



Annual Report
16/17

NSW

EDO

DEFENDING THE ENVIRONMENT
ADVANCING THE LAW

We recognise 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, cultural and heritage through law.

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EDO NSW

Annual Report

2016/17

About EDO NSW

Environmental Defenders Office NSW (EDO NSW) is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law.

We are the only legal centre in NSW that provides specialist advice on public interest environmental law matters. For more than 30 years we've pursued our mission of providing public interest legal services to groups and individuals who care about, and want to protect, our built and natural environment.

EDO NSW is acknowledged as a crucial element in the functioning of environmental law in NSW and Australia. Our reputation is built on:

Successful environmental outcomes using the law

We have a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise

We're the acknowledged experts on how the law applies to the environment. But we also help the community by organising detailed scientific advice, providing community legal education and professional development, and developing proposals for better laws.

Independent and accessible services

We're a non-government, not-for-profit legal centre. Our services are provided without fear or favour; anyone can contact us to get free initial legal advice about an environmental or planning problem. Many of our services are targeted at rural and regional communities.

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FROM THE CHAIRPERSON

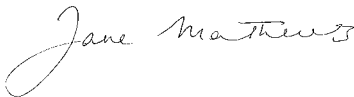
EDO NSW has become an increasingly significant and essential organisation over recent years, as threats to our environment continue from diverse sources. In 2016-2017 it has been involved in a number of very important public interest cases, as this report shows. But its attentions are by no means confined to litigation. Its law reform and outreach programs are also of central importance, and I am extremely impressed at the breadth of its work in these areas.

Our CEO, Sue Higginson, announced earlier this year that she will have to leave at some stage this year. Fortunately she gave us plenty of notice, so we were able to conduct a thorough recruitment process. The standout candidate, who will be taking over Sue's role in mid-October this year, is David Morris, who comes to us from EDO Northern Territory. Although the NSW office is vastly bigger than the Northern Territory one, David is thoroughly familiar with the EDO's work and its guiding principles. We will miss the vibrancy of Sue's leadership, but look forward greatly to working with David.

Throughout the year, the various State and Territory EDOs have continued to work towards combining into a united EDO Australia. This is inevitably a slow process, involving some very complex issues. Although the outcome is not yet certain, EDO NSW will play a central role in any eventual transition to a national organisation.

I thank the staff and Board of EDO NSW for their commitment, expertise and professionalism in their contribution to another year of public interest environmental law.

Yours Sincerely,



Jane Mathews
Chair

FROM THE CHIEF EXECUTIVE OFFICER

EDO NSW is a rule of law, civil society institution and has chiselled a place in the bedrock of our democracy, serving the community to protect the environment through law.

I have no doubt you will be impressed with the breadth of the work that we have undertaken this past year in the pursuit of environmental justice. We are fortunate in NSW to boast one of the better legal systems in the world capable of delivering environmental justice, the pursuit of which is predicated on a number of requisite features. You will see in this Annual Report that, once again, EDO NSW has worked with skill and agility to improve and, at times, hold the line across these features of our legal system. Here is a snap shot:

- 1. Substantive laws that are fit for purpose.** Our work on the biodiversity reforms formed part of the 53 submissions we generated throughout the year on how to improve environment and planning laws in NSW and across Australia. After forensic analysis of the changes and the engagement of technical expert input, our law reform team – which operates on the front line of changes to the law – argued that the new laws represent a backwards step for environmental protections. And in ordinary EDO fashion we now continue to present the case for how they can be modified to better protect the environment.
- 2. Legally enshrined community participation rights.** This year our outreach team again connected face to face with hundreds of people across NSW. Through our Outreach Program we impart our expertise while learning firsthand about how laws are working from the community's perspective. By empowering members of the community to participate in environmental law and decision-making, we help contribute to better and more informed decision-making.
- 3. Equal access to information.** Many environmental transactions happen behind closed doors so effective freedom of information laws are essential to ensure all participants, including the community, have access to information. This is essential to transparency, accountability and effective participation.

This year, our advice and litigation team continued to represent clients who were denied access to information about how the environment is being managed.
- 4. Community and objector appeal rights and an independent specialist court of superior record.** The ability to challenge environmental decisions and management actions in an independent specialist court, through open standing provisions, is arguably the most important mechanism to ensure accountability under the rule of law. Our litigation and advice work this past year sought to protect water quality, protect threatened species (including getting newly discovered endangered animals listed as

endangered in order to protect them), hold decision-makers to account, test the integrity of our planning laws, and advance our freedom of information laws.

This year, we continued to work within a planning system that limits objector appeal rights, particularly for resource projects. The flow on result from limiting such rights is that communities are disempowered and decision-making processes are less rigorous which weakens the integrity of the system.

This is my last year at EDO NSW. I have now been part of the team for over 11 years. EDO NSW is an awesome institution and is fundamental to the pursuit of environmental justice under the rule of environmental law. It has all of the features of an institution – its age, its alumni, its record of achievement, its successes, its community, its goodwill, its reach and influence and, importantly, its survival against serious and targeted political attack.

It is EDO NSW's special and very serious function that makes it an institution. Through its expertise and professionalism, and in partnership with its incredible clients, it holds environmental decision-makers to account, including in the Courts of Australia.

So it is good bye and thank you from me. Thank you to all of the very many wonderful people who make up the community of EDO NSW and make it all possible, and you are:

The wonderful, committed and dedicated staff and board who make everything happen every day; the hundreds of volunteers who slave away with us each day; our pro-bono partners who lighten our heavy load; the expert barristers, both senior and junior, that act in our matters; the Environment and Planning Law Association (EPLA); the good will of our scientific and technical expert community; the goodwill of the environmental law academy; our alumni who continue to champion our work; those in the judiciary who labour over our cases; those in parliaments and the bureaucracy who grasp and champion our expertise; our financial supporters and partners – you are a whole new fundamental part of our existence and our success – having had to move from reliance on Government and Law Society funding to truly independent financial support; and of course all of our wonderful dedicated and committed clients.

I look forward to watching the future of public interest environmental law in NSW and Australia continue to go from strength to strength.

Yours Sincerely,



Sue Higginson
Chief Executive Officer

WHAT WE DO

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

- Legal advice and litigation
- Policy and law reform
- Legal outreach

The work of the office is supported by a Scientific Advisory Service which provides expert scientific advice and guidance to staff and clients on a range of public interest environmental matters.

We operate an Aboriginal Engagement Program to deliver targeted legal services to Aboriginal clients, and an International Program to provide assistance and training to colleagues in PNG and the South Pacific.

We have an office in Sydney that services all of NSW. We also have an outreach office in Lismore, which services the Northern Rivers region and provides a closer rural and regional focus to our work. The offices are open Monday to Friday during business hours.

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

Complaints

EDO NSW has a formal process for handling complaints. Any complaints should be directed to the Chief Executive Officer on 02 9262 6989.

HIGHLIGHTS

Our longstanding client **Wendy Bowman** received the internationally prestigious Goldman Environmental Prize.

We helped a residents group from Kangy Angy to obtain legal protection for a newly-discovered and extremely rare frog, the **Mahony's Toadlet**.

Acting for our client Western Downs Alliance, we successfully negotiated for important environmental conditions to be added to the approval for **Santos' GLNG Gas Field Development Project** in the Surat Basin, Queensland.

We made **53 submissions** on how to improve environment and planning laws in New South Wales and across Australia.

Our **resources** on the NSW Government's **new biodiversity and land clearing laws** were widely utilised. Our feature page on the reforms was viewed more than 4,000 times, our seminar presentations were downloaded over 400 times, and our submissions were downloaded nearly 500 times.

We launched our new **professional development program**, kicking off with 13 very successful 'Environmental Law for Environmental Decision-makers' workshops delivered to over 400 local council and Local Land Services decision-makers and compliance officers.

Our **Annual Gala Dinner** raised a record amount – over \$100,000 – and brought together key members of our community – past, present and future – in a fun-filled night of celebration.

WHAT PEOPLE SAID ABOUT US

"The Environmental Defenders Office were so wonderful. They gave us the courage to have a go."

– Wendy Bowman, winner of the Goldman Environmental Prize and EDO NSW client

"This is a great resource that I can quote from with authority."

– Warwick Law, Environmental Trust, on our publication Mining Law in NSW: A Guide for the Community.

"I wanted to tell you how excellent your presentation was. The whole issue of land clearing regulations has been a mystery to me – until last night."

– Attendee, community workshop on the NSW Government's new biodiversity and land clearing laws

"Thank goodness for EDO, what would we do without their valuable legal assistance when challenging inappropriate decisions that threaten our biodiversity & life support systems."

– Linda Gill, supporter

"Thank you so much for your efforts. I know that you could all be in some high profile firms, but without you guys, what kind of a world would we live in and what society would our children inherit? The average Joe is at a loss without the likes of yourselves who go out of their way to help and do good! Thank you!"

– Dara Bonic, supporter

"I give a monthly donation to EDO NSW to ensure there's a strong legal team helping the environment. I encourage everyone to do the same."

– Andrew Cox, supporter

"Your publication was brilliant, it saved my husband and I from unforeseen debt that we would not have otherwise known about. We love our land, want to protect all natives (both animal and plants), and love your advice. Keep up the good work everyone!"

– Rosie Duckworth, community member

LEGAL ADVICE AND LITIGATION

EDO NSW provides access to justice for individuals and community groups with public interest environmental problems.

We give free initial telephone advice on matters of environmental law and policy and, if appropriate, we provide written advice and ongoing assistance. If necessary, and if a matter is in the public interest and has a good chance of succeeding, we represent clients in court proceedings.

Summary of our legal work in 2016/17

Telephone advices



1,218

Detailed written legal advices



286

Public interest matters before the courts



14

Source: EDO NSW administrative records

This year, we opened 201 new casework files and closed 198 casework files.* Much of this casework included significant input from our Scientific Advisory Service.

*EDO had limited access to data at the time of writing due to CLASS migration from CLSIS.

Environmental Law Line: 1800 626 239

Our toll-free Environmental Law Line is staffed by a duty solicitor during office hours, Monday to Friday.

edonsw.org.au/advice

Legal Advice

In 2016/17 we provided 1,218 telephone advices to the NSW community. Of these, we went on to provide 286 detailed written legal advices.

The subject matter of these advices is varied, with common issues including environmental planning, tree disputes, natural resource management, public and private land management, pollution, and Aboriginal culture and heritage. We wrote 156 letters to Government Departments, Ministers, local councils and companies and made 68 applications for documents under access to information laws.

A newly discovered frog gets some help from Kangy Angy and EDO NSW

Late in 2016, the Kangy Angy Residents Action Group contacted us about a proposed new intercity fleet maintenance facility in Kangy Angy on the Central Coast.

A population of Mahony's Toadlet had been discovered at the site but the development's impact on this population had not been assessed because the species wasn't on the NSW list of threatened species.

Our client saw this as a problem, given that the toadlet had only recently been discovered – at just eight sites around NSW – and asked for our help. We engaged amphibian expert Simon Clulow, Research Scientist at the University of Newcastle, who is researching the species and is responsible for its identification.

We presented our client's concerns and Simon's evidence to the NSW Scientific Committee, which consequently gave the Mahony's Toadlet a provisional listing, on an emergency basis, as an endangered species.

While a listing as 'endangered' means a species faces a very high risk of extinction in the near future, this was an important step toward protecting the the Mahony's Toadlet. The listing meant that a species impact statement needed to be undertaken for the Kangy Angy development. The statement was placed on public exhibition so that the community could have a say about the facility's impact on the toadlet population at the site.

Future developments that may impact on the Mahony's Toadlet will similarly need to assess and make public their impacts on this rare and beautiful little toadlet.



A rare and beautiful Mahony's Toadlet. Image: Sheena Martin

Whaling footage ordered to be released – a win for public interest law

After years of fighting for transparency, EDO NSW and our clients Sea Shepherd and Humane Society International obtained access to publicly-funded whaling footage.

In 2008 the Australian Customs vessel Oceanic Viking filmed Japan's whaling fleet chasing, harpooning and killing whales inside the Australian Whale Sanctuary off the coast of Antarctica.

From 2012 to 2015, we made three formal applications to gain access for our clients to this important footage. Each time the Australian Government denied access, claiming that releasing the footage would affect Australia's relations with Japan.

We appealed to the Information Commissioner to review the Government's refusals. In May 2017, the Commissioner determined that releasing the footage would not affect international relations and ordered the footage be released.

The Commissioner's decision is a significant win for transparency and accountability as to how the Australian Government has dealt with Japanese whaling in the Australian Whale Sanctuary. Whales are protected from harm under Australian law, so any evidence showing harm is a matter of significant public interest.

"Killing whales in the Australian Whale Sanctuary is a breach of Australian law. The Australian public has a right to see that offence and to know how appalling it is."

– Nicola Beynon, Humane Society International



A still from one of the videos released, showing whaling activity within the Australian Whale Sanctuary off the coast of Antarctica.

Court Cases

In 2016/17 we acted in 14 public interest matters before the courts, representing a diverse range of individuals and community groups.

Before taking on a court case, we must be satisfied that the issue is in the public interest – that it has significance beyond the material or financial interests of a particular individual or group – and that there is utility or value in commencing proceedings.

A selection of cases is described in detail on the following pages. A summary of all our 2016/17 cases is at the end of this section.

About our case work

EDO NSW represents individuals and community groups in public interest court action to protect the environment. Through our casework, we contribute to transparent, open and accountable decision-making and promote access to justice. Our strict guidelines ensure that court time is not wasted on frivolous cases.

edonsw.org.au/CurrentCases

Case win

Access to
information

Quipolly Water Action Group Inc v NSW Department of Industry

edonsw.org.au/quipolly_water_action_group_inc_v_nsw_department_of_primary_industries_water

Quipolly Water Action Group wanted to access documents on the regulation of groundwater at the Werris Creek coal mine. The mine, which is owned by Whitehaven Coal, is located in north-west NSW near the Liverpool Plains.

A number of attempts to access the information were refused by the NSW Department of Primary Industries on the grounds that the information was 'commercial' and therefore sensitive.

That left little choice but to take the matter to the NSW Civil and Administrative Tribunal (NCAT), which granted our client access to the documents.

Members of the community are worried about the mine's impact on groundwater and particularly on the Quipolly Creek which is near the mine.

With NCAT's decision to release the documents, the local community now knows how well the groundwater around the mine is being protected. But it also gives unprecedented insight into how the NSW Department of Primary Industries is regulating the impacts of this and other coal mines in NSW. It's an important win for the public interest.



A dried up section of Quipolly Creek near the Werris Creek coal mine.

Western Downs Alliance v Minister for the Environment and Energy & Santos Ltd

edonsw.org.au/western_downs_alliance_inc_v_santos

Acting for community group Western Downs Alliance, we successfully negotiated for important environmental conditions to be added to the approval for Santos' GLNG Gas Field Development Project in the Surat Basin, Queensland.

The project's approval by the Federal Minister for the Environment and Energy allowed millions of litres of coal seam gas waste water to be released into surface water systems, such as the stunning and environmentally important Dawson River, without a proper environmental assessment.

Western Downs Alliance argued that the Minister incorrectly thought it was unnecessary to assess the surface water impacts of the project.

The case was set to be heard in the Federal Court. However, before the hearing, the Minister and Santos agreed to amend the project's approval by adding important conditions that prohibit the project from releasing waste water into surface waters, and that require any future proposal to release waste water to be properly assessed by the Minister.

Case win

Protecting streams and rivers



There are cases like this happening all over Australia. Watch our video about our clients from Bulga, NSW, as they fought to protect their town from a mine expansion: edonsw.org.au/Bulgavideo

Test case

Interpreting
complex laws

Millers Point Fund Inc v Lendlease Millers Point Pty Ltd & others

edonsw.org.au/millers_point_fund_inc_v_lendlease_millers_point_pty_ltd_others

In an important test case, we helped Millers Point Fund Inc. challenge the legality of a decision that allowed the Crown Casino and hotel at Barangaroo to displace a public park planned for the Sydney Harbour foreshore.

Under its original approval, the casino and hotel were to sit back from the foreshore behind the park. However, in June 2016, the Planning Assessment Commission (PAC) approved a modified version of the development in which the casino and hotel were moved onto the foreshore site and the park moved back behind the 71-storey building.

In making its decision, the PAC deferred to an approval made under casino licencing laws. On behalf of our client, we argued that this was unlawful under planning laws.

In its judgment, the Land and Environment Court upheld the PAC's decision to allow the building to be relocated.

While this was a disappointing decision for our client and our supporters, it was important that we took this test case to court. The Court noted that the case was a matter of public interest. The case highlighted a problem with the legacy of a now repealed aspect of planning law known as Part 3A which was unpopular because it disempowered the community in important planning decisions. For some time we have argued that Part 3A should not continue to apply to planning decisions, and there are signs that the NSW Government may put an end to the legacy of Part 3A in the near future.



Members of Millers Point Fund Inc with the EDO NSW legal team outside court

Residents Against Intermodal Development Moorebank Inc v NSW Minister for Planning and Qube Holdings Ltd

edonsw.org.au/quipolly_water_action_group_inc_v_nsw_department_of_primary_industries_water

In progress

Protecting
species

We are representing community group Residents Against Intermodal Development Moorebank (RAID) in a case to protect a critically endangered ancient plant species.

RAID is asking the Land and Environment Court to undertake a full reconsideration of the Planning Assessment Commission's (PAC) approval of a large industrial shipping container facility at Moorebank in Western Sydney.

A plant thought to be extinct, *Hibbertia fumana*, was rediscovered in the vicinity of the proposed terminal two months before the PAC's approval. The PAC was not told about the existence of the plant and therefore did not consider the impact the development may have on the species.

The NSW Scientific Committee publicly listed the species as critically endangered just four days after the development was approved.

"The outlook for Australian biodiversity is generally poor, given the current overall poor status, deteriorating trends and increasing pressures."

– State of the Environment Report, Commonwealth Government, March 2017

This is a merits appeal based on the public's interest in protecting critically endangered species and protecting biodiversity.

Hibbertia fumana, a delicate shrub with yellow flowers, was last documented in 1823. The Moorebank area where the development has located is the only known population of the species.



Hibbertia fumana. Image: Royal Botanic Gardens and Domain Trust.

Summary of cases 2016/17

Our client	Opponents	Status at 30 June
4nature	Centennial Springvale Pty Limited and Others (Land and Environment Court)	Determined
4nature	Centennial Springvale Pty Limited and Others (Court of Appeal)	Pending
People for the Plains	Santos and Others (Supreme Court)	Transferred
People for the Plains	Santos and Others (Land and Environment Court)	Determined
People for the Plains	Santos and Others (Court of Appeal)	Determined
Western Downs Alliance	Minister for the Environment and Santos Limited	Determined
Robert Williams	Rodney John Graham and Others (Cedar Point Quarry)	Determined
Millers Point Fund	Lendlease Millers Point Pty Ltd and Others	Determined
Quipolly Water Action Group	NSW Department of Primary Industries Water	Determined
Millers Point Community Association	Government Property NSW and Others (Sirius building)	Pending
Humane Society International	Department of the Environment and Energy	Pending
Humane Society International	Great Barrier Reef Marine Park Authority	Pending
Residents Against Intermodal Development Moorebank	NSW Minister for Planning and Qube Holdings Ltd	Pending
Australian Conservation Foundation	WaterNSW	Pending

View our current cases at edonsw.org.au/CurrentCases.

POLICY AND LAW REFORM

In our policy and law reform work, we engage with governments, government departments and agencies, environment groups and communities on laws and policies that affect the environment.

We write submissions, publish reports, present at parliamentary inquiries and undertake consultancy work for government agencies and community groups.

In 2016/17, we made 53 submissions to State and Federal governments –one submission every week on average.

At the **national** level, we made important recommendations on issues such as national climate policy, water management, the regulation of agriculture, marine biodiversity and fisheries management, coal-fired power stations, flying fox protection, shark mitigation and deterrence measures, the assessment of offshore petroleum projects, vehicle emissions, and mine rehabilitation.

At the **State** level, we made recommendations on issues such as biodiversity law reform, Crown lands management, windfarms, container deposit legislation, access to information processes, environmental impact assessment, load-based licensing, planning reforms (including expansion of complying development processes for medium density housing, new State Environmental Planning Policies for infrastructure and education, and Greater Sydney Commission plans), coastal management, koala policy, water management plans and the Northern Basin Review, social impact assessment, clean air initiatives, and marine estate management.

Policy and law reform: working for better environmental laws

Our experience and unique expertise makes us the go-to source for accurate information and constructive law reform advice.

edonsw.org.au/LawReform

Engaging

our experts in
law reform

New biodiversity laws for NSW

Biodiversity law reform has been a key focus of our work since the NSW Government initiated a review of the State's biodiversity legislation in 2014.

As reported previously, our policy team was actively engaged in providing expert input on the reform package to government agencies and environmental groups, and extensive community outreach through workshops and online publications.

This year our focus was on the legislation that passed parliament in December 2016 and the subsequent tools and regulations to support the new scheme.

We argued that the proposed laws would represent a backwards step for environmental protections. We then mobilised our community of experts to analyse the first round of new instruments and put the case for how they could be designed to better protect the environment.

We made nine detailed public submissions on the new instruments which incorporated invaluable technical input from the Scientific Advisory Service.

Yet more instruments are still to be developed in 2017. We will continue to engage with the NSW Government on the technical detail of these ongoing reforms.

Responding

to calls for
comment

Recommendations for strengthening climate policy

Climate change is a pervasive challenge that needs to be addressed through effective law and policy. This year we responded to a number of calls for comment at both a State and national level on issues relating to climate change assessment and impacts.

At a national level we made submissions on Australia's Climate Change Policy Review, water management in the context of a changing climate, the future of coal-fired power stations, and on vehicle emission standards. We also presented evidence to the Senate Committee inquiry into impacts of climate change on marine fisheries and biodiversity on behalf of the EDOs of Australia.

In NSW we made formal submissions on the NSW Government Climate Change Fund – Draft Strategic Plan, the Clean Air for NSW Discussion Paper, and the Draft Wind Energy Assessment Policy NSW.

All of our submissions on biodiversity and planning reforms noted the need to effectively embed climate change considerations into law.

In addition to formal submissions, we continued to meet with relevant departments and members of parliament to discuss our reform recommendations, as outlined in our discussion paper *Planning for Climate Change: How the NSW planning system can better tackle greenhouse gas emissions* (edonsw.org.au/planning_for_climate_change).

Australian Panel of Experts in Environmental Law

With our extensive body of law reform work and our relationships with communities, governments and experts, we are uniquely placed to identify areas of law in need of specific or systemic reform.

Driving
policy &
law reform

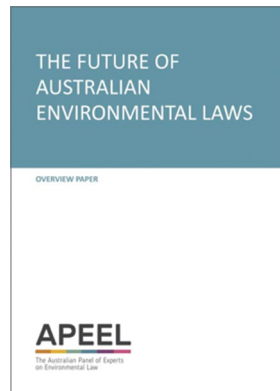
We are an active member of the Australian Panel of Experts in Environmental Law (APEEL), which is a group of experts developing a blueprint for the next generation of national environmental laws.

In 2016/17, APEEL produced a number of technical discussion papers on foundations of environmental law (goals, objectives and principles); environmental governance in a federal system; terrestrial natural resources management; marine and coastal issues; climate law; energy regulation; the private sector, business law and environmental performance; and democracy and the environment.

We will continue to play a key role as this expert panel continues to develop recommendations for better environmental laws.



edonsw.org.au/CC2016



apeel.org.au

OUTREACH PROGRAM

Our Outreach Program helps communities to protect the environment through law. The program is focused on rural and regional NSW, which keeps us abreast of the environmental issues facing rural and regional communities and ensures we can direct our services to where they are most needed.

Early engagement is vital to achieving successful outcomes for the environment. Timely information and expert assistance delivered through our Outreach Program helps communities take a more proactive approach to the environmental issues they face.

In 2016/17, we also started working in a more targeted way with those responsible for applying environmental laws in an effort to improve the administration of environmental law, particularly with regards to enforcement.

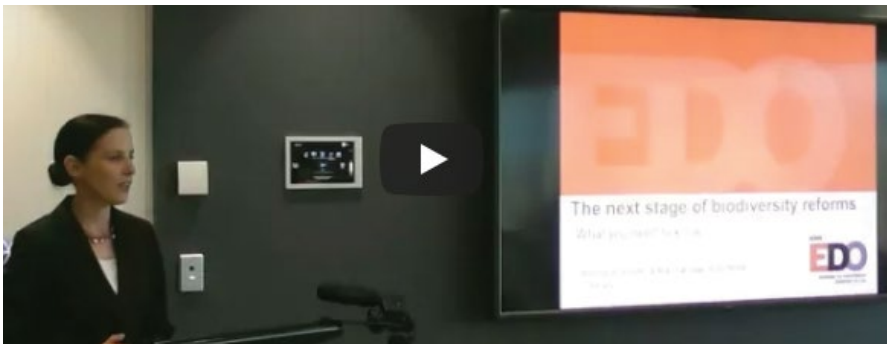
Community Legal Education

In 2016/17 we delivered 14 community legal education workshops across five regions – Greater Sydney, Hunter, North Coast, North West, and Western. In all, 248 people attended our workshops.

We worked with local communities to target our workshops to their particular needs, and these ranged from enforcing the conditions of a coal mine to protecting culture and heritage from the impacts of development, and updating the community on the new biodiversity, land clearing and coastal management laws.

We also delivered three seminars in Sydney on topical environmental law issues – the NSW planning reforms, planning for climate change, and the next stage of the biodiversity and land clearing law reform process.

Our seminars were attended by 180 people and some were made available online, where they were viewed over 400 times.



Policy and Law Reform Director Rachel Walmsley presents on the NSW Government's biodiversity reforms at our community seminar in Sydney. The video ensured that those who couldn't make it to the seminar were able to hear our analysis. View the video at edonsw.org.au/biodiversity2017

Professional Development

We launched our new Professional Development program in 2016/17, kicking off with the very successful 'Environmental Law for Environmental Decision-makers' project. This project was funded by the NSW Government through its Environmental Trust and involved the delivery of 13 professional development workshops throughout NSW for over 400 local council and Local Land Services decision-makers and compliance officers. The workshops were tailored to meet the needs of each region, but were all designed to improve participants' understanding of complex environmental law principles and show how environmental laws can be applied and enforced.

Excellent. Thank you for the opportunity to discuss and receive information that has had expert analysis.

– Feedback from a Professional Development workshop attendee

While the Trust-funded component of the project ended in late 2016, we have transitioned to a fee-for-service model. As the acknowledged experts in environmental and planning law, we now offer training for lawyers and other professionals working in the environmental and planning field, as well as environmental decision-makers at State and local levels.

In the latter half of 2016/2017, we conducted three fee-for-service workshops, including an insider's perspective on one of our landmark cases – the challenge to the approval of the Crown Casino at Barangaroo; an overview of Australian water law for a delegation of Chinese professionals; and training in environmental law for a State Government agency.

Lectures

A key part of our Professional Development program is making our expertise available to the next generation of environmental lawyers. We have, for many years, made our staff available as guest lecturers for a range of universities. In 2016/17 this included lectures on water law, public interest environmental litigation and environmental impact assessment.

We have recently expanded our involvement with universities to include course coordination and delivery for Development and Planning Law and Sustainable Energy Law at UNSW.

Helping communities: EDO NSW outreach

- **Community workshops** help people participate in environmental decisions.
- **Seminars** and **presentations** build the capacity of professionals.
- **Lectures** at universities build the capacity of the environmental law fraternity.
- **Plain English materials** explain complex environmental laws and policies.

edonsw.org.au/Outreach

We also provided sessional academics to co-deliver Planning and Environmental Law at UTS.



Outreach Director – Professional Programs Emily Ryan with Friends of Ku-ring-gai Environment discussing how the community can engage in biodiversity law reform.

Publications

Guides to the law

edonsw.org.au/Publications

Plain-English legal guides are an important feature of our community engagement and education work, helping us to provide in-depth information on topical issues to a broad audience. Publications cover a wide range of subjects and come in various formats. Our publications are available free to the community online.

Fact sheets

edonsw.org.au/FactSheets

We have over 50 detailed fact sheets on State and Federal environmental law, covering issues such as planning and development, pollution, natural resource management, native plants and animals, heritage, and government accountability. Our fact sheets are designed to help build the capacity of the community to engage in environmental issues. There were more than 10,000 downloads of our fact sheets in 2016/17, equivalent to nearly 200 downloads every week. Our most downloaded fact sheets are on State significant development and State significant infrastructure, and development applications and consents.

IMPACT!

edonsw.org.au/Impact

IMPACT! is a contemporary and topical national journal of environmental law that focuses on the Australian legal context, with reference to international situations where appropriate. Impact is produced with support from the Environment and Planning Law Association NSW.

Digital Outreach

This year we continued to build our digital outreach capacity. A number of key improvements were made to our website's usability and further developments improved the site's integration with social media and search engines.

Website

The website experienced a similar level of activity to last year. The top pages viewed – apart from the home page – were our legal guides, our fact sheets, and our feature page on the NSW Government's biodiversity legislation review.

Visits to the Have Your Say pages of the website grew strongly this year. These pages help community members to engage in environmental decision-making by providing up-to-date information about opportunities to comment on government decisions that have the potential to impact on the environment. They also explain the framework for environmental decision-making and offer tips on how to engage effectively in decision-making processes.

Our Have Your Say pages received nearly 32,000 views this year – a 60 percent increase on last year.

Social media

Our Facebook following grew by 12 percent this year. We now have nearly 5,000 followers.

Our Twitter following grew by 14 percent to nearly 2,500.

Email updates

Subscriptions to our free weekly eBulletin again grew strongly. By the end of June 2017 we had over 3,000 subscribers, a 13 percent increase on last year.

The eBulletin provides an overview of up-to-the-minute environmental law matters, such as developments in environmental law and policy, as well as Have Your Say alerts for opportunities to comment on environmental matters.

EDO NSW communications

Blog edonsw.org.au/blog

Media releases edonsw.org.au/media

Facebook facebook.com/edonsw

Twitter [@EDONSW](https://twitter.com/EDONSW)

Weekly eBulletin edonsw.org.au/ebulletin

ABORIGINAL ENGAGEMENT PROGRAM

In 2016/17, we held legal education workshops in Bourke and Cobar on the law relating to protection of Aboriginal culture and heritage. We also continued to respond to requests for advice and representation on issues of importance to Aboriginal clients.

We represented Gidubul Elder Robert Williams in his efforts to protect Aboriginal cultural heritage from being destroyed by works at the Cedar Point Quarry near Kyogle in northern NSW. This culminated in proceedings in the Land and Environment Court, heard in November 2016, in which Mr Williams asked the Court to stop works at the quarry until the necessary cultural heritage approvals were obtained. Unfortunately the Court decided that works could proceed without the quarry and landowner obtaining an Aboriginal Heritage Impact Permit.

On behalf of our client, the Sugarloaf District Action Group Inc., we are working to protect the Awabakal Women's Butterfly Cave – the first women's place declared an Aboriginal Place – in West Wallsend, near Lake Macquarie. Our client is concerned that a housing development will desecrate the cave's cultural heritage. The Office of Environment and Heritage refused our request for further protection, without providing any reasons. We have since engaged a heritage expert to prepare a report for our clients.

We continued to help the Dharriwaa Elders Group to collaborate with landowners in the arbitration process for Access Management Plans in the opal mining districts around Lightning Ridge. This included assisting members of the group to prepare affidavits on the cultural values of the properties involved, which were used in proceedings in the Land and Environment Court to support a landowner's case opposing access by miners over culturally sensitive landscapes. We also presented a workshop to the group to update them on the work we have been doing with them.

We have continued to provide advice to Murray Lower Darling Rivers – Indigenous Nations (MLDRIN) about water management and water resource plans in the Murray-Darling Basin.

We deliver tailored legal services to Aboriginal people and communities across NSW. Through our **Aboriginal Engagement Program** we:

- provide legal advice and community education, tailored and appropriate for Aboriginal communities, on public interest environmental law matters, including culture and heritage protection, environmental protection, and planning law;
- reach out to Aboriginal communities to provide these services; and
- ensure that EDO NSW operates in a way that is culturally appropriate & respectful.

edonsw.org.au/AboriginalEngagement



EDO NSW Solicitor Ross Mackay with staff and members of the Dharriwaa Elders Group

Aboriginal Advisory Committee

Our Aboriginal Advisory Committee helps drive our Aboriginal Engagement Program. The Committee meets annually and provides assistance to us as required, including:

- informing and advising us on environmental law issues that affect Aboriginal communities in NSW;
- providing an Aboriginal perspective to our policy and law reform work;
- advising us on the adequacy of our existing measures to advise and represent Aboriginal communities and individuals about environmental legal matters; and
- advising us on protocols and procedures to ensure we operate in a culturally appropriate and respectful manner, particularly when providing services to Aboriginal clients.

The Committee will lead our work on reforms to NSW cultural heritage laws, which we expect will reach an important milestone in the coming year.

We are very grateful to the members of the Committee for their commitment and guidance.

Statement of Commitment

Our statement of commitment was developed with guidance from our Aboriginal Advisory Committee.

We will use our expertise, professionalism and deep commitment to assist and stand with our Aboriginal clients as they protect and promote their Country, culture and heritage through law.

INTERNATIONAL PROGRAM

In 2016/17 our international work was targeted at helping organisations in Fiji, Solomon Islands, Papua New Guinea (PNG), Vanuatu and Samoa with issues such as fisheries management, marine protected areas, planning and development, forestry and mining.

As a partner with Australian Volunteers for International Development (AVID), we supported three strategic volunteer placements in Fiji, Samoa and Solomon Islands. The placements were in the areas of public interest environmental law, and planning and development. Roles ranged from legal support to development assessment positions.

We continue to engage in a range of international networks, particularly the Environmental Law Alliance Worldwide (ELAW), an online network of public interest environmental lawyers and scientists; and the International Union for the Conservation of Nature (IUCN), a network of more than 1,000 government agencies and NGOs and over 11,000 lawyers, scientists and other experts. We also continue our role as secretariat for the Pacific Network for Environmental Law (PaNEL) which we helped establish in 2015.

In February 2017 our Solicitor, Sarah Roebuck, showcased our pioneering work on climate litigation at the ELAW Conference and the Public Interest Environmental Law Conference at the University of Oregon, USA.

Solomons Islands' first protected area

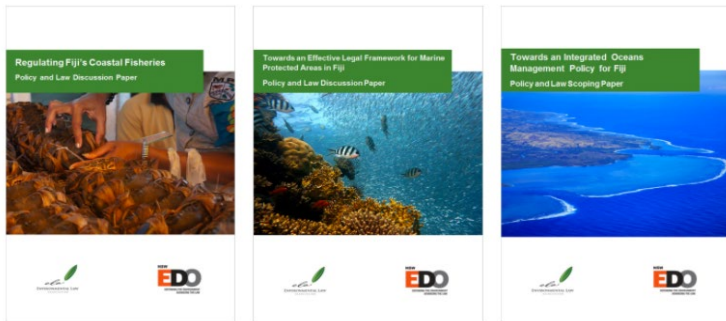
This year we were delighted to find out that our international work contributed to the declaration of Solomon Islands' first ever protected area, the Arnavon Community Marine Conservation Area in the Arnavon Islands.

Our Protected Areas Toolkit was used by the Arnavon community to prepare their application to protect their unique island ecosystem, the biggest breeding ground for critically endangered hawksbill turtles in the South Pacific. Also, processes developed by one of our AVID volunteers were used by the government agency that approved the application.

We have been providing legal assistance and training to organisations in the South Pacific since 1991.

Our **International Program** helps build the knowledge and skills of environmental lawyers in the Pacific through much-needed training and technical support in our key areas of operation (litigation, policy, outreach and scientific advisory).

edonsw.org.au/International



View all at edonsw.org.au/FijiReports

Fisheries and oceans management in Fiji

This year we worked with Fiji Environmental Law Association to publish three law and policy discussion papers on fisheries and oceans management:

- Regulating Fiji's Coastal Fisheries.
- Towards an Effective Framework for Marine Protected Areas in Fiji.
- Towards an Integrated Oceans Management Policy for Fiji.

These publications can be viewed and downloaded at edonsw.org.au/FijiReports

Funding for the International Program

We are grateful for the support of the Packard Foundation which helps us provide assistance on coastal marine issues to the Fiji Environmental Law Association. We also express our gratitude to the Critical Ecosystems Partnership Fund which provides support for our capacity development work with environmental law association partners in Solomon Islands, PNG and Vanuatu.

We are incredibly grateful for the funding that the Rainforest Foundation of Norway provides for our work in providing capacity development support to the Center for Environmental Law and Community Rights in PNG, which we began in June 2017.

Compliance and evaluation

We use formal evaluations and informal feedback to continuously develop and improve our international capacity development programs.

EDO NSW has been a full member of the Australian Council for International Development (ACFID) since 2013. ACFID maintains the ACFID Code of Conduct which is a voluntary, self-regulatory sector code of good practice for organisations working in aid and development. EDO NSW is committed to full adherence with the Code, conducting our work with transparency, accountability and integrity.

For further information about the Code, please refer to the ACFID website: www.acfid.asn.au. This site also includes information about how to make a complaint in relation to any breach of the Code.

SCIENTIFIC ADVISORY SERVICE

In 2016/17, 94 experts provided 116 advices to us and our clients on 46 policy, litigation and outreach matters. This included reviewing environmental impact statements, preparing expert reports, providing advice to local government and giving technical input into policy submissions, particularly in relation to the NSW biodiversity reforms.

We thank all our experts for their ongoing willingness to ensure that the NSW community has access to the best scientific advice possible.

Helping the community engage in decision-making

This year we harnessed scientific expertise to provide a rigorous, independent analysis of the environmental impacts of Santos' Narrabri Gas Project in the Pilliga region of northern NSW.

The project involves the progressive development of a coal seam gas field of up to 850 gas wells and the construction and operation of a range of facilities, including a central gas processing facility, a water management facility, water and gas gathering pipelines, and ancillary infrastructure.

The project has raised significant community concern so interest was high when the project's Environmental Impact Statement (EIS) went out for public comments from March to May 2017.

However, the community's ability to engage in the consultation was hampered by the sheer size of the consultation documents; the project's EIS was over 7,000 pages long.

We were able to help the community by engaging independent experts to review the EIS and provide detailed independent analysis on six key areas: Aboriginal cultural heritage; biodiversity; economics; greenhouse gas emissions; groundwater and surface water impacts and management; and social impacts.

This advice helped to inform community submissions.

Although the consultation period is now over, our Scientific Advisory Service will continue to help the community access independent expert advice as the project continues through the assessment process.

Our **Scientific Advisory Service** provides independent, objective scientific advice to our staff and clients. The Service includes:

- 'In-house' advice from our Scientific Director.
- A Technical Advisory Panel, which is made up of academic experts who provide pro bono strategic advice on specific issues.
- An Expert Register of over 150 scientific experts in a range of fields who assist EDO NSW on a pro bono basis.

edonsw.org.au/Science

FUNDRAISING

We are very grateful to our loyal supporters, a diverse group of people and organisations from all over Australia (and internationally) who understand and believe in the value of our work.

965 groups and individuals donated to EDO NSW throughout 2016/17 – a fantastic result given the relative youth of our fundraising program. This includes regular donors – the Friends of the EDO – whose monthly contributions form an important funding platform, helping us to plan ahead.

In June 2017 we held our annual Gala Dinner, celebrating our fantastic record of public interest environmental law and raising funds to continue this vital work. Legendary comedy duo Roy & HG, internationally recognised environmental hero Wendy Bowman and science guru Dr Karl Kruszelnicki all spoke about the importance of our work. We are so grateful to everyone who supported the event; much fun was had by all.

Every donation to EDO NSW makes a real difference as we seek to build a strong and independent organisation for the future. Our 2016/17 key supporters are acknowledged on page 31



Our CEO, Sue Higginson with MCs Roy & HG and dinner guest Richard Lancaster SC at our 2017 Gala Dinner.

As a not-for-profit community legal centre, we depend on the generosity of our donors to ensure we can provide expert legal and scientific advice without fear or favour.

There are many ways you can support EDO NSW

- Make a tax-deductible donation here edonsw.org.au/donate
- Become a Friend of the EDO with a monthly donation via givenow.com.au/edonsw
- Leave a Bequest in your will edonsw.org.au/bequests
- Donate via your Workplace Giving program edonsw.org.au/workplace_giving
- Hold a community event or join a fun run like City to Surf and raise funds for EDO NSW – get in touch with us to discuss fundraising@edonsw.org.au

LEADERSHIP AND INFLUENCE

We have long played an active role in promoting and furthering law reform and legal education in NSW through presentations; policy submissions; publishing papers in academic journals; and participating in key bodies such as the International Union for the Conservation of Nature, the Australian Panel of Experts on Environmental Law, the Environment and Planning Law Association, NSW Young Lawyers, the Law Society of NSW, and the Australian Centre for Climate and Environmental Law.

2016/17 saw continued growth in our reach and influence. Highlights include:

- Our staff delivered 27 presentations on a wide range of environmental law topics to a variety of professional and community events throughout the year.
- Our client Wendy Bowman received the internationally prestigious Goldman Environmental Prize. Wendy is a tireless and selfless advocate for the environment. Her determination and grace under enormous pressure have inspired all of us at EDO NSW. We're delighted her courage is being recognised internationally.
- We launched a video – *Battle for Bulga* – about our ongoing work with the community of Bulga as they fight to protect their village. Launched at our 2017 Gala Dinner, *Battle for Bulga* was very well received – bringing some in the audience to tears – and has since been viewed 2,500 times online. See it here edonsw.org.au/battle_for_bulga
- We published video presentations from workshops held throughout the year. These are a good way of reaching out to people who are unable to make it to our events. Presentations can be viewed at youtube.com/user/EDONSW
- Our *Have Your Say* program was highly commended at the Justice Awards presented in October 2016 by the Law and Justice Foundation of NSW.
- EDO NSW featured in around 230 media items throughout the year. Highlights include:
 - The awarding of the Goldman Environmental Prize to our client Wendy Bowman, which gained wide mainstream media interest.
 - Our CEO Sue Higginson appeared on ABC's *The Drum* on 25 October 2016 to defend the community's right to uphold our national environmental laws.
 - Our case for Millers Point Fund Inc which challenged the waterfront location of the Crown Casino and hotel at Barangaroo received broad coverage, including television news and specialist media such as financial, urban planning and casino news outlets.

EDOs OF AUSTRALIA

EDO NSW is one of eight independent EDO offices located across Australia that formally operate together as a network called EDOs of Australia.

For many years now the offices have worked together where possible, sharing information and resources, and collaborating on joint submissions on Federal environmental policy. EDO NSW, being the largest of the offices, also assists other offices with litigation on State, Territory and Federal cases.

In 2016/17 EDOs of Australia, with the help of donor support, has undertaken extensive work looking at the future of the national network. There are many indicators pointing to the merger of EDOs into a single national organisation. This exciting possibility provides the opportunity to grow the unparalleled expertise in the delivery of public interest environmental legal services held by EDOs to better service all Australians.

OUR PEOPLE

Staff

EDO NSW is very fortunate to have a dedicated team of professional staff. At 30 June 2017, the team consisted of:

Chief Executive Officer

Sue Higginson

Principal Solicitor

Elaine Johnson

Policy & Law Reform Director

Rachel Walmsley

Outreach Director – Community Programs

Jemilah Hallinan

Outreach Director – Professional Programs

Emily Ryan

Scientific Director

Megan Kessler

Operations Manager

Blake Powell

Senior Solicitor

Rana Koroglu

Senior Policy & Law Reform Solicitor

Nari Sahukar

Solicitors

Brendan Dobbie

Stacey Ella

Kira Levin

Ross Mackay

Belinda Rayment

Sarah Roebuck

Policy & Law Reform Solicitor

Emma Carmody

Outreach Solicitor

Nina Lucas (Northern Rivers)

International Programs Coordinator

BJ Kim

Fundraising Manager

Daria O'Neill

Communications Officer

Christopher Madden

Administrative Officers

Eamon Fraser-Crooks

Meg Goodwin

Kirsty Jordan

Staffing changes

There were a number of staffing changes in 2016/17 as well as the happy return of several staff from long-term leave.

Elaine Johnson returned from parental leave to take up the Principal Solicitor role. She started with the organisation in 2011 and held a Senior Solicitor position from 2013 to her return in August 2016.

Outreach Director Jemilah Hallinan and Solicitor Belinda Rayment also returned from parental leave.

The Outreach Program was restructured in recognition of its broad reach and range of stakeholders. The new program is divided into Community and Professional Programs and is co-directed by Jemilah Hallinan (Community Programs) and Emily Ryan (Professional Programs).

Administration team member Ana Carneiro left to pursue a PhD after five years with EDO NSW. Eamon Fraser-Crooks joined the organisation as the new Administration Officer.

Fundraising Coordinator Jerry Lloyd also left for a fundraising position with Cancer Council. Daria O'Neill has taken up the helm of the Fundraising Program.

Solicitor Emily Long completed her contract with EDO NSW at the end of May. Originally contracted part-time to work with the Litigation team, she later lent her talent to the International Program as well, working with partners in Fiji and Solomon Islands.

Finally, Northern Rivers-based Solicitor Nina Lucas went on extended leave mid-February with Solicitor Brendan Dobbie temporarily relocating to Lismore to staff the Northern Rivers office until her return.

Board of Management

EDO NSW is a non-profit company limited by guarantee. Our volunteer Board provides strategic direction and governance to the organisation, and is elected at each Annual General Meeting. Board members attend meetings at six-weekly intervals, and take part as required in planning days and committees. They make a major contribution to EDO NSW, guiding the organisation's development and devoting considerable time and expertise to our work. More information on the Board is included in the Directors' Report for the year ended 30 June 2017.

EDO NSW Patron during 2016/17 was Hal Wootten AC QC.

EDO NSW: A GREEN OFFICE

We are committed to operating in an environmentally sustainable way. We measure our carbon footprint using the greenhouse gas calculator and offset our emissions by purchasing Climate Friendly certified Gold Standard and Verified Carbon Standard carbon offsets. This year we purchased 38 tonnes of carbon dioxide equivalent (CO₂e) offsets.

In calculating our carbon footprint, we include:

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

Last financial year our emissions were 57 tonnes CO₂ e, so we have achieved a one-third reduction in our emissions, due largely to a reduction in plane travel and printing.

EDO NSW relies on car and plane travel to deliver outreach workshops and represent clients in rural areas.

We have a number of ways that staff and volunteers contribute to our Green Office. Along with paper and co-mingled recycling bins, we have collection points for used batteries, mobile phones, eWaste, soft plastics and used pens. A key aspect of our Green Office is our Bokashi bin which composts office food scraps. Staff members take the scraps home for their gardens.

We thank our staff and volunteers for the many ways they help reduce waste – from minimising their printing, to taking reusable cups when they go out to get their daily coffee.

We also continue to support Australia's renewable energy industry by purchasing 100 percent GreenPower for our office.

ACKNOWLEDGEMENTS

Thanks to the commitment and generosity of a small group of outstanding people, EDO NSW can continue to provide expert legal and scientific advice to those who need it. We extend our warm thanks to those people for donating their time, skills, energy, goods and services, and gifts this financial year.

Philanthropic Supporters

Julia Atkin	Norman Rothfield Peace & Justice Fund
Diversicon Environmental Foundation	Cynthia Nadai
Hill Family Conservation Foundation	Brad Orgill
Colin Hindmarsh	Paddy Pallin Foundation Pty Ltd
Elisabeth Hodson	Rob Purves
Sue Jacobs & David Robinson	Seeds for Life Fund
George Lewin Foundation	Lewis Tyndall
Peter and Kim Martin	Bill Wilson
The Hon. Jane Mathews AO	

And thank you to those who wish to remain anonymous.

Sponsors and Speakers

Christine Ai	The Hon Michael Kirby AC CMG
Belvoir	Janine Kitson
Bianca Spender	Dr Karl Kruszelnicki
The Bridge Room	Marked Hair
Callicoma Hill Eco-Cabins	Matthew George Design
Quentin Dempster	Merivale
EcoTreasures	Monkey Baa Theatre Company
Essential Media	National Geographic
Jackie French	NSW Environment and Planning Law Association
Futurekind	Jane Osborne
Anna Glasby	Melody Owen
GreenCollar Group	Tim "Rosso" Ross
Naomi Hamilton Photography	Nora Shayeb

Cecily Hardy	Staging Connections
Helping Hand	Bill Wilson
Jessica Harwood	Young Henrys
Infigen Energy	Wombat Crossing Vineyard
John Doyle & Greig Pickhaver	Sharon Zwi
Glenn Urquhart	

We continue to benefit from the generosity of Sylvia Hale, whose substantial donation in 2014 has helped sustain us through a period of funding uncertainty.

We are also incredibly grateful to the community groups and individuals who held events this financial year to raise funds that will allow us to continue our work, including Janet Kossy, Friends of Ku-ring-gai Environment and Knitting Nannas Against Gas.

Finally, we are extremely thankful for those supporters who have chosen to include EDO NSW in their wills, and to the Estates of the late Nicola Franklin and the late Margaret Munro Esson for realising their bequests and continuing their legacy of environmental protection.

Volunteers

Volunteers greatly enhance our ability to provide timely services to our clients and the community. Most volunteers help with the provision of our legal advice and casework services, though this year we also enjoyed volunteer support for our outreach, communications and administration services.

We would like to thank our 2016/17 volunteers for their commitment and hard work:

Alexi Abel	Josie Dooley	Jocelyn McGarity
Christine Ai	Stephanie Fett	Nicola Moir
Jennifer Andrews	Alexandra Fiddis	Jasmine Morris
Rebecca Baker	Cecilia Fonseca	John Mudge
Grace Barbara	Emilee Freeman	Laura Muir
Genevieve Barry	David Gunter	Frances O'Brien
Alexander Benn	Parisa Haider	Duncan Paradice
Tim Blum	Bridie Hand	Vivien Paredes
Sineadh Boccalatte	Hannah Hargrave	Karen Raubenheimer
Kate Bombell	Naama Hassan	Alex Read
Zoe Booth	Robert Hill	Jordan Rowand-Wild

Scott Breihl	Kit Holmes	Anne Sara
Erin Butterworth	Ceire Kenny	Francisca Silva
Joey Chen	Olivia Kilponen	Larissa Sukkar
Vincci Chen	Elizabeth King	Gabriella Sulfaro
Lea Cherriffa	Amanda Kunafi	Christiane Swain
Libby Ciesiolka	Nicholas Latham	Natalie Taylor
Peter Clarke	Roger Lee	Brad Torgan
Brooke Cohen	Alison Mackey	Lisa Trinh
Rebecca Cunningham	Jacob Marcinak	Isabella Viney
Duc Dang	Jim Marshman	Stephanie Willis
Emma Donnelly	Joseph McDonald	Brittany Young

Pro Bono Assistance

Barristers

Damian Beaufile	James Johnson	Shane Prince
Fenja Berglund	Nicholas Kelly	Sarah Pritchard SC
Simon Chapple	Geoffrey Kennett SC	Mark Seymour
Phillip Clay SC	Nicolas Kirby	James Smith
Ian Coleman SC	Richard Lancaster SC	Ashley Stafford
Nick Eastman	Craig Leggat SC	Jane Taylor
Gideon Gee	Craig Lenehan	Bret Walker SC
Natasha Hammond	Trent March	Josie Walker
Ian Hemmings SC	Bruce McClintock SC	George Williams
Michael Hall SC	Christine Melis	
Tom Howard SC	Andrew Pickles SC	

Chambers and law firms

Colin Biggers & Paisley	Long Legal
McCabes Lawyers	Henry Davis York
Martin Place Chambers	

Technical advisory panel

We thank our Technical Advisory Panel, who provide pro bono strategic advice to EDO NSW. The Panel members and their specialties are:

- Prof Chris Dickman, Professor of Terrestrial Ecology, School of Biological Sciences, University of Sydney – terrestrial ecology.
- Assoc Prof Nicole Gurrán, Faculty of Architecture, Design and Planning, University of Sydney – urban planning and policy analysis.
- Prof Richard Kingsford, Professor of Environmental Science, University of NSW – wetland and river ecology and water resources.
- Dr Iain MacGill, Senior Lecturer, University of NSW – energy policy and technology.
- Prof John Quiggin, Risk and Sustainable Management Group, University of Queensland – economics and economic policy.

Scientific and technical assistance

We thank the following experts, including the members of our Technical Advisory Panel, who provided advice during 2016/17, and all those who provided advice anonymously.

Hector Abrahams	Stephen Fityus	Tanya Mason
David Airey	Erica Garcia	David Milledge
Doug Anderson	Stephen Gauld	Kevin Mills
Elizabeth Ashby	Warwick Giblin	William Milne-Home
Hedda Askland	William Glamore	Gavin Mudd
Renata Bali	Nicole Gurrán	Barry Noller
John Bassett	Patrick Harris	Emmett O'Loughlin
Stephen Bell	Melissa Haswell	David Paull
Stuart Blanch	Kevin Hayley	Philip Pells
Karl Bossard	Pam Hazelton	Steven Pells
Andrea Broughton	Grant Hose	Neil Perry
Jeff Camkin	John Hunter	Steve Phillips
Rod Campbell	Julia Imrie	Graham Pyke
Ian Campbell	Narelle Irvine	John Quiggin
Simon Clulow	Chris Jewell	Daniel Ramp
Matthew Colloff	David Keith	Bruce Robertson
Mathew Crowther	Stuart Khan	Hugh Saddler
Matt Currell	Anthony Kiem	Geoff Vietz

Peter Dart	Richard Kingsford	Justin Welbergen
Adrian Davis	Peter Kuskie	Rod Wiese
Claire DeLacey	Sam Lake	David Williams
Martin Denny	Roger Lembit	Scott Wilson
Chris Dickman	Stewart Lockie	Ian Wright
Michael Eddie	Doug Lord	Nature Conservation Trust
Astrid Eggins	Iain MacGill	
Abbas El-Zein	Andrew Marr	

Aboriginal advisory committee

- Zachary Armytage, Community Legal Centres NSW
- Jason Behrendt, Chalk & Behrendt Lawyers
- Constance Chatfield
- Tony McAvoy SC
- Natalie Rotumah, NTSCORP Limited

FUNDING AND FINANCIAL REPORT

Financial Performance

In 2016/17, EDO NSW ended the year with a deficit of \$196,297. This was a positive outcome, being almost 20 percent less than the Board's budget for the year. As flagged in the 2013/14 Annual Report, it was the Board's intention to use part of the surplus achieved that year, which included the substantial donation received from Sylvia Hale in June 2014, to continue to provide EDO NSW services into the future and to undertake work that is in the public interest and strategically important, but cannot be done within the terms of funding contracts. This was the final year of the 2013/14 surplus spend.

Funding From Grants

Historically, EDO NSW has been overwhelmingly dependent on grants to provide environmental legal services to the community. However, as can be seen in the chart at the end of this section, the proportion of income which EDO NSW receives from grants has decreased over the past four years. During this time there has been an increase in the number of grants received, but many of these are smaller grants committed to specific programs and projects.

The major source of funding for the core operations of EDO NSW remains the Public Purpose Fund (PPF). In the past, this was triennial funding and composed about 70 percent of our total funding, reaching \$1,642,127 in 2011/12. However, this source of funding has declined significantly and in 2016/17 EDO NSW received \$825,000 from the PPF, and will receive the same amount in 2017/18.

Funding was received from Legal Aid NSW through the Community Legal Services Program (CLSP). CLSP funds from the NSW Government accounted for \$223,647 of EDO NSW income in 2016/17. NSW CLSP funding will continue in 2017/18 at a similar rate. EDO NSW and the other EDOs around Australia no longer receive any CLSP funding from the Australian Government. This was terminated in June 2014, and while other community legal centres have had their Australian Government funding restored, EDOs have not.

In addition to CLSP funding, EDO NSW has continued work on the Environmental Law for Environmental Decision-makers project which was funded by the NSW Government through its Environmental Trust at the end of 2014/15. The project was developed and implemented in 2015/16 and workshops wound up in December 2016.

For our International Program, we largely rely on grants from overseas foundations. The David and Lucile Packard Foundation grant and the Conservation International Foundation's Critical Ecosystem Partnership Fund (CEPF) grant continued through 2016/17. A no-cost extension of the CEPF grant to 31 December 2017 was issued to allow for workplan modifications initiated by the funder and the Packard grant

wound up at 30 June 2017. A new grant from the Rainforest Foundation of Norway was secured for legal capacity building work in PNG from June-December 2017 with potential for a longer-term partnership from 2018. Other income has been used as needed to supplement the domestic expenses of the International Program.

EDO NSW receives a number of other grants, including an annual research fellowship grant from the Environment and Planning Law Association (NSW) Inc.

Community Support

EDO NSW received the gratifying amount of \$591,999 from donations, gifts and memberships in 2016/17, compared with \$683,065 last year. While this was a slight decrease on the previous year, the difference can be attributed to several significant donations in 2015/16 for a program that did not continue through 2016/17. EDO NSW now relies heavily on donations from the community to maintain its services.

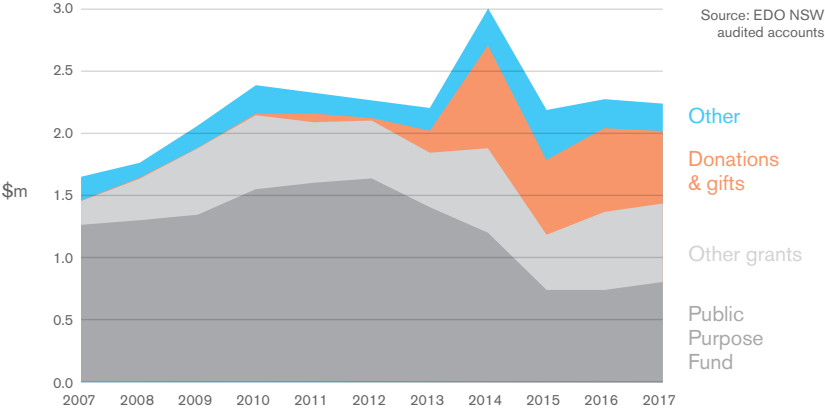
Income Generation

EDO NSW generates income from fees charged for its professional services and receives income from bank interest. In 2016/17, EDO NSW generated professional fees totaling \$173,841, compared with \$137,116 in 2015/16 and \$323,363 in 2014/15. This income source is highly variable due to the type of services requested and the outcome of litigation cases. Income from bank interest also fluctuates due to changes in interest rates.

Income Sources Over Time

Over the last four years EDO NSW has undergone a substantial restructuring of income sources, with PPF funding declining and donations increasing. The changing structure of our income sources is illustrated in the graph below. The graph also clearly shows how important the substantial donation from Sylvia Hale in June 2014 has been for sustaining our organisation through this challenging time.

EDO NSW income by source, 2007 to 2017



DIRECTORS' REPORT FOR THE YEAR ENDED 30 JUNE 2017

The Directors present this report on the company for the financial year ended 30 June 2017.

Directors

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

The Hon. Jane Mathews AO, Chairperson

Appointed 23/10/2013
Acting Judge, Supreme Court of NSW
Attended 6 of 8 meetings

Mr Paul Brown, Treasurer

Appointed 16/02/2016
Senior Lecturer, University of Technology Sydney
Attended 6 of 8 meetings

Mr Jeff Smith, Secretary

Appointed 28/3/2017
Consultant
Attended 2 of 8 meetings

Ms Bronwyn Darlington

Appointed 23/10/2013
Researcher/Lecturer, University of Sydney Business School
Attended 6 of 8 meetings

Dr Ronnie Harding

Appointed 21/10/2009
Retired Academic (Environmental Studies, University of NSW)
Attended 7 of 8 meetings

The Hon. Kevin Rozzoli AM

Appointed 2/05/2012
Consultant
Attended 8 of 8 meetings

Ms Jane Wilder

Appointed 1/12/2015
Solicitor
Attended 7 of 8 meetings

Mr David Robinson

Appointed 1/12/2015
Solicitor
Attended 7 of 8 meetings

Ms Leonie Gale

Appointed 5/8/16
President, Hastings Landcare Inc.
Attended 5 of 8 meetings

Mr Andrew Burke

Appointed 23/6/2010, ceased 9/11/2016
Solicitor
Attended 3 of 8 meetings

Mr John Connor

Appointed 1/12/2010, ceased 09/03/2017
Chief Executive Officer, The Climate Institute
Attended 3 of 8 meetings

Ms Kate Smillie

Appointed 2/12/2009, ceased 11/04/2017
Manager Revolving Funds, Nature Conservation Trust of NSW
Attended 4 of 8 meetings

Ms Verna Simpson

Appointed 5/12/2013, ceased 2/08/2016
Director, Humane Society International (Australia)
Attended 1 of 8 meetings

Net Deficit After Income Tax

The net deficit of the company for the financial year was \$196,297 (2016 – \$123,158 deficit).

Review of Operations

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

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

Significant Changes in State of Affairs

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

Principal Activities

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

- Provision of Environmental Law Services

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

Short-term and Long-term Objectives

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

The short-term objectives are:

- Effective legal protection of the environment
- Empowered community
- Leadership & influence
- Dynamic sustainable organisation

Strategies

The company's strategies are:

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

Key Performance Measures

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

After Balance Date Events

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

Future Developments

The company expects to maintain the present status and a similar level of operations. EDO NSW has been largely dependent on grants as its major source of income. Although the level of income from grants from the Public Purpose Fund and from the Commonwealth Government has decreased since 2012, a range of alternative income sources have been secured for its activities until 30 June 2018. At the same time, EDO NSW is increasing the proportion of its income from alternative independent sources such as donations and fees; it has significant contributions secured for 2017-2018.

Environmental Issues

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

Dividends

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

Options

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

Liability of Members

The company is incorporated under the Corporations Act 2011 and is a company limited by guarantee. If the company is wound up, the Articles state that each member may be required to contribute a maximum of \$10.00 towards meeting any obligations of the company. At 30th June 2017, the total amount that members of the company are liable to contribute if the company winds up is \$550.00.

Indemnities Granted

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

Actions

No person has applied for leave of Court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of these proceedings.

The company was not a party to such proceedings during the year.

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

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

Directors

Jane Mathews

Kevin Rozzoli

Dated this 19th day of September 2017

AUDITOR'S INDEPENDENCE DECLARATION

I declare that to the best of my knowledge and belief, during the year ended 30th June 2017, there have been:

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

JOSEPH PIEN

Chartered Accountant

J. Pien CA

Registered Company Auditor

Sydney, 20th day of September 2017

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2017

ASSETS	2017 \$	2016 \$
CURRENT ASSETS		
Cash on Hand	1,464,813	1,693,603
Accounts Receivable and Other Debtors	27,464	100,960
Other Current Assets	136,115	119,900
TOTAL CURRENT ASSETS	1,168,392	1,914,463
NON CURRENT ASSETS		
Property Plant & Equipment	19,790	19,269
TOTAL NON CURRENT ASSETS	19,790	19,269
TOTAL ASSETS	1,648,182	1,933,732
LIABILITIES		
CURRENT LIABILITIES		
Accounts Payable and Other Payables	296,865	410,900
Employee Provisions	186,563	182,229
TOTAL CURRENT LIABILITIES	483,428	593,129
NON CURRENT LIABILITIES		
Employee Provisions	67,932	47,484
TOTAL NON CURRENT LIABILITIES	67,932	47,484
TOTAL LIABILITIES	551,360	640,613
NET ASSETS	1,096,822	1,293,119
EQUITY		
Retained Surplus	1,096,822	1,293,119
TOTAL EQUITY	1,096,822	1,293,119

INTERNATIONAL AID AND DEVELOPMENT INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2017

	Note	2016 \$	2015 \$
REVENUE			
Donations and gifts			
Monetary	1	1,838	4,575
Non-monetary	2	36,130	49,260
Grants - AusAid		-	-
- Overseas		72,282	138,205
Other income	3	508	2,582
		110,758	194,621
TOTAL REVENUE			
EXPENDITURE			
International Programs			
Monetary		133,847	130,802
Non-monetary		36,130	49,260
Community Education		-	-
Fundraising Costs	4	-	-
Accountability and Administration		18,180	14,559
		188,156	194,621
TOTAL EXPENSES			
(SHORTFALL) OF REVENUE OVER EXPENDITURE	5	(77,398)	0

Notes

- 1 Funds allocated from unrestricted donations to the Environmental Defence Fund operated by EDO NSW.
- 2 This includes volunteers' services valued at \$9,705 and pro bono services valued at \$26,425.
- 3 Balance of funding for International Program taken from investment income of EDO NSW.
- 4 EDO NSW incurred fundraising expenses of \$67,218 during the 2016-17 year. Most of these expenses related to direct mail appeals to the public and to a fundraising event. None of these was directed to funding the International Program. Consequently, it was determined that there were no materially significant fundraising expenses related to the International Program and therefore no fundraising costs are reported on the International Aid and Development Income Statement.
- 5 The Shortfall of Revenue over Expenditure is a result of grant disbursement timing with funds being advanced to EDO NSW in the prior year and expended in the current year.

CASH MOVEMENTS FOR DESIGNATED PURPOSES FOR THE YEAR ENDED 30 JUNE 2017

	Cash available at beginning of financial year	Cash raised during financial year	Cash disbursed during financial year	Cash available at end of financial year
Packard Foundation grant	110,858	508	111,365	0
Conservation International grant	(6,339)	46,877	28,740	11,798
Rainforest Foundation of Norway grant	0	25,406	8,971	16,435
Total for other non-designated purposes	1,589,085	2,230,123	2,382,628	1,436,580
TOTAL	1,693,603	2,302,914	2,531,704	1,464,813

Declaration

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

DIRECTORS' DECLARATION FOR THE YEAR ENDED 30 JUNE 2017

The directors of the entity declare that:

1. The financial statements and notes, as set out on pages 6 to 34 (sic)¹, are in accordance with the Corporations Act 2001:
 - a. comply with Australian Accounting Standards; and
 - b. give a true and fair view of the financial position as at 30 June 2017 and of the performance for the year ended on that date of the entity.
2. In the directors' opinion there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable.

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

Jane Matthews
Chairperson

Kevin Rozzoli
Director

Dated this 19th day of September 2017

¹ 9 to 37

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

Report on the Financial Report

I have audited the accompanying financial report of the Environmental Defenders Office Ltd., which comprises the statement of financial position as at 30 June 2017, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, notes comprising a summary of significant accounting policies, other explanatory information, International Aid & Development Income Statement and the directors' declaration.

Directors' Responsibility for the Financial Report

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

Auditor's Responsibility

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

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

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

Independence

In conducting my audit, I have complied with the independence requirements of the Corporations Act 2001. I confirm that the independence declaration required by the Corporations Act 2001, which has been given to the directors of Environmental Defenders Office Ltd. on 13 September 2017, would be in the same terms if given to the directors as at the time of this auditor's report.

Auditor's Opinion

In my opinion:

- a. the financial report of Environmental Defenders Office Ltd. is in accordance with the Corporations Act 2001, including:
 - i. giving a true and fair view of the company's financial position as at 30 June 2017 and of its performance for the year ended on that date; and
 - ii. complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Regulations 2001.

Joseph Pien

Chartered Accountant

Dated in Sydney this 20th day of September 2017

PROFIT AND LOSS STATEMENT FOR THE YEAR ENDED 30 JUNE 2017

INCOME	2017 \$	2016 \$
Public Purpose Fund Grant	825,000	750,000
Lead Environment Community Grant	40,000	75,000
NSW CLSP Grant	223,647	216,191
NSW Environmental Trust Grants	35,863	22,500
Other Project Grants	171,563	165,166
EPLA Research Grant	5,000	5,000
Packard Foundation Grant	111,992	111,632
Donations, Memberships & Fundraising	591,989	683,065
Programs Income	28,739	29,571
Professional Fees	173,841	137,116
Interest Received	33,848	44,250
Miscellaneous Income	13,178	35,478
	2,254,660	2,274,969
 EXPENDITURE		
Auditor's Remuneration - Financial Statements	10,465	10,645
Accountancy & Bookkeeping	39,974	38,220
Bad Debts Written Off	5,510	1,400
Bank & Government Charges	2,533	3,800
Board Costs	3,161	2,594
CEPF Expenses	9,121	1,255
Conferences, Publications & Workshops	21,022	6,765
Consultants Fees	(9,558)	13,292
Depreciation	7,923	15,727
Disbursements - non recoverable	150	925
Doubtful Debts	13,484	1,643
Employees Entitlement Provision	24,782	10,924
Employee Expenses	8,978	7,281

Fundraising Expenses	67,218	67,976
Information Technology Expenses	31,689	29,372
Insurance	20,401	11,565
Light & Power	7,597	6,028
Loss on Disposal - Fixed Assets	0	0
Office Costs	7,969	9,496
Organisational Development	20,286	15,348
Packard Foundation Expenses	9,901	9,009
Postage & Couriers	5,755	3,377
Printing & Stationery	12,418	21,457
Rent - Office	195,418	185,406
Repairs & Maintenance	1,596	0
Salaries & Wages	1,713,248	1,685,818
Staff Training & Welfare	1,741	9,052
Staff Amenities	3,537	6,274
Staff Recruitment	678	16,540
Subscriptions	12,837	10,142
Superannuation Contributions	152,675	153,169
Telephone & Internet	14,469	13,196
Travelling Expenses	33,979	30,431
	2,450,957	2,398,127
OPERATING PROFIT BEFORE INCOME TAX	(196,297)	(123,158)

Abridged report

This is an abridged copy of the Financial Report for the year ended 30 June 2017. For a full copy of the Report, please see our website edonsw.org.au/AnnualReport or contact the offices of EDO NSW.

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