



Environmental Defenders' Office
AUSTRALIAN CAPITAL TERRITORY

Chief Minister, Treasury and Economic
Development Directorate
GPO Box 158
Canberra ACT 2601

By email: budgetconsultation@act.gov.au

31 October 2018

Dear Treasurer,

Submission to the ACT Budget Consultation 2019-2020 - Protecting the environment through the law

The Environmental Defenders Office (ACT) Inc (EDO ACT) is grateful for the opportunity to make a submission to the 2019-2020 ACT Budget Consultation.

Summary

The EDO ACT is seeking funding of \$210,000 per annum (indexed) to keep the EDO ACT office open. The office is currently funded, in the most part, by a grant from the ACT Government.

Prior to the ACT Government's grant to EDO ACT in 2016, the office could only employ one part time solicitor and a part time bookkeeper. The EDO relied on the generosity of Legal Aid ACT to provide its office space. Since receiving the grant, EDO ACT has increased its capacity to employ a Chief Executive Officer/Principal Legal Officer, in addition to a Policy and Communications Director (now junior lawyer) (both part time) and book keeper. For the office to remain open in the long term, the EDO ACT needs stable, recurrent government funding.

There are Environmental Defenders Offices' located in each jurisdiction in Australia (apart from Victoria). After cuts to Federal Government funding to EDOs in 2013, the majority of EDOs around Australia have received ongoing grants from State/Territory governments to ensure the continued operations of each office. This is in recognition of the vital role that EDOs play in each jurisdiction for the protection of the environment and access to justice, in the public interest.

Environmental rights are human rights. The EDO ACT is vital in ensuring that human rights such as access to information, participation in decision-making and access to justice in environmental matters are safeguarded in the ACT. As a rights-based, progressive, and environmentally-minded jurisdiction, it is essential that the ACT Government continue to support the work of the EDO ACT.

This funding request is consistent with the ACT Government's election commitment and Parliamentary commitment. The Parliamentary commitment stated it would **"fund the ACT Environmental Defenders Office for at least 2 years from November 2016, while working with the EDO to develop sustainable wider revenue streams"** (emphasis added) and that it would **"continue existing funding for community legal services and assess the need for any additional funding as part of the Budget process"**. The EDO ACT, much like other community legal centres in the ACT and around Australia, rely on a diverse range of sources including state/territory grants, for funding.

Environmental Defenders' Office – ACT

The Environmental Defenders' Office - ACT Inc (EDO ACT) is an independent not-for-profit community legal centre specialising in public interest environmental law and is accredited by the National Association of Community Legal Centres (NACLC). The EDO ACT was established in 1995 and is a member of the Environmental Defenders Offices of Australia network (EDOs of A).

For 23 years, EDO ACT has provided high quality, independent legal advice to individuals and community groups on public interest environmental issues in the ACT and surrounds. Our services address three core objectives:

- Free legal advice to the ACT community with respect to the operation of environmental laws in the ACT surrounds. The EDO facilitates effective and efficient community participation within the legal system and in relation to environmental decision-making, thereby increasing access to justice for public interest matters/inquiries and, in turn, reducing the burden on courts, tribunals and the Government;
- Community education on ACT and national environmental laws. We provide this in the form of free online facts sheets, an environmental law handbook, seminars and workshops; and
- Law reform and policy work involving advice and contribution directly to government on improvement of the environmental law and policy and participation in the consultation and enquiry processes.

EDO ACT is the only free legal assistance centre in the ACT providing specialist environmental law services. We have been grateful for the assistance provided to us by the ACT Government from 2016, appropriately granted to us given the vast majority of EDO ACT's work benefits the ACT community.

In addition to the grant from the ACT Government, the EDO ACT receives some income through partnerships with the Australian National University, the Law Society Statutory Interest Account and donations from the public. The bulk of the EDO ACT's operational funding was previously provided pursuant to a Service Agreement with the Federal Government via the Attorney General's Department. This funding ceased on 1 July 2014. We are currently investigating other ways to supplement ACT Government funds. Much like other community legal services, we do depend on government funding to remain open.

What are we asking?

The EDO ACT seeks recurrent funding of \$210,000 per year (indexed) for three years to continue to operate this vital service. This funding is required for the EDO ACT to employ its Principal Legal Officer, junior lawyer full time, in addition to running costs beyond 1 July 2019. **This will provide the funds necessary to keep the EDO ACT open.**

If the EDO ACT is unable to secure funding for salaries and rent beyond 30 June 2018, we will be forced to close.

This will result in poorer outcomes for the environment, and decreased access to justice for individuals and community groups who are committed to living in a clean, healthy environment in the ACT.

What is the problem?

The health of our environment is at a crisis point. Whilst the ACT is a progressive jurisdiction in many respects, actions within our jurisdiction impact on the health of the environment in the ACT, across the border, and within Australia. The latest ACT State of the Environment Report highlights a number of environmental issues experienced in the ACT, including projected increases in severe and average fire weather (northern ACT will have the greatest increases),¹ alterations of the biophysical environment due

¹ Office of the Commissioner for Sustainability and the Environment, ACT State of the Environment Report 2015, page 30.

to climate change,² and pressures leading to habitat loss and modification.³ Note that the ACT is home to 20 species of flora and fauna at high risk of extinction in the wild in the future (that is, they are “endangered”).

We not only need robust laws in place to prevent extinctions, habitat loss and the worsening impacts of climate change – we need legal services to ensure that such laws are being followed. A well-resourced EDO ACT will help to ensure:

- individuals and community groups are given quality legal advice in order to enable better outcomes for the environment;
- individuals and community groups have adequate support in accessing justice, and other basic democratic rights in the ACT;
- representations by the community to decision-makers are of a high quality, ensuring that decision-makers have the best possible material before them in order to make good quality decisions; and
- that third parties are aware of the prospects of success of any potential cases in the ACT Civil and Administrative Tribunal.

How do we do this?

Advocacy and casework

The EDO ACT’s clients consist of individuals, environmental organisations and community councils. The EDO ACT assists its clients by providing free legal advice on environmental laws regarding a broad range of matters including planning and development, impacts on biodiversity conservation, cultural heritage, tree protection, improving air quality, noise and water pollution and third-party appeal rights.

With respect to specific casework and the provision of advice to clients, EDO ACT most often assists with environmental, noise and planning laws – issues which are responsive to the requirements of the ACT community. The high proportion of casework and advice concerning planning laws is reflective of the type of client requesting this service (being community organisations), as compared to legal information which is requested predominantly from individuals within the community.

Community Legal Education

The EDO ACT provides the community with easy-to read online information about environmental laws in the ACT. The EDO ACT produces a comprehensive review of environmental law in its *ACT Environmental Law Handbook* (currently in its 3rd edition) and this is also available for free online. The Handbook is a prescribed text for the ANU’s environmental law clinic course (run in conjunction with the EDO ACT); the

² As above, p 41.

³ As above, p 220.

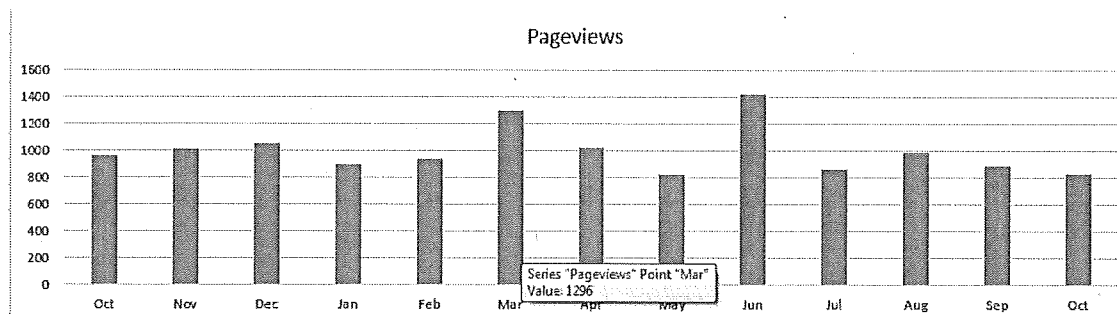
University of Canberra's Environmental Law course; and is used as a reliable reference by lawyers and members at ACAT, the Commonwealth Department of the Environment and the Justice and Community Safety Directorate. **We intend to update the ACT Environmental Law Handbook in the 2019-2020 financial year, given recent changes to relevant ACT legislation.** The EDO ACT also prepares and provides online various legal fact sheets on the areas that attract a high level of inquiry. We are also finalising several factsheets to be used and displayed at the ACT Civil and Administrative Tribunal.

The EDO ACT presents environmental law seminars for the community and interested professions. The EDO ACT also distributes (now) monthly newsletters full of news, latest developments and opportunities to comment.

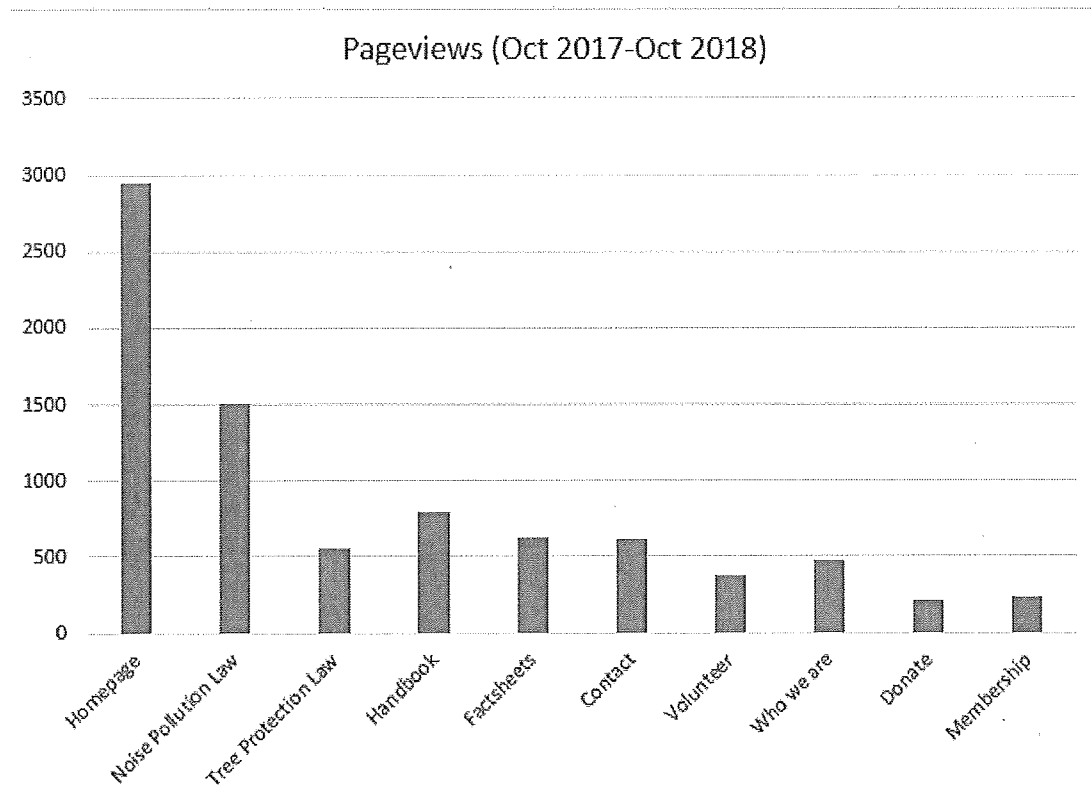
The EDO ACT has close relationships with the universities in Canberra and we provide an important hub for the growing number of students who have an interest in environmental law and who seek to obtain invaluable experience in a not-for-profit environment. The EDO has partnered with the ANU to provide an environmental law clinical program (LAWS4281). In addition, it provides winter and summer internships to students from the ANU (LAWS4230/6230) and now also the University of Canberra (7053). In the last year, EDO ACT has mentored 12 students through these courses.

Online resources

The EDO ACT's up to date website receives an average of around 1000 visitors each month. The figure below demonstrates a monthly breakdown of these visits.



The most utilised feature of the EDO ACT website, other than our homepage, are our community legal education resources. Our fact sheets interpret the ACT laws and provide the community with important knowledge as to the workings of the law and its perimeters, in plain language. Community legal education has a direct cost benefit to the ACT government as it provides a buffer between the tribunals/courts and those in the community wishing to exercise the law. The next figure explains a breakdown of the information sought by visitors.



The EDO ACT Environmental Law Handbook continues to be relied upon as a source of expert information. It is accessed online and distributed in paperback. The EDO ACT has also built a social media presence through which environmental news and the promotion of educational materials and events is regularly conducted. The EDO ACT has over 1000 followers on Facebook and 209 followers on Twitter, and 889 subscribers to our monthly newsletter.

Law Reform and Policy

The EDO ACT provides high quality and balanced expert legal opinions on law reforms that impact on the environment. We source our information from highly reputed academics and environmental law experts in the field.

In the last 9 months, the EDO ACT has produced law reform submissions with respect to Housing Choices in the ACT, Net Zero Emissions, the ACT Biosecurity framework, the ACT Scientific Committee on Threatening Processes and the Inquiry on Development Application processes in the ACT. We have also been asked to contribute to the Inquiry on Nature and the City. We have also contributed to Federal environmental policy (through EDOs of A). The input of the EDO ACT's expert submissions on government policy proposals is critically required now and in the immediate future.

Additional Outcomes


Funding support, in addition to the ongoing baseline services outlined above, would provide the EDO ACT with capability to deliver projects including:

- Ongoing community legal education and engagement through workshops and seminars to ACT and regional communities and interest groups on ACT environmental laws, strategies and programs.
- Preparation of new, updated legal fact sheets on the common environmental law issues that arise, as identified through the needs of the general public;
- Community liaison support services for environmental organisations and community councils within the ACT to facilitate/support environmental law and policy development, for example, through participation in regular workshops.

We ask the ACT Government to support this funding submission.

Should you wish to discuss the funding proposal or require further information, please do not hesitate to contact me on (02) 6243 3460 or by email at Stephanie.Booker@edoact.org.au.

Yours faithfully,



Stephanie Booker
Chief Executive Officer / Principal Legal Officer
Environmental Defenders Office ACT