

**Annual report of the Environmental Defender's Office (ACT)
1 July 2002-30 June 2003**

**EDO (ACT) ANNUAL REPORT
FOR TABLING AT EDO (ACT)
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A BRIEF HISTORY OF THE EDO NETWORK

The Environmental Defender's Office (ACT) Inc. is one of a network of community legal centres across Australia that specialise in environmental law.

The first EDO was established in Sydney in 1985, followed later by the opening of offices in Brisbane and Melbourne. Following a Commonwealth Government commitment in May 1995 to fund a national network of environmental lawyers, the other States and Territories established their offices to complete the EDO network across Australia.

A national office of the EDO was incorporated in 2003. Most of the state and territory EDOs are now members of this national body called 'ANEDO' (Australian Network of Environmental Defenders' Offices). Creating ANEDO has facilitated better skills and research exchange between EDOs, leading to better services being delivered to EDO clients in the ACT, and nationwide.

THE ROLE OF THE EDO (ACT)

The EDO (ACT) has three main functions:

- (1) providing legal advice about environmental law to members of the community and community groups interested in preserving the environment;
- (2) undertaking community education about legal issues related to the environment and planning; and

- (3) researching and making submissions to government about reform of laws and policies affecting the environment.

Specific EDO services to the ACT and regional community include:

- Providing legal advice and assistance to people and groups seeking to protect the environment;
- Providing advice to people and groups wishing to appeal against administrative decisions relating to the environment;
- Presenting environmental law seminars to the community, and presenting individually tailored talks to schools and environmental groups;
- Providing environment and planning law information to the general public, such as the EDO's legal Fact Sheets and our upcoming Handbook on ACT Environmental Law;
- Researching public interest matters in environmental law;
- Working with other ACT community legal centres, indigenous groups and environmental groups to make submissions proposing improvements to environment and planning policies and laws;
- Promoting laws and law reform that helps protect the environment; and
- Publishing articles on environment and planning laws.

A BRIEF HISTORY OF OUR ACHIEVEMENTS

The EDO (ACT) was established in 1995 and was operational by mid-

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1996. A few of the highlights from previous years are set out below. In 1998 the EDO presented a major seminar on the ACT's new integrated pollution control and environment management legislation, as well as a number of educational presentations on tree protection legislation. Detailed submissions were also made on the Environmental Protection and Biodiversity Conservation Bill (Cth).

In 1999 and 2000 written submissions were made on Utilities Policy and the ACT Environmental Impact Assessments as well as the National Competition Review of the *Land (Planning and Environment) Act* 1991.

In 2001, submissions were made on the Statutory Review of the Water Resources Act 1998. The Review resulted in a Report being tabled in the Legislative Assembly in June 2001. Submissions were also made regarding other significant law reform issues, such as heritage and tree protection.

The EDO made presentations to community groups, such as the presentation explaining defamation law to ACT community groups and activists.

In 2001, the EDO also published a set of plain English 'Fact Sheets' on ACT environmental law. The Fact Sheets were launched by the Minister for Urban Services and continue to be widely distributed by the EDO.

OVERVIEW OF 2002/2003

The EDO had another successful year in operation, providing advice, legal education and submissions on environmental legal issues.

Unlike the 2001-02 financial year, the EDO benefited from the services and skills of its solicitor for most of the year. Kath Taplin, the EDO's solicitor, gave birth to her daughter in May 2003 and began a period of maternity leave. During this time (only 6 weeks of the 2002-03 year), appropriate work was referred to EDO (NSW), or to private law firms on a pro bono basis.

2002-03 was an important year of consolidation following two significant periods where the office was without a solicitor.

Legal Advice and Assistance Services

During the year, 60 information activities and 91 legal advice activities were undertaken. There were 21 new case files opened, which required extensive, ongoing legal assistance. 8 cases were closed during the year.

Most matters were resolved via the provision of information and advice without requiring long term legal assistance. The information and advice subject matter included a variety of administrative decisions regarding the environment and planning, noise, air and water pollution, tree and vegetation

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protection, environmental impact assessments and various development proposals.

Some cases requiring more extensive work concerned:

- Advice on administrative decisions affecting native woodland;
- Objections to development incompatible with residential policy and use in the 'Bush Capital', particularly relating to dual occupancy;
- Possible prevention of proposed road development;
- Advice on noise pollution, particularly regarding motor sports;
- Advice regarding proposed development in heritage areas;
- Advice on environmental protesting;
- Advice regarding insurance issues facing environmental groups;
- Advice regarding possible defamatory publications by environmental groups;
- Advice regarding the application of legislation relating to animal welfare;
- Advice regarding the application of the *Environment Protection and Biodiversity Conservation Act* (Cth) to ACT plants and animals;
- Significant tree protection; and
- Legal and process advice on planning, including appeals to the AAT.

Most cases involved ACT laws. Some cases concerned activities in areas surrounding the ACT, and therefore involved NSW laws also. Commonwealth laws were relevant to some cases.

Community Legal Education

The EDO delivered an informative program of community legal education presentations. These included:

- A presentation, in conjunction with the National Environmental Lawyers Association and Environment Australia, on aspects of the World Earth Summit held in Johannesburg, South Africa;
- Presentations at Canberra High, Campbell High and Darramalan High regarding aspects of environment and planning law; and
- Environmental law presentations to environmental groups such as the Australian Conservation Foundation (ACT Branch) and the Darramalan Environment Group.

In addition to the presentations, significant progress was made on the EDO's Handbook on ACT Environmental Law which was published in August 2003. The EDO continued to distribute the EDO plain English Fact Sheets on ACT environment and planning law.

During the year a decision was made to consolidate the production of the newsletter and the e-bulletin into a more comprehensive and regular monthly e-bulletin. The e-bulletin informs recipients of environment and planning issues current in the ACT and surrounding region, as well as issues of national environmental importance. Anyone wishing to be included on the e-bulletin circulation

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list can do so by contacting the EDO office. (Hard copy versions of the e-bulletin are available upon request.) The EDO website continues to be a tool for legal education and information. The Facts Sheets and newsletters, together with copies of EDO law reform submissions, are placed on the EDO website. The website can be found at www.edo.org.au.

Law Reform

The EDO was involved in a number of law reform activities, primarily by way of submission on proposed legislation. These included:

- a paper commenting on the Tree Protection Public Discussion Paper released by Environment ACT in October 2002;
- a paper commenting on the operation of the Energy Efficiency Ratings scheme in the ACT;
- a submission regarding the ACT Lowland Woodlands Conservation Strategy (Action Plan No. 27);
- commentary on the performance of Environment Australia with respect to the referral, assessment and approval processes under the *Environment, Protection and Biodiversity Conservation Act 1999* (Cth);
- a detailed submission to the Consultative Committee formed by the ACT Government to consider an ACT Bill of Rights. The EDO's submission focused on the importance of the inclusion of the environment in any Bill of Rights, or similar legislation. This was subsequently reviewed in the Canberra Times, and a related

article was published in the Impact environmental law journal.

Community Development Work

The seminars and presentations conducted as part of the EDO's community legal education program also contribute to community awareness of the EDO and environmental and planning law issues, as does production and distribution of the EDO newsletters and e-bulletins.

EDO Fact Sheets were distributed to ACT schools and at information stalls at community events such as the Green Living Fair. Unfortunately, due to insurance issues, the EDO was unable to have its usual stall at the World Environment Day celebrations.

The EDO continued to actively participate in meetings of the ACT Legal Service Bureau, the ACT Community Legal Centres Group, the ACT Division of the National Environmental Law Association and the Law Society's Planning and Environment Committee.

On an informal level, the EDO staff maintained their strong links with relevant ACT groups, such as environmental groups and indigenous groups. Both these sectors had valuable input into aspects of the EDO's law reform projects this year. The EDO solicitor undertook cross cultural training, which will assist the EDO further in forming links with ACT community members.

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Access and Equity

The services of the EDO are available to individuals and organisations in the ACT and surrounding areas with environmental law concerns, subject to the EDO's casework guidelines and newly introduced means test.

The EDO management committee adopted a means testing policy this year. Generally stated, this policy ensures that organisations and individuals of limited means receive EDO assistance free of charge, while clients with higher income levels may contribute towards the costs of their environmental law matter. Since implementing the policy the EDO has found that its client base remains largely unchanged.

The EDO is centrally located in Canberra with easy access by public transport. Both a telephone answering and email service are available for inquiries outside existing office hours. Our website is located at www.edo.org.au and is an important tool for obtaining information. The solicitor and volunteers travel to venues to give presentations and workshops to schools and community groups, as well as to meet with clients.

Membership of 'Friends of the EDO' is available to anyone who wishes to support the work of the EDO. Friends receive newsletters, invitations to social events and discounted admission to EDO seminars.

Hours of Operation

The general hours of operation of the EDO are generally from 9.30am to 5.30pm on Wednesday, Thursday and Friday each week. A telephone and e-mail message service is available at all times. Legal advice on matters involving environmental law is given face to face or, if appropriate, over the telephone. Pre-arranged interviews with the solicitor are available outside the normal office hours, including on weekends. The EDO also gives evening and lunch-time seminars.

Volunteers and Pro Bono

The members of the Management Committee of the EDO are all volunteers. In addition to their role in overseeing the management of the organisation, all members of the committee contribute significantly to activities of the EDO, such as organising seminars, and submission writing. During the year the EDO received excellent support from legal practitioners, students and other volunteers. Volunteers also did many hours of administrative, legal research and legal education work.

Volunteers to whom the EDO is greatly indebted are Lee Nelson, Caroline Plunkett, Peter Pullicino, Sam Teoh, Will Raymont (who has assisted EDO for a number of years,) Robyn Brieze, Suzanne Falvi, Christopher Moore, Steven Hausfeld, Alan Bradbury, Matt Wiley, David Mossop, Alice Campey, Serina McDuff and Kevin Osborne.

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The EDO must also thank Rosemary Budavari who provides excellent advice and assistance to the EDO on an ongoing basis, and has done so for many years.

David Osborne also contributed a large number of hours on a voluntary basis in addition to his paid position as the EDO's office manager.

The majority of the work on the EDO Handbook has been undertaken by volunteers. In particular, Anne Rawson, the editor of the book, has provided invaluable assistance and direction in producing the Handbook.

Gary Williams, Chartered Accountant, of Rosenfeld, Kant and Co provided his services once again to audit the EDO's accounts free of charge. Rod Griffith, Treasurer, once again made an enormous and greatly appreciated contribution in preparing the EDO's monthly accounts, as well as undertaking other activities, such as preparing grant applications.

Minter Ellison Lawyers has provided free conference room facilities and library facilities to the EDO (ACT), which have been of significant benefit to our organisation.

Funding

The EDO is funded by an annual grant from the Commonwealth Government which was \$38 868 in 2002 / 2003. The Commonwealth also provided \$1690 for capital.

The grant only covers 19 hours of a solicitor's time each week. The Commonwealth's annual grant contains a restriction on litigation related activities. Unfortunately the litigation restriction makes it difficult for the EDO to offer a comprehensive legal service to the ACT community.

The EDO has made efforts to obtain alternative sources of funding and will continue to do so. Unfortunately an application by the EDO to receive funding from the ACT Law Society was unsuccessful, largely due to the EDO not having stricter means testing in place. At this stage the EDO considers that stricter means testing would detract from the EDOs objectives and service delivery.

The EDO received grants totalling \$10 275 from the ACT Government under the ACT Environmental Grants Program for 2002/2003. The ACT grants were for Environmental Law Submissions and for Community Legal Education. Notification of continued funding for these activities in 2002/2003 has been received from Environment ACT, as well as a grant to update the Fact Sheets.

The EDO will use its ACT Environment Grant funding to print and publish the Environmental Law Handbook for the ACT.

The EDO itself has raised some funds from membership and "Friends of the EDO" fees.

Management and Staff

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The Management Committee Members during the period were: Susie Brown, Jillian Caldwell, Jane Christie, Nicola Davies, Jeremy Dore

Rod Griffiths, Hanna Jaireth, Fiona Johnstone, Andrew MacIntosh, Julia Pitts and Carolyn Stuart.

The Executive members of the Management Committee were:

Susie Brown/Fiona Johnstone
Chairperson

Fiona Johnstone/Susie Brown
Deputy Chairperson (from November 2001)

Jillian Caldwell Secretary

Rod Griffiths Treasurer.

Kath Taplin was the EDO's solicitor for the year and the office manager for the year was David Osborne.

THE EDO NETWORK

EDOs are located in every capital city and in Far North Queensland. These offices are in regular contact and collaborate on national issues such as the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and on issues of common concern such as State and Territory law reform proposals and cases raising similar, or national, issues. The EDO Network holds a national conference each year to discuss these issues. The EDOs also have a web page at www.edo.org.au. A national organisation 'ANEDO' ('Australian Network of Environmental

Defenders' Offices') has been incorporated. Each EDO office will continue to function as an independent organisation, but the incorporated body will assist in providing a national voice for the EDO network and a vehicle for obtaining further funding.

THE FUTURE

The EDO (ACT) is building on its achievements of 2002-2003 in its eighth year of operation and is looking to expand its operations in the coming year, particularly if successful in gaining additional funding.

In the provision of legal advice, there is still considerable unmet demand for the EDO's services.

Members of the ACT community and community environment groups are increasingly looking to the EDO for assistance in their quest to protect the natural environment. With additional funding, the EDO will be able to better serve a larger number of people more effectively.

As has been reported in previous years, the EDO is unable to use its Commonwealth funding for the purposes of litigation. The EDO intends to seek funding from other sources during this next year and in particular to apply for funding from other Commonwealth and ACT government grant programs that can assist the EDO to better achieve its

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objectives and meet the needs of the ACT community.

In the EDO's role of providing community legal education, the coming year will see the publication of our Handbook on ACT Environmental Law. The ACT Chief Minister and Minister for the Environment, Jon Stanhope, will launch the Handbook, which will be an important resource for the ACT community.

In relation to the EDO's law reform activities, the EDO intends to take on more pro-active role seeking to become a trigger for change. The EDO is particularly interested in the upcoming review of the Commissioner for the Environment and associated legislation review. The EDO will also remain actively involved in public dialogue regarding the ACT Government's proposed "Bill of Rights" legislation.

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