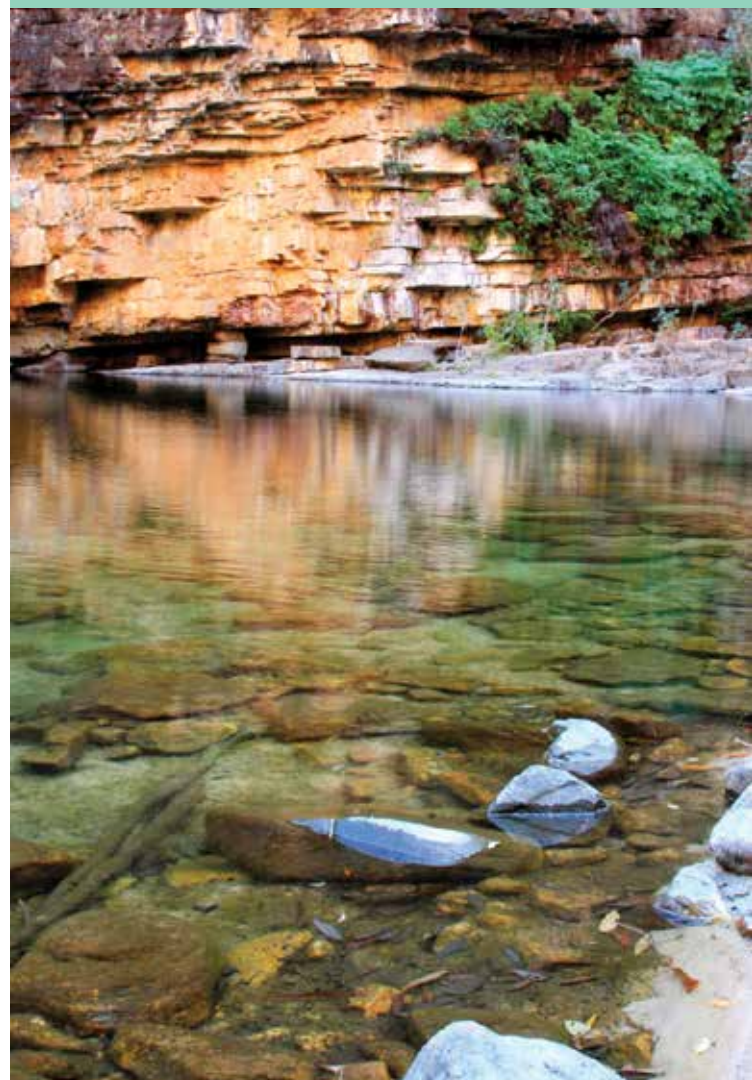
EDO has provided both legal and scientific advice to clients in Cairns who are working to prevent the eviction of the last roost of endangered spectacled flying foxes in the city.

These flying foxes are a keystone species that move tree seeds from one isolated patch of rainforest to another and serve as long-distance pollinators in the World Heritage-listed Wet Tropics.

In May, Cairns Regional Council secured permission under the EPBC Act to disperse the camp over a five-year period.

Wildlife Trade: Best Practice Provisions in National Law

EDO and Humane Society International released a report on the commercial trade in wild animals, which is a multibillion-dollar industry that threatens the survival of many species and results in the inhumane treatment of countless animals every year. The report proposes stronger measures for wildlife trade in Australia's legal regime to minimise these risks.



Left: The Maryfield landclearing case legal team with EDO Darwin Managing Lawyer Gillian Duggan (second from left).



Protecting Ningaloo Reef

We provided legal advice and support to a national environmental NGO with respect to a proposed oil pipeline manufacturing project at the ecologically sensitive Gulf of Exmouth, adjacent to the Ningaloo Reef World Heritage Area. If it goes ahead, the project will lead to large pipeline bundles being dragged through a humpback whale nursery and will facilitate the expansion of fossil fuel production off the WA coast, with attendant increases in greenhouse gas emissions. The Gulf, which remains in a largely natural state, is also threatened by other developments, including salt mining and limestone extraction proposals.

The pipeline manufacturing project is undergoing two simultaneous environmental assessments by the WA Environmental Protection Authority – one being an assessment of the project itself, the other being an assessment of a proposed change to the local planning framework to facilitate the project.

The WA Minister for Environment recently asked the Environmental Protection Authority to carry out a broader assessment of the cumulative environmental impacts of developments on the Gulf of Exmouth, leading to the postponement of the assessment of the pipeline manufacturing project for at least a year.



Protecting Tasmanian Devils in the Tarkine/ takanya

EDO has been representing the Tarkine National Coalition (TNC) over non-compliances at the Riley Creek hematite mine in Tasmania's takayna / Tarkine region.

Planning permission for Venture Minerals Ltd to operate the mine was granted in September 2013, while approval under the EPBC Act was granted in August 2013. The EPBC Act approval contains conditions including that Venture Minerals seek the Federal Environment Minister's further written agreement for commencement of the mine if it had not substantially commenced within five years, and requiring the company to pay money towards the Save the Tasmanian Devil program upon commencement.

The Riley Creek Mine went into care and maintenance in August 2014 after "operating" for a period of just three months.

In August 2019, Venture Minerals announced that it was intending to commence its mining activity, notwithstanding that its planning permit had arguably lapsed in September 2018 and that it was lacking the written agreement to commence from the Commonwealth Minister. At the same time, Venture Minerals proposed variations to its permit and approval so that it could transport ore at night, potentially putting endangered Tasmanian Devils at risk of becoming roadkill.

In December 2019, following representations made by EDO on behalf of the TNC, the Federal Government fined Venture Minerals \$25,200 for breaching its permit conditions relating to notification of commencement and failure to pay funds to the Save the Devil program. EDO is advising the TNC with respect to ongoing issues with the mine's operations.

Maules Creek Biodiversity Offsets Case

In April, we launched a legal challenge against the operator the Maules Creek mine for failing to secure thousands of hectares of biodiversity offsets near Narrabri in northern NSW.

The mine gained federal approval in 2013 on the condition that the company secure 5,532 hectares of biodiversity offsets to compensate for clearing a critically endangered ecological community, known as box gum grassy woodland. The operator, owned by Whitehaven, had until midnight on Tuesday 31 March 2020 to secure its offsets.

EDO brought action in the Federal Court on behalf of our client South East Forest Rescue (SEFR), seeking declarations that Whitehaven has breached, and will continue to breach, its federal approval conditions as well as orders requiring that the biodiversity offsets are secured and independently verified before further clearing goes ahead.

Shortly after filing these proceedings, we were advised that the Environment Minister had granted Whitehaven another 12 months to secure its offsets – the third time the approval has been varied in this way. The case continues as SEFR alleges that Whitehaven has failed to verify that its proposed offset areas will satisfy its offsetting requirements and that Whitehaven is proposing to contravene its offsetting conditions.



Illegal Timber Exports in Western Australia

In late 2019 EDO provided legal advice and support to clients investigating potentially illegal logging activities being carried out by a timber mill operator in WA's Southwest forests. Whistleblower reports and activist research had revealed that the mill operator was exporting unprocessed native timber, in apparent violation of State Government policy that requires the 'value-adding' of timber before export. With EDO's legal support, our client's advocacy to the WA Forest Products Commission and Minister for Forestry resulted in the mill operator being stripped of its contract for the harvest of native Marri timber.



Healthy Communities

EDO empowers people to use the law to protect Australia's unique wildlife and landscapes.

Acland Community Heads to the High Court

After a decade-long David and Goliath legal battle to protect pristine agricultural land and groundwater from a coal mine expansion, the Acland community was granted leave to appeal to the High Court in June, to ask for a Land Court hearing unclouded by questions of fairness.

EDO acts for the Oakey Coal Action Alliance a group of farmers and local people who oppose the revised Acland Stage 3 coal mine proposed by New Acland Coal. Our long-running legal fight is testament to the resilience of this community and its determination to seek justice.

The mine began operations in 2002, with Stage 2 of the project opening in 2006. However, the proposed Stage 3 expansion of the mine would swallow the town of Acland and impact surrounding farms. The area is known for having among the best 1.5% of agricultural land in Queensland.

After a lengthy hearing in the Land Court and a series of subsequent appeals, the original decision to reject the mine was found to have been affected by apprehended bias.

Usually a finding of apprehended bias would invalidate the whole judgement. However, on 1 November 2019, the Court of Appeal gave final orders in the case and chose not to set aside the original decision.

This throws into doubt a Land Court re-hearing of the noise arguments in the case, which was largely bound by the findings of the original Land Court decision – the judgement that has been found to be unfair.

In June 2020, EDO successfully obtained special leave for OCAA to appeal to the High Court, so that they can have clarity around the decision which has profound impacts on their homes and livelihoods and ensure they can have their day in court in a hearing that's not overshadowed by claims of bias and unfairness.

Separately, New Acland Coal has sought to liquidate OCAA over costs from a previous appeal. That case has been adjourned pending the High Court hearing.



Left: EDO Lawyers Andrew Kwan and Sean Ryan at the High Court in Canberra.





Citizen Representation Program

Our Citizen Representation Program expanded to Cairns in Far North Queensland in January 2020, providing legal support services in a region that's seen a significant increase in environmental protests in relation to Adani and the Galilee Basin.

In the expanded program's first months, an obvious highlight was a successful appeal against a harsh penalty handed down by the Magistrates Court for the new offence of 'Use Dangerous Attachment Device'. In that case, the District Court upheld our submission that the sentence imposed at first instance was unduly harsh and imposed a fine as a penalty, instead of imprisonment and the recording of a conviction.

In addition to running cases in Queensland and throughout New South Wales, the program also provided ongoing support and advice to environmental groups throughout Australia during the COVID-19 pandemic about permissible activities under public health laws.

Planning Reform in South Australia

Since 2014, the EDO has undertaken extensive advocacy work as the State Government has sought to roll out the largest ever planning changes in the state's history. There is a new Act, Regulations, Guidelines and critically a new Planning and Design Code which will apply to all development applications from 2021. In particular the EDO has commented on all phases of the reforms including the code and has assisted numerous clients with advice on technical changes and key policy such as climate change, environmental protection, built heritage and third-party rights.

Outreach, the First Line of Defence

Through our legal education program, our lawyers engage with communities to demystify the law by explaining in plain English the rights and obligations it creates, and the opportunities it provides to have a say. We focus on building the capacity of our clients to engage effectively in the environmental decisions that affect them and the places they love.

Our education lawyers are often the first point of contact a community group has with the EDO. Early engagement in an environmental issue can avoid the need for litigation by helping ensure environmental decisions benefit from the full range of views and community expertise. However, we also help prepare communities for litigation by informing them of the options available to review unfavourable decisions through the courts.

2019/20 posed some unique challenges and opportunities for the program. As travel was restricted, we moved our workshops and seminars online. We missed the travel and the face-to-face interaction with our clients, but we were able to engage a much wider audience through online delivery and we'll be maintaining a mix of delivery models into the future.



One of the highlights of the year was our seminar 'Environmental Justice Amid COVID 19' which explained the changes made to planning and environment laws across the country in response to COVID-19 as well as the effect of public health orders on the community's right to protest.

Before COVID restrictions locked us down, our lawyers in the NT travelled to remote Aboriginal communities to provide legal information and assistance with regards to CSG and proposed fracking of Country as well as the ongoing operations of the controversial McArthur River mine.

In NSW we continued our work with Tweed Valley clients who have been seeking to ensure greater regulatory oversight of the water bottling industry. Success came this year with the NSW Government approving changes to local planning laws that will prevent further expansion of the industry in the area.

In Queensland, our Citizen Representation Program delivered community legal education to community groups opposed to coal mining in the Gallilee basin to help them navigate their activities with more confidence.

Transparency in the NT

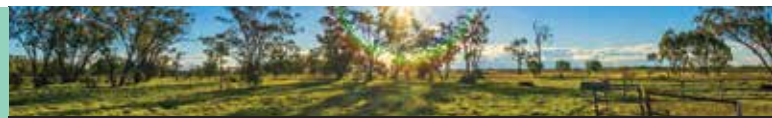
Given the serious lack of publicly available information about government decision-making and the regulation of major projects in the Northern Territory, throughout the 2019/20 year we have assisted many clients pursue greater transparency around environmental risks and impacts in their communities through freedom of information legislation. Focus areas have included the McArthur River Mine, petroleum activities in the Pedirka and Beetaloo Basins, and the proposed development of a space centre in East Arnhem Land. We have met and liaised with government departments and lodged a number of applications under both the Northern Territory and Commonwealth's freedom of information laws to assist our clients pursue vital access to information about these significant projects, in the face of industry and resources legislative frameworks that provide inadequate rights for the community to access critical information.

Below Left: Kurri Kurri outreach workshop.

What's Happening to Adelaide's Trees?

Environmental Defenders Office has contributed our law and policy reform expertise to a landmark report in an effort to reverse the alarming loss of Adelaide's significant and mature trees.

The June report from the Conservation Council of South Australia, with input from several other organisations, captures the latest data from across Adelaide's suburbs and highlights the dangers to wellbeing and the economy if the trend towards tree loss continues.



Right to Farm Bill 2019

This Bill was designed to regulate actions of animal activists but was poorly drafted and had implications for lawful protest on public land. EDO made a submission in October 2019 and gave expert evidence at a hearing on the existing laws of trespass and nuisance, and the Bill was subsequently amended to avoid unintended consequences.

Water

On our big dry continent, water is precious. EDO is a leading voice for water reform, empowering communities who rely on our rivers and groundwater to use the law to protect their water sources.

This year:

- Our work on the legality of NSW water-sharing plans gained significant media attention and prompted a public response by the Murray-Darling Basin Authority.
- We co-authored an article which found that the Australian Government's \$4 billion irrigation efficiency program for the Murray-Darling Basin (MDB) led to subsidised irrigators extracting up to 28 per cent more water.
- EDO lawyers continued efforts to ensure compliance with the law by water users in the Murray-Darling Basin, and the protection of the communities, species and ecosystems that depend on healthy rivers.

“Providing advice to EDO and their clients is very satisfying because I am able to apply theoretical concepts to real situations and serve the public good at the same time. In applying theory I often come to new realisations that enhances both my other research and my teaching.”

Dr Neil Perry, Senior Research Lecturer in Corporate Social Responsibility and Sustainability, UWS

“The EDO has been involved in high-profile work investigating core water governance issues in Australia. These include the metering and measurement of water, water accounting, and the regulatory framework surrounding irrigation modernisation subsidies totaling several billion dollars.

The work has included co-authorship of peer-reviewed journal articles which have gained national and international attention and contributed to ongoing scrutiny and understanding of fundamental water management issues.

As an indicator of our impact, some of this work has been featured by the World Economic Forum and now forms part of its Sustainable Development Impact Forum, which reaches millions around the globe.

These and other projects have been undertaken with an eye to building upon our groundbreaking investigative legal work which contributed to significant water reform in New South Wales, notably the creation of a new water regulator and stronger metering laws. These new laws will begin phased implementation from December 2020.

While we acknowledge and celebrate these outcomes, given the history of poor implementation of water laws in NSW and beyond, we remain vigilant and will continue to advocate for strong water governance across all Australian jurisdictions.”

EDO Special Counsel, Dr Emma Carmody



Below: Dr Emma Carmody with
Mayor of Brewarrina Phil O'Connor.

Adani Mine's Water Scheme Challenged

Amid one of the biggest environmental battles of our era – against Adani's Carmichael Coal Mine – EDO is representing clients challenging approvals for water infrastructure for the mine.

The federal assessment of the North Galilee Water Scheme (NGWS) did not apply the 'water trigger' under the EPBC Act, which was designed to assess significant water impacts of actions involving large coal mining developments.

On behalf of our client, the Australian Conservation Foundation, EDO argues that the water trigger should apply to the NGWS such that the impacts on matters of national environmental significance are fully assessed. The Federal Court heard the matter on 6 October 2020, with the parties to make further submissions before a decision.

EDO also represented ACF in related litigation against the NGWS that was successful in July 2019, but did not resolve the water trigger issue.

In that case, the Federal Environment Minister admitted the Federal Government failed to consider some of the thousands of valid public submissions about if, and how, Adani's project should be assessed – in breach of the EPBC Act.

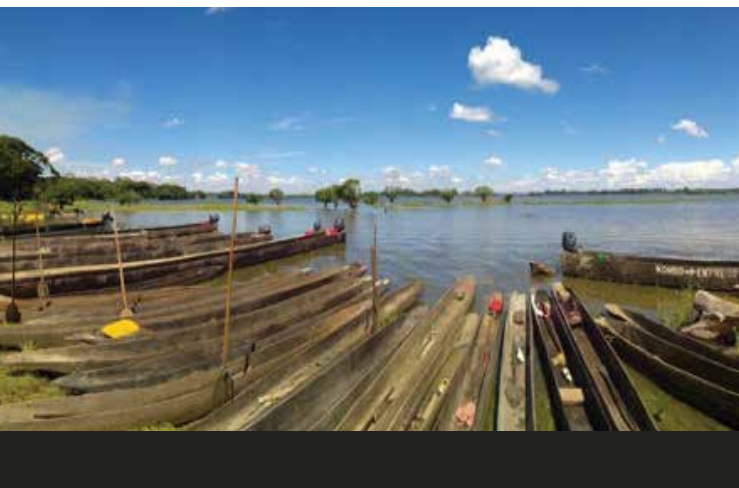
“The Australian Floodplain Association (AFA) formed in 2006 due to the concern of floodplain graziers in the Murray Darling and Lake Eyre Basins about the declining ecological health and productivity of floodplains. Government mismanagement coupled with unsustainable and sometimes illegal over-extraction for irrigation was the cause of this decline. The last 14 years has seen the AFA cement its place as a credible, fact driven peak body in the Murray Darling Basin water debate, offering governments an alternate agricultural community perspective to that of the irrigation industry. It would not have been possible to be so confidently positioned without the wonderful support provided by the Environmental Defenders Office, especially that of Dr Emma Carmody. The EDO has always provided valuable, timely, strategic, and highly professional legal advice to the AFA. It is an incredibly important support mechanism for community groups who elect to challenge government policy and decisions.”

The Australian Floodplain Association



International Program

Our International Program works to empower peoples across the Pacific region to use the law to protect the environment and communities. The program operates at the critical intersection of indigenous rights and environmental protection. We centre indigenous perspectives and rights as we build partnerships to protect human rights and the environment through the informed use of the law.



“We are very proud to be supporting EDO’s excellent work with local partners in PNG. Our collaborative efforts to protect the world’s third largest intact virgin rainforest is gaining momentum and EDO’s long standing partnerships and technical expertise is critical for our success.”

Aina Grodahl, Senior Advisor, PNG and Myanmar Program, Rainforest Foundation Norway

The Sepik, Papua New Guinea

In May 2020, 28 Haus Tambarans (Spirit Houses) of the Sepik River issued a declaration under the powers of the Supreme Sukundimi, the River God: that the Frieda River Mine is banned.

This Supreme Sukundimi Declaration, as it has become known, represents the voices of over 78,000 people who live along the eastern part of the Sepik River and rely upon it for their culture, life and livelihoods.

The Sepik River and its peoples is at risk from the Frieda River gold and copper mine (Mine), which is to be built near the head waters of the Sepik River and proposes a tailings dam 2.5 times of the size of Sydney Harbour. The Mine would be the largest in PNG’s history and one of the largest in the world. Waste from the proposed Mine would be stored in perpetuity in the tailings dam, located on the Frieda River (a tributary of the Sepik River) and in a seismically active area of PNG which is also prone to extreme rainfall.

The tailings dam is supposed to also function as a hydroelectric dam and this, and other associated infrastructure, such as roads, has been promoted by the investors as a wider nation building project. However, this claim does not hold up to scrutiny and, just like Ok Tedi, it is an ecological and human rights disaster waiting to happen.

To the Sepik communities, the River is life. As, Mr Emmanuel Peni, Coordinator of Project Sepik, says, “as custodians of the River, we take pride in it, we celebrate it and use it to live. The River gives us our identity, our culture and our spirituality. We may have cultural totems, such as the birds or parts of trees or the sky, or the lake, but all of that connects back to the River, it’s the main vein or the backbone that holds together all of those beliefs, ideas, expressed as cultural totems or expressions... The River is life. Kill the River, kill me.”

EDO’s International Program is proudly partnering with the Centre for Environmental Law and Community Rights (CELCOR), which is acting for



“The Sepik River is not ours. We are only vessels of the Sepik Spirit that dwells to protect it. We will guard it with our lives”

Supreme Sukundimi, the River God declaration by the Haus Tambaran of the Sepik River

Project Sepik and other representatives of the Sepik community. With CELCOR, we provide legal assistance to a coalition of local and international partners to raise the local peoples' legal concerns and rights with local and international bodies, including PNG's Conservation Environment Protection Authority (CEPA), the PNG Ombudsman Commission, and key United Nations Special Rapporteurs.

In March 2020, CELCOR and Project Sepik made comprehensive submissions to CEPA in relation to the deficiencies of the environmental impact statement for the Project. EDO supported its partners to obtain 10 independent expert reports in support of Project Sepik's submission. Of key concern is the risk of the tailings dam collapsing which would cause catastrophic loss of life and be a disaster to the unique and important ecology of the River and its surrounds. The other key concern is the lack of free, prior and informed consent of the local peoples living along the Sepik River.

EDO and partners are also investigating World Heritage Listing for the region and ways in which the cultural and spiritual significance of the River

can be recognised under PNG and international law through the exciting and emerging law on the rights of nature and the rights of indigenous peoples.

The Sepik River is the Amazon of our region. It is the largest unpolluted freshwater system in PNG and one of the largest and most intact freshwater basins in the Asia Pacific region. In 2006, the Upper Sepik River Basin was transitionally listed for World Heritage status by the PNG Government. The Sepik Region is rich in culture, a haven for biodiversity, and home to some of PNG's rarest plants and animals. The region is also connected to and part of PNG's largest rainforest which reaches into West Papua and is the third largest intact virgin rainforest in the world.

The region is relatively untouched by industrial development and its health is relied upon by the peoples who live there. It is under threat not only from the Frieda River Mine but from PNG's insatiable and destructive logging industry. EDO is proud to be part of the fight to protect the Sepik Region.

Logging PNG's Rainforest

PNG, home to the world's third largest intact virgin rainforest (after the Amazon and the Congo Basin), is currently the scene of the "greatest landgrab in modern history". This is resulting in an environmental crisis of global significance and an unfolding human rights tragedy. Nearly one-third of the land has been taken from traditional owners and placed in the hands of foreign corporations through large-scale land grabbing deals and concessions.

The narrative is often the same, foreign-owned logging companies convince a small group of customary landowners to allow lands to be logged on the promise of royalties and much needed services, like roads, schools and hospitals. The rest of their community who are also landowners are completely unaware of the logging project. Also, it often turns out that the small group of landowners who agreed to the project were not informed of the scale of the logging or its impacts on the environment. Once the logging takes place, their land is destroyed and wealth stolen, their rivers and drinking water are polluted with heavy oil from logging machinery, and barely a small fraction of the promised benefits, trickle down. Most logging projects take place under Government granted concessions but when scrutinised, usually lack free, prior and informed consent by landowners and often involve multiple human rights and other legal violations.

Logging impacts every PNG province. The Sepik Region (Sandaun and East Sepik Province) is connected to the world's third largest intact virgin rainforest and remains relatively unlogged. It is therefore a key priority area for protection. With the proposed Frieda River Mine, the remote and mountainous areas of the Sepik Region will be connected by newly constructed road to the north coast town of Vanimo. Construction of such roads will inevitably expose these pristine areas, some of the most remote and untouched areas of PNG, to logging risks.

EDO's International Program is working with CELCOR and partners to develop and implement legal strategies that are having broad ranging and systemic impacts to curb the ongoing human rights breaches and environmental destruction associated with logging activities.

“CELCOR has enjoyed a strong and respectful partnership with EDO since CELCOR's inception in 2011. Our teams have successfully worked together on some of the most significant environmental law matters in PNG, including the deep sea bed mining case. Our partnership only grows stronger as we continue our vital work to empower our communities to protect their culture, livelihoods and environment through the law.”

Peter Bosip, Executive Director, Centre for Environmental Law and Community Rights





“Wagina is our life”

Mr Tebukewa Mereki, Community leader,
Wagina Island

Wagina

In March 2019, our partners in Solomon Islands, the Landowners Advocacy Legal Support Unit (LALSU), made history and successfully argued for the decision of the Director of Environment’s decision to grant a development consent for a bauxite mine on Wagina Island to be overturned. The developer, which has Australian links, appealed the decision and with our assistance, LALSU lodged a rigorous response to the appeal and the community still awaits a decision.



UN Climate Summit

In September 2019, Fleur Ramsay, Special Counsel with the International Program, attended the UN Climate Summit in New York, to strategise with Pacific leaders and NGOs on legal avenues for addressing climate change. A range of legal actions are in development as a result of these discussions, including a proposal being spearheaded by Vanuatu, to request the International Court of Justice to provide an advisory opinion on state responsibility for climate change, including specific harms to Pacific Island states as a result of climate change. The ICJ is yet to consider the responsibility of states, such as Australia, to avoid dangerous climate change.



“Save Tuvalu, Save the World”

Enele Sopoaga, former Prime Minister
of Tuvalu

Above: EDO International Program Director BJ Kim provides advice to clients

Donor Acknowledgement

We can't do any of this without you

An enormous thank you for the outstanding support given by EDO's community of philanthropists. You've backed us through this challenging year and made it possible for EDO to launch world-leading litigation, design and advocate for best-practice environmental legislation and empower hundreds of clients to act to protect the places, plants and animals they love. Together with our brave clients, we make a significant difference for our climate, nature and future generations.

This is only possible because of your generous support. Words cannot express our heartfelt gratitude for your generous gifts.

Now, as One EDO and with the generous backing of our outstanding Philanthropic Community, EDO can tackle the biggest environmental crises facing our country and the Pacific. We look forward to continuing this journey with you and building on our success in the coming years.

Anna Kaemmerling and
Bryan Havenhand

Australian Communities
Foundation - the Keith and
Jeannette Ince sub fund

Wendy Bowman

Pam and Colin Brown

Tim Buckley

Carrawa Foundation

Center for Climate Integrity (CCI)
- InfluenceWatch

Amanda Cohn

Joan Staples and Barry Crisp

Debbie Dadon AM

Diversicon
Environmental Foundation

The Gary White Foundation

The Graeme Wood Foundation

Andrew Hall

Colin and Barbara Hindmarsh

The Morris Foundation

The Ian Potter Foundation

Josette Wunder

The Kimberley Foundation

The Kirby Foundation

Ross Knowles

Kristina Stefanova

The Lenko Family Foundation

GreenCollar Group

Geoffrey & Ann Long

Simon Niblock &
Prof Louise Maple-Brown

Peter and Kim Martin

McKinnon Family Foundation

Simon Monk

Morris Family Foundation

The Myer Foundation

Cynthia Nadai

Norman Family Foundation

The Norman Rothfield Peace
& Justice Fund

Vicki Olsson

The Orgill Family foundation

The Pace Foundation

Paddy Pallin Foundation Pty Ltd

Carolyn Ridge and Philip Bragg

Purves Environment Fund

Raymond E. Purves Foundation

Rebecca Gorman and
John Sevier

Anne Reeves

Ryan Cooper Family Foundation

Seeds for Life Fund

The SM Robinson PAF

Brian Snape AM

Tertini Charitable Foundation

Jeff and Julie Wicks

And those who chose to
remain Anonymous.



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