



Environmental
Defender's
Office

Western Australia (Inc)

Annual Report

2014

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MANAGEMENT COMMITTEE

Dr Johannes Schoombee	Convenor
Michael Bennett	Secretary
Rhett Nicholas	Treasurer
Peter Robertson	Member
Norman Pater	Member
Sarah Robertson	Member
Rhiarne Bruce	Member

Retired 2013-2014

Renée Asher	Deputy Convenor
Sarah Van Gent	Treasurer
Susan Liddicoat	Member
Lee McIntosh	Member
Madeleine Spencer	Member
Alan Burns	Member
Marilyn Ashton	Member
Graham Castledine	Member

STAFF

Patrick Pearlman	Principal Solicitor
Jessica Smith	Outreach Solicitor
Annaleen Harris	Outreach Solicitor
Carolyn Dearing	Outreach Solicitor
Majella Metuamate	Office Coordinator

Hours of Operation: Monday to Friday from 9.00am to 5.00pm

CONVENOR'S REPORT - DR J T Schoombee

EDO (WA) Inc: July 2013 to June 2014

Overview

This has been an eventful and somewhat tumultuous year for EDO WA.

We commenced the past financial year with high hopes that for once, our financial concerns had been addressed. By the beginning of the year, the then federal ALP government had promised us additional funding of \$1.2 million over 4 years, so at \$300,000 a year. This would have enabled us to employ additional solicitors and to set up a further EDO office in the Kimberley area, to deal with the many environmental issues confronting the northern part of our large State. We did receive half of this promised funding in the first part of the past financial year but the federal election then intervened. On 17 December 2013, I received a telephone call from someone in the office of the federal Attorney-General who informed me in a cheerful voice that ALL federal funding was being withdrawn. Our standard, recurrent annual funding would not be renewed beyond June 2014 and the extra funding would stop immediately. This was a savage blow – the recurrent federal funding of which for this year stood at nearly \$100,000 had continued throughout the Howard years, having been originally granted in the days of the Keating government.

At the end of the financial year, the position was that our State funding is still continuing but we have to draw on our reserves, which is money saved over time, to keep us going. We had to abandon the idea of a northern office and reduce planned staff. As further discussed in our Principal Solicitor's report, defunding left the EDOWA with 1.4 Full Time Equivalent lawyers rather than the 2.6 FTE lawyers planned for February 2014.

So the past financial year brought with it an urgent need to seek funding to make the EDO independent of government funding.

This is a major task facing the EDO. We need all the support from our members and supporters to achieve financial independence.

But there has also been good news. I acted as counsel for Mr Richard Hunter and the Wilderness Society in the successful judicial review challenge to the approval of a gas hub at James Price Point. I was ably assisted by Patrick Pearlman, the EDO Principal Solicitor, who acted as counsel with me. Our clients succeeded essentially on the point that members of the WA EPA, who had partaken in the assessment process, had an indirect financial interest in respect of companies (like Woodside) which would benefit from approval under the EP Act. The reverberations of the findings by the Chief Justice in the Supreme Court in this context are still being felt, as our litigation exposed a course of conduct on the part of the EPA relating to multiple assessments. The case also illustrates the important contribution the work of the EDO makes to the proper administration of laws governing the environment. We pointed out a serious, systemic error.

The EDO also acted for Sea Shepherd in relation to a Supreme Court challenge to the shark cull program. While the challenge was mounted on procedural grounds, the important environmental issues underlying this challenge have been underscored by a recent report of the EPA which refused to endorse the program, applying the precautionary principle in the light of lack of scientific knowledge on the state of shark populations.

Management Committee

As of the 30 June 2014, our Management Committee consisted of myself as Convenor and the following: Renée Asher (Deputy Convenor), Sarah Van Gent (Treasurer), Lee McIntosh, Marilyn Ashton, Peter Robertson, Susan Liddicoat, Graham Castledine, Michael Bennett and Rhiarne Bruce. Madeleine Spencer, Norman Pater, Alan Burns, Sarah Robertson and Rhett Nicholas were co-opted on to the Committee during the year. In the course of the past financial year, a number of members stepped down for professional or personal reasons including Lee McIntosh, Marilyn Ashton, Sarah Van Gent, Susan Liddicoat, Renée Asher, Graham Castledine, Madeleine Spencer and Alan Burns. The EDO and I personally are indebted to all MC members who served the EDO so well. I would like to personally thank them for their dedication and enthusiasm over the past 12 months. Lee McIntosh again deserves

special mention. She has worked with the EDO in various capacities, including as Principal Solicitor. She has made a tremendous contribution through her hands-on work over many years.

Personnel

Patrick Pearlman acted as our Principal Solicitor, having earlier joined us from the EDO Northern Queensland. He has hit the ground running. Jessica Smith and Annaleen Harris continued in their roles as Outreach Solicitors. Annaleen began maternity leave in August 2013 in anticipation of the birth of her first child, and we welcomed a new Outreach Solicitor, Simon Downing, who started in the role on 10 October 2013. Simon went over East at the end of 2013, also for family reasons. Thereafter the solicitors' work was done by Patrick and Jessica, with the assistance of part time solicitors and volunteers. I extend my thanks to all of them for their exceptionally able work.

In the past year, the EDO's administrative staff was restructured. The part-time coordinator's and administration officer's roles have been restructured into a full-time office coordinator role, with a greater emphasis on office administration. We have been fortunate to have Majella Metuamate fill that role. She greatly assisted the EDO and me personally, notably in the heady days of December 2013, amidst the fall-out from the funding cuts.

Volunteers

At the AGM we will again honour the number of volunteers who have so ably assisted us. I also wish to thank the barristers and solicitors who assisted us despite their own pressing commitments.

Litigation and Representation, and other activities

I have referred to some of these. Patrick is presenting a full report which deals with the work done in the various areas.



J T SCHOOMBEE
Convenor for the EDO

PRINCIPAL SOLICITOR’S REPORT – Patrick Pearlman

Overview

To say that 2013-14 has been a “rollercoaster” year would be an understatement. Over the past twelve months, EDOWA has seen its Commonwealth funding significantly increased (tripled) and then completely terminated, its staff grow and then shrink, all while our active case load and overall visibility in the legal, academic and broader community has increased. The past year has forced EDO staff and management to address basic organisational goals and strategies to ensure we continue to be the “go to” legal office in Western Australia for individuals and communities with public interest environmental law and related matters.

EDOWA funding in 2013-14

First, I’ll address EDOWA’s funding situation – most of which members are already very familiar with but which is nonetheless good to review to see just how significant our challenges have been over the past year and how well the organisation and its members have responded.

In June/July 2013, during the waning days of the ALP Government, EDOWA and other EDOs around Australia received very welcome news that the Commonwealth had determined to sharply increase our funding. In addition to the roughly \$97,000 in recurring annual funding we received from the Commonwealth under a Community Legal Services Program (CLSP) agreement with the State and Federal governments, the Commonwealth advised that EDOWA would receive an additional \$75,000 quarterly in each of the next four years (\$300,000 annually for a total of \$1.2 million). The purpose of the additional Federal funding was to enable EDOWA to expand and increase its public interest legal services across Western Australia. EDOWA signed a supplemental grant agreement with the Commonwealth in July 2013.

The additional funding permitted us to advertise for additional outreach solicitors and, in October, EDOWA hired Simon Downing, a solicitor with over eight years’ post-admission experience. EDOWA also

offered a role to Sweta Prabhakar, another experienced environmental lawyer from New South Wales, with a February 2014 start date.

Unfortunately, the ALP was not returned to Government in the September 2013 Federal election and on 17 December 2013, the new LNP Government terminated the supplemental grant agreement so that no further, additional funding would be received. To be frank, this action by the Abbott Government was not entirely unforeseen. What was unforeseen, however, was the Government's termination of the CLSP Agreement, effective 30 June 2014. This latter action terminated annual Commonwealth funding that EDOWA had received for at least the past 8 years. To make matters more difficult, the Commonwealth purported to direct EDOWA to "stop the performance of all your obligations with respect to the Activity" ("Activity", broadly speaking, appeared to mean all advice, casework, law reform and community legal education services that EDOWA provides).

Within the week, Simon Downing had resigned his role (although, to be frank, his decision was to address a family matter and not entirely attributable to the Commonwealth's defunding decision). EDOWA also communicated to Ms Prabhakar before Christmas that it would be unable to employ her in light of the defunding. EDOWA also sought and obtained legal advice regarding its rights, obligations and remedies under the terminated agreements, particularly with respect to the Commonwealth's stop-work directive.

The immediate result of the defunding was to leave EDOWA with 1.4 FTE lawyers rather than the 2.6 FTE lawyers planned for February 2014, operating under a cloud of uncertainty and facing a mountain of work.

EDOWA wasn't the only EDO whose Federal funding was terminated: Every EDO in Australia had its Federal funding terminated. Some EDOs, like that in Northern Queensland, who had already had their State funding cut by LNP governments or had little or no State funding to begin with, have been left with no choice but to dramatically scale back their services.

One other bit of bad news on the funding front came in December when we were advised that our application for a \$65,000 grant in FY 2014-15 from the Public Purposes Trust (PPT) Fund was denied.

EDOWA had sought the grant as part of our “West Kimberley Project”, which would have enabled us to put a part-time solicitor in Broome to assist indigenous and non-indigenous residents of the West Kimberley. We were disappointed that our application was denied, despite enthusiastic support for the program expressed by three indigenous corporations in the region (Goolarabooloo-Millibinyarri Indigenous Corporation, Madjulla Inc, and Nyikina Inc).

Not all the news on the funding front was bad, however. There were some notable positives for the organisation as well.

For example, in February 2014, the State finally paid the costs order entered by WA Supreme Court Chief Justice Wayne Martin in favour of Richard Hunter and The Wilderness Society WA as the result of their successful challenge of the State’s Browse LNG Precinct proposal at James Price Point north of Broome. EDOWA acted as junior counsel for Mr Hunter and TWS. That litigation outcome was addressed in last year’s Principal Solicitor Report. The costs order amounted to nearly \$46,000 – or roughly half the level of annual Commonwealth funding under our CLSP agreement.

In addition, Sea Shepherd Australia Ltd contributed \$10,000 to EDOWA, motivated by the work the organisation provided to Sea Shepherd and others who opposed the Premier’s baited drum line program, including our representation of Sea Shepherd and Sharon Burden (mother of shark attack victim, Kyle Burden) who sought an order prohibiting the State from continuing the drum line program. While the Court ruled against us, we were successful in convincing the Court that the public interest warranted not requiring the applicants to pay the State’s costs of nearly \$20,000.

EDOWA also undertook a year-end appeal for donations that members and supporters responded to generously, providing the organisation with an extra \$14,500 in donations.

Funding impacts on EDOWA staffing

To compensate for our reduced staff but our steady caseload and other administrative workload (see below), the Management Committee approved the hiring of 3 part-time (0.2 FTE), casual solicitors in late

March to address a backlog of advices: Carolyn Dearing, Zara Spencer and Stephanie Price. Carolyn, Zara and Stephanie provided invaluable assistance reducing EDOWA's advices backlog while we ran an important litigation matter for Sea Shepherd in the WA Supreme Court and finalised our efforts to secure NACLAC accreditation. When their temporary contracts ended on 30 June, EDOWA was able to keep Ms Dearing on staff.

In addition to the dramatic changes to our legal staff from mid-December onward, there were also significant changes to EDOWA's administrative staff. Jane Siddall's (Office Coordinator) and Djuna Hollingsworth's (Administrative Assistant) contracts were not renewed when they expired at the end of September. Instead, EDOWA created a new, 1.0 FTE Office Coordinator role and, after a recruitment process, hired Majella Metuamate. Majella started the role at the beginning of December – two weeks before the Commonwealth announced it was defunding the organisation.

During the two-month interval between Jane and Djuna's departure and Majella's start, EDOWA's administrative functions were carried out by two temporary administrative staff, Lisa Stahl and Isabela Godden, each of whom worked on a one-day/week (0.2 FTE) basis. With Management Committee's approval, Lisa Stahl was hired again on a three-day/week (0.6 FTE) basis from late February to early April 2014 to assist the organisation in finalising policies and procedures needed to obtain accreditation by the National Association of Community Legal Centres (NACLAC).

Provision of legal services

Despite the serious, even existential, challenges that EDOWA has faced over the past year, we have been extraordinarily busy and productive. During the past twelve months, the organisation has continued to aggressively pursue its mission of protecting WA's environment by providing community groups and individuals with legal services.

More significantly, EDOWA was able to continue to expand its services into new areas of practice beyond its historic focus on environmental assessment processes. During 2013-14, and particularly after January 2014, EDOWA has increased its activities in matters pending in the WA

Mining Warden's Court. At present, EDOWA is currently acting as counsel for four parties whose objections to mineral tenement applications are pending before the Warden (up from the one objection we reported in last year's report). In addition, EDOWA assisted two members of the Badimia people to lodge objections with the Warden, opposing uranium exploration tenements sought in the area of Lake Moore.

In the period after January 2014, EDOWA also expanded its services into local government and planning matters, another area in which it has historically had a limited role. EDOWA currently represents a group of local landholders in western York Shire who seek leave to participate in a developer's appeal in the State Administrative Tribunal (SAT). As members may know, Western Australia is the only State in the Nation that prohibits third parties – that is, members of the broader public – from appealing planning decisions of local, regional and state governments. Members of the public may, with the SAT's leave, be allowed to intervene or lodge submissions or otherwise participate in a development appeal to the SAT and, in May 2014, EDOWA assisted York residents to seek such leave. As of the date of this report, the residents continue to participate in the SAT proceeding but have not yet been intervenor status.

EDOWA also took on another WA Supreme Court case after the Commonwealth terminated its funding of the organisation, instructing barrister Richard Hooker and acting as solicitors for Sea Shepherd and Sharon Burden in an effort to stop the State Government's baited drum line program targeting three species of protected shark. When that effort failed, we convinced the Court that the case was brought in the public interest and that no costs should be imposed. We also, briefly, pursued an appeal in the Court of Appeal.

Meanwhile, EDOWA continued to act to defend a local community activist against a defamation claim lodged in the Supreme Court. That effort has brought a mix of success and disappointment. On the disappointment side, we lost some of the arguments raised in the plaintiff's motion to strike our defences and the Court imposed what, in our opinion, was a fairly harsh costs order under the circumstances. On

the success side, with assistance from barrister David Garnsworthy, we knocked the plaintiff's bill for costs down from \$50,000 to a little over \$11,000 and then convinced the Court to stay the order for costs in exchange for a payment of \$2,000 by the defendant.

We also continue to provide assistance with review applications under the *Freedom of Information Act 1997 (WA)* and providing assistance in environmental merits appeals and judicial review proceedings.

Overall, EDOWA remains focused on achieving public interest environmental outcomes and fostering effective public participation. While much of our effort seeks to prevent public agencies from making poor, unsound or harmful decisions, review of the legal correctness of environmental decisions after they are made remains a critical role for the organisation. Communities and individuals rely on EDOWA to provide expert legal advice on challenging decisions which do not comply with legal or procedural requirements. Where our analysis indicates that a legal error has been made, and public interest environmental outcomes are at stake, EDOWA remains ready and able to seek judicial review on a client's behalf.

Services Provided in 2013-14

Litigation and Representation

Supreme Court proceedings.

EDOWA had three cases running in the WA Supreme Court in 2013-14.

- a) *TWS v Marmion (Browse LNG Precinct at James Price Point)*: As noted in last year's report, EDOWA was part of the legal team that successfully challenged a proposed \$45 billion LNG Precinct at James Price Point, which was planned to process and export some 50 million tonnes per annum of natural gas produced from the Browse Basin. On 19 August 2013, Chief Justice Wayne Martin threw out the State's decisions on grounds that those decisions, indeed the entire four-year assessment process, were tainted by the long-running participation of EPA members with financial interests in the development. While Chief Justice Martin's decision ended the judicial proceeding, the matter of costs awarded

EDOWA's clients remained unsettled and contentious for some months until the State agreed to pay approximately \$100,000 in costs to the applicants' lawyers - \$46,000 of which went to EDOWA. The decision was seen as a landmark decision in the field of administrative law with respect to both statutory interpretation and conflicts of interest and bias of decision-makers and continues to have flow-on effects, as seen in the current Government's *Environmental Protection Amendment (Validation) Bill 2014*, which seeks to "whiteout" numerous EPA decisions that likewise were tainted by the participation of conflicted members in the assessment process. Similarly, the decision affects the reassessment of the strategic proposal for an LNG Precinct that the Government has requested and that is currently underway.

- b) *Sea Shepherd v State of WA (shark drum line program)*: In February and March 2014, EDOWA also ran a case in the WA Supreme Court on behalf of Sea Shepherd and Sharon Burden, seeking to prohibit the State's baited drum line program that targeted protected Great White, Tiger and Bull sharks in coastal waters of the southwest. The program's proponent, the Department of Premier and Cabinet (DPC), had been granted exemptions by the Minister for Fisheries under s 7 of the *Fish Resources Management Act 1992* but those instruments had never been published in the Government Gazette. EDOWA and its barrister argued that the instruments were "subsidiary legislation" due to their broad, prospective effect and that, as such, they were required to be gazetted. Gazettal would have given members of Parliament an opportunity to introduce disallowance motions and to debate the merits of the program. Unfortunately, Justice James Edelman disagreed and denied the application for injunction. However, Justice Edelman agreed with EDOWA that the Court should exercise its discretion not to award the State's costs of suit because the action raised important public interest issues, meaning that the applicants did not have to pay \$19,000 that the parties had agreed represented the State's costs.
- c) *Leighton v Garnham (developer defamation action against community opposition organisers)*: EDOWA continues to have another case underway in the WA Supreme Court. In June 2012,

we agreed to represent Jane Genovese, a local resident in Kalamunda, in fighting a defamation action brought against her and two other community activists who successfully opposed a local developer's proposed aged-care high-density residential development and rezoning application. EDOWA is acting as instructing solicitor for Ms Genovese and Dr Hannes Schoombee is counsel on the case. While defamation actions are not, per se, "environmental" matters, such actions often overlap with such matters as they have the potential to chill community activists' and environmentalists' exercise of their right to free speech regarding matters of public interest. The EDO has attempted to protect that critically important right in the context of environmental activism.

Mining Warden's Court proceedings

- a) *Poelina v Blackfin (Duchess Paradise coal mine)*: EDOWA continues to represent Nyikina traditional owner, Dr Anne Poelina, in her fight against Blackfin's proposed Duchess Paradise coal mine – the first such mine proposed in the West Kimberley. The proposed mine would be located a few kilometres north of the Fitzroy River and a few kilometres east of the nationally significant Camballin wetlands. Dr Poelina objected on public interest grounds, namely environmental impacts, under s111A of the *Mining Act 1978 (WA)* and successfully sought to stay the hearing of her objections until after the completion of the State's environmental assessment of the proposal. Given that the proposed mine seeks to exploit large coal reserves in the Canning Basin, there is every reason to believe that, if Blackfin's mine is approved, more applications will be sure to follow, resulting in major environmental impacts in an area that has been placed on the National Heritage Register. It is critically important that the environmental, social and economic impacts of the proposed mine be closely scrutinised given the importance of the West Kimberley and Fitzroy River catchment.
- b) *TWS & Ors v Polaris Metals (Helena and Aurora Range iron ore mine)*: In May, EDOWA agreed to represent three organisations – the Wilderness Society (WA) Inc., the Wildflower Society of WA Inc. and the Helena and Aurora Range Advocates Inc. – who had lodged objections to two mineral tenement applications lodged by

Polaris Metals. The tenement applications are part of a larger mining proposal, known as the J5 and East Bungalbin Iron Ore Mine, which would mine iron ore from the banded iron formations in the Mt Manning Helena and Aurora Range Conservation Park, an ecologically significant and visually stunning area of the Yilgarn that has been the focus of efforts to establish as a national park for nearly 40 years.

- c) *Slater & Anor v Enterprise Uranium (Lake Moore uranium exploration)*: EDOWA also provided assistance to two members of the Badimia people in lodging objections with the Mining Warden, opposing uranium exploration tenement applications lodged by Enterprise Uranium over portions of Lake Moore, an area central to the cultural traditions and beliefs of the indigenous peoples of the area. Due to funding and staffing changes occasioned by the Commonwealth's defunding decision, we were obliged to refer the objectors to a private, pro bono lawyer.

State Administrative Tribunal

- a) *SITA Australia v Wheatbelt JDAP (Allawuna Farm municipal landfill, York Shire)*: In May 2014, EDOWA lodged an application with the SAT on behalf of the Avon Valley Residents' Association (AVRA), seeking leave to intervene or lodge submissions in support of the Wheatbelt Joint Development Assessment Panel's April decision denying SITA Australia's application for approval to construct and operate a 250,000 tonne/year Class II municipal waste landfill. SITA's proposed landfill would be located in agricultural and conservation-zoned portions of western York Shire, near its boundary with Mundaring Shire and close to the Mundaring catchment public water supply and Mt Observation National Park. AVRA represents over 50 rural landowners and farmers, concerned about air and water pollution, loss of amenity, increased heavy truck traffic, diminished land values and other negative effects of the proposed landfill. While the SAT has yet to rule on AVRA's application for leave to intervene, it has permitted AVRA to participate in mediation meetings between SITA and the JDAP.

In addition to formally representing AVRA before the SAT, EDOWA has also assisted two other, individual residents of western York Shire who are proceeding pro se but likewise seek to intervene or lodge submissions in opposition to SITA's proposed landfill.

Other Casework

EDOWA also provides continuing, informal assistance and advice to other members of the public participating in other types of administrative or judicial matters. We continue to assist clients lodging submissions, objections and appeals against EPA reports to the Environment Minister on environmentally significant proposals. For example, we assisted Anne Poelina in preparing and lodging submissions in response to the Public Environmental Review (PER) regarding Blackfin's proposed Duchess Paradise Mine near the Fitzroy River in April 2014. EDOWA also assisted Sea Shepherd Australia to lodge submissions in early July 2014, responding to the PER regarding the Dept. of Premier and Cabinet's expanded baited drum line program. While EPA has not issued its decision on Blackfin's coal mine, at the time of this report, EDOWA is happy that the EPA, on 11 September 2014, recommended refusal of the DPC's proposed baited drum line program.

EDOWA also helped the Rottnest Society to prepare comments opposing the Rottnest Island Authority's 5- and 20-year management plans that would largely open the island up to commercial tourism development and even industrial development, in contradiction to the clear objects of the *Rottnest Island Authority Act 1987* (WA).

EDOWA continues to assist clients in efforts to obtain access to information and materials available to the public under the Federal and State *Freedom of Information* legislation. This includes Sea Shepherd Australia, Rottnest Society, and Environs Kimberley.

Advice

A substantial component of EDOWA's work is providing, one-off and typically quick turnaround advices to members of the public on a wide range of issues affecting the environment and public participation in the judicial and administrative process. Over the past year, we have

given advice on issues as diverse as noise pollution complaints, defamation, clearing of native vegetation, protecting endangered species and national and cultural heritage sites, water pollution and use, mining and energy development, and freedom of information matters.

Advice on State and Commonwealth environmental impact assessment processes related to significant proposals continues to be a substantial area of enquiry. The clearing of urban bushland and the potential for this to impact on threatened species of flora and fauna is another area of concern to many of our clients.

Overall, our assistance has helped many people to better understand the laws affecting the environment, empowering them to speak out and take action to defend fragile ecosystems and protect biodiversity.

Law Reform

Another major component of the legal service that EDOWA provides focuses on the reform of environmental laws and policies – typically through submissions to legislative and executive branch bodies. EDOWA lodged a number of law reform submissions with both the State and Commonwealth over the past year, sometimes alone and sometimes in collaboration with other groups, including the Australian Network of Environmental Defender’s Offices (ANEDO). For example, we contributed comments to ANEDO’s submission in response to the Commonwealth’s proposed *Environment Legislation Amendment Bill 2013*, which proposed significant amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). “significant action guidelines” for Coal Seam Gas and Large Coal Mining Developments – Impacts on Water Resources (a new category of matters of national environmental significance subject to Commonwealth review and approval under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth)). The EDO also contributed to ANEDO’s submission to the Federal Senate’s enquiry into the Abbott Government’s “attacks” on environmental protections and programs.

In addition, we lodged submissions on our own or in conjunction with other environmental organisations on matters of state concern in WA. For example, in February 2014, EDOWA submitted comments and proposals in response to the Department of Mines and Petroleum's review of statutory penalties under the *Mining Act 1978*. In September 2013, we submitted extensive comments with respect to the Department of Water's enforcement policies relating to violations of various State water laws. EDOWA submitted extensive comments on the Commonwealth's proposed streamlining offshore oil and gas proposals in December 2013.

EDOWA also continued to provide input to several State environmental stakeholder reference groups. For example, we continued sending Jessica Smith as our representative to the WA EPA's environmental stakeholder reference group during 2013-14. Our participation on the EPA group often feeds into law reform efforts. Likewise, we continue to be a member of the Department of Environmental Regulation's Stakeholder Reference Group and the Department of Mining and Petroleum's Reforming Environmental Regulation Advisory Panel – groups that we joined only since I became EDOWA's principal solicitor in February 2013.

Community Legal Education and Outreach

The EDO continues to provide a comprehensive community legal education and advice service to communities in Western Australia - both in metropolitan and remote, rural and regional areas. That said, if there is any area that suffered in particular as a result of the Commonwealth Government's termination of funding to EDOWA and the consequent staffing upheaval, it was in the provision of CLE services. During 2013-14, EDOWA provided or participated in 4 CLE presentations, 3 in metropolitan Perth and 1 in a regional centre (Bunbury). EDOWA solicitors provided CLE presentations on the following topics in Perth: Water & Environment on 13 August 2013; Introduction to Environmental Law on 11 September 2013; and at the Community Environmental Legal Defense Fund's "Natures Rights Workshop" on 5 October 2013. In addition, EDO provided a presentation at a rally in Bunbury regarding Federal and State laws

protecting three species of shark targeted by the State Government’s baited drum line program, followed by a legal advice session after the rally.

In addition, EDOWA published its regular newsletter for members and supporters, EDONews, three times in 2013-14 (September, December and May) and provided numerous updates to both its website and Facebook page. In addition, EDO’s CLE materials – including presentation handouts and fact sheets – are freely available on the centre’s website.

Activity Summary

Activity	2013-14	2012-13
Information & Referrals	57	58
Advices	126	133
Cases Opened	40	27
Cases Closed	34	33
Community Legal Education	4	17
Law Reform and Legal Policy	20	16

Volunteer and Pro Bono Assistance

Volunteers

The EDO’s capacity to provide services to clients is greatly increased by the assistance of legal services volunteers – mostly law students but also licensed practitioners. Our outstanding volunteers have contributed greatly to EDOWA’s provision of legal service this year, providing legal research support, compiling briefs for counsel, summarising evidence, serving court documents and answering the phone and acting as a point-of-contact for clients. EDOWA is very grateful for the hard work of its law student volunteers who contributed 1243 hours of unpaid work to the EDO this year – a 17% increase over the 1065 hours recorded in 2012-13, and an increase of over 76% from the 702 hours volunteers logged in 2011-2012.

Ordinarily, legal assistants in the private sector bill out at roughly \$90/hour, meaning the value of our volunteers' time equates to nearly \$112,000 – no mean sum.

We would also like to thank EDO supporter Craig Chappelle who continues to provide us with the professional layout of the EDOnews at no charge. The value of Craig's service more than makes up for the "colourful" Christmas cards we receive from him each year.

Pro Bono Assistance

In addition to the assistance EDOWA receives from its legal volunteers, the organisation also receives and relies on the assistance of barristers and solicitors working *pro bono* or on a reduced fee basis to take public interest environmental matters to court on behalf of its clients. This year our Convenor, Dr Johannes Schoombie has assisted with running defamation proceedings for our client Jane Genovese. Local barrister *emeritus*, David Garnsworthy provided invaluable assistance to EDOWA in connection with the taxation of costs against Ms Genovese in that same defamation proceeding.

Other barristers and solicitors who have provided substantial assistance to EDOWA in the past year for little or no fee include: Richard Hooker (barrister), who was instructed by EDOWA in the Sea Shepherd/Sharon Burden proceeding seeking to enjoin the State's shark drum line program; Josie Walker (Sydney-based barrister and former EDOWA principal solicitor) who provided prospects advices related to fracking issues; Eric Heenan, another Perth-based barrister, who provided a prospects advice related to development at Bayonet Head. In addition, EDOWA wishes to acknowledge the generous provision of advice on various matters provided by barrister Henry Jackson and by solicitors Graham Castledine and Rowan Gallagher.

We anticipate holding another function similar to that held last August in order to thank local legal practitioners who've helped us in the past year and to invite local lawyers to assist us in the future.

Volunteer Awards

The EDO wishes to acknowledge the contributions of the following volunteers who gave generously of their time, knowledge, skills and enthusiasm in 2013-14:

**Gold Award
(100+ hours)**

Lauren Franzone
 Jessica Hamdorf
 Megan Healy
 Sam Lander
 Justin Madden
 Tichaona Mazhawidza

**Silver Award
(50-100 hours)**

Andrew Baird
 Rebecca Dennison
 Hannah Spivey

**Bronze Award
(25-49 hours)**

Guy O’Connell

Collaboration

EDOWA continues to partner with ANEDO on submissions on Commonwealth environmental law reform and mining law reform. We also continue to collaborate with environmental non-government organisations – such as Environs Kimberley, World Wildlife Fund, The Wilderness Society, Conservation Council WA – on state-based law reform submissions and CLE workshops.

We have also been developing closer ties with WA law schools located in Perth, an effort begun in 2012-13. That effort has proven very successful. The University of Notre Dame has partnered with EDOWA to establish an “externship” volunteer program with us, and as of the date of this report, we have received two excellent law student placements from UND. EDOWA has also built a solid relationship with the University of Western Australia, particularly Law School Dean Erika Techera and Professor Alex Gardner. We have begun examining potential partnerships with UWA on several fronts, including joint grant-writing projects, legal seminars/roundtables, and a clinical environmental law program. We hope to report next year that some or all of these ideas have been implemented successfully and that we have added Murdoch University to our academic partners.

In addition, during 2014, EDOWA has developed a strong working relationship with a new client, Sea Shepherd, which not only has given us an opportunity to provide service in new and challenging contexts but has also given us exposure to Sea Shepherd’s large base of supporters and activists.

TREASURERS REPORT – Rhett Nicholas

There was a changing of the guard this fiscal year, one in the role of Treasurer, for (hopefully) the good and one for the worse in Canberra in the terms of the greater picture of the EDO. As most of you are aware we have had all of our funding from the Commonwealth cut. Termination of that funding has left a significant hole of around \$100,000 per year going ahead, a void that must now be filled for us to continue our mission of providing legal services to the wider community of Western Australia.

The cut in recurrent Commonwealth funding only takes effect in the current financial year and in the past financial year we also did get part of the extra funding promised by the former federal government. In light of these developments the EDO has tracked very well in the past year due to the increased benefits from the government, which we have been able to take advantage of. We have also significantly increased our legal fee income over the year from recovery of fees from the opposition in successful litigation. This needs to continue into 2015 to start to rebuild the deficit left by the termination of Federal funding. We must thank our fantastic Team for their hard work to get these results. Amongst the increase in legal fees we have also had a large increase in donations, hopefully with plans being set in place we will see this surge in 2015.

Fortunately for a strong 2014 we have a good working capital position as presented in the financial reports. A cash surplus built up over the years by prudent financial planning makes up the majority of our assets, meaning we are able to fund a much needed office fit-out, which will ultimately help us deliver a greater service.

Moving forward into 2015 we wish to continue to find ways to increase revenue and ensure that our investments are giving us the best return possible to enable to longevity of our organisation in Western Australia.

Acknowledgement of Funders;

The EDO would like to acknowledge the following funders:

The Commonwealth Attorney-General's Department

The Legal Aid Commission of Western Australia

Our generous donors, who gifted a total of **\$37,080.00** to the EDO

ENVIRONMENTAL DEFENDER'S OFFICE (WA) INC.

**BALANCE SHEET
AS AT 30 JUNE 2014**

	NOTE	2014 \$	2013 \$
CURRENT ASSETS			
Cash at bank			
- General		21,939	7,324
- Fund		267,727	126,791
- Online Saver		-	56,313
Cash on hand		12,736	62
Trade and other receivables	2	28,444	7,221
TOTAL CURRENT ASSETS		<u>330,846</u>	<u>197,711</u>
NON-CURRENT ASSETS			
Property, Plant and Equipment	3	16,144	10,576
TOTAL NON-CURRENT ASSETS		<u>16,144</u>	<u>10,576</u>
TOTAL ASSETS		<u>346,990</u>	<u>208,287</u>
CURRENT LIABILITIES			
Trade and other payables	4	12,760	10,882
Unearned income	5	91,060	31,702
Provisions	6	17,816	14,303
TOTAL LIABILITIES		<u>121,636</u>	<u>56,887</u>
NET ASSETS		<u>225,354</u>	<u>151,400</u>
EQUITY			
Retained surplus		151,400	123,090
Net profit/(loss)		73,954	28,310
TOTAL EQUITY		<u>225,354</u>	<u>151,400</u>

ENVIRONMENTAL DEFENDER'S OFFICE (WA) INC.

**DETAILED STATEMENT OF INCOME AND EXPENDITURE
FOR THE YEAR ENDED 30 JUNE 2014**

The below statements have been prepared in accordance with the reporting requirements of the Community Legal Service Information System ("CLISIS"). Refer to Note (i) and (ii) below for a reconciliation of income and profit with the financial statements.

	Note	2014 \$	2013 \$
INCOME			
Grants			
- Commonwealth		256,017	95,088
- State		130,443	117,005
- Law		-	55,000
- Lotterywest		-	2,591
Service Generated Income		52,512	21,548
Other Income		39,961	23,829
	(i)	<u>478,933</u>	<u>315,061</u>
LESS EXPENDITURE			
Clients Disbursements		2,495	7,355
Communications		3,303	2,786
Insurance		3,211	2,523
Depreciation		-	5,279
Electronic filing system		-	-
Finance, Audit & Accounting charges		28,343	17,094
Lotterywest - Fact Sheets		-	-
Lotterywest - Information Technology		-	900
Repairs and maintenance		34	193
Office costs		29,426	19,519
On-costs		15,586	19,854
Office overheads		13,777	10,908
Capital expenditure - fittings		33,947	
Promotions		-	892
Legal		200	400
Library, Resources and Subscriptions		25,827	5,401
Salaries		200,740	181,721
Staff recruitment		849	7,544
Staff training		1,578	1,161
Superannuation		19,238	17,198
Travel		287	4,538
		<u>378,841</u>	<u>305,266</u>
SURPLUS/(DEFICIT)	(ii)	<u>100,092</u>	<u>9,795</u>

The accompanying notes form part of these financial statements.