

The Senate

Environment and Communications
References Committee

Australia's environment

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Committee membership

Committee members from 1 July 2014

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Senator Anne Ruston, Deputy Chair	LP, South Australia
Senator Joe Bullock	ALP, Western Australia
Senator James McGrath	LP, Queensland
Senator the Hon Lisa Singh	ALP, Tasmania
Senator Larissa Waters	AG, Queensland

Committee members to 30 June 2014

Senator the Hon Lin Thorp, Chair	ALP, Tasmania
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Chapter 1

Introduction

Referral of the inquiry

1.1 On 18 June 2014, the Senate referred the following matter to the Environment and Communications References Committee (the committee) for inquiry and report by the third sitting day in 2015:

The Abbott Government's attacks on Australia's environment, and their effects on our natural heritage and future prosperity, including:

- (a) attacks on carbon pricing, the Clean Energy Finance Corporation, the Australian Renewable Energy Agency and the renewable energy target, the Climate Change Authority and the Climate Commission;
- (b) attacks on federal environmental protection through handing approval powers over to state governments, which have poor track records and recent environment staff cuts;
- (c) attacks on funding for community environment organisations and the Environmental Defenders Offices, abolition of the Biodiversity Fund, and cuts to programs including, Landcare and Caring for our Country;
- (d) undermining Australia's compliance with the World Heritage Convention, the Convention on Biological Diversity, and the Ramsar Convention, in particular by attacking the Great Barrier Reef and the Tasmanian Wilderness World Heritage Areas; and
- (e) any other related matters.¹

1.2 The reporting date for the inquiry was subsequently extended to the third-last sitting day in June 2015 (23 June 2015).²

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and wrote to relevant organisations inviting submissions by 10 November 2014.

1.4 The committee received 62 submissions, and held two public hearings. The committee also received 1,233 emails of substantially the same content. A list of submitters to the inquiry is at Appendix 1. A list of the public hearings conducted and witnesses is at Appendix 2.

1 *Journals of the Senate*, 2013–14, no. 32, 18 June 2014, pp 904–05.

2 *Journals of the Senate*, 2013–14, no. 47, 27 August 2014, p. 1313.

1.5 The committee would like to thank all the organisations and individuals that contributed to the inquiry.

Previous work of the committee

1.6 Since the beginning of this Parliament, both the Environment and Communications legislation and references committees have undertaken inquiries into many of the matters referred to in the terms of reference. The committees' reports covered the matters raised in terms of reference (a), (b) and (d), and certain aspects of term of reference (c) as follows:

- term of reference (a):
 - legislation committee report on the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [Provisions] and related bill including the Clean Energy Finance Corporation (Abolition) Bill 2013 the Climate Change Authority (Abolition) Bill 2013, tabled in December 2013;
- term of reference (b):
 - legislation committee on report the Environmental Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 [Provisions] and the Environmental Protection and Biodiversity Conservation Amendment (Cost Recovery) Bill 2014 [Provisions], tabled in June 2014;
 - references committee report on Environmental Offsets, tabled in June 2014;
- aspects of term of reference (c), including:
 - references committee report on the National Landcare Program, tabled in March 2015; and
- term of reference (d):
 - references committee report on the Tasmanian Wilderness World Heritage Area, tabled in May 2014;
 - references committee report on the management of the Great Barrier Reef, tabled in September 2014.

1.7 In light of the previous work undertaken by the legislation and references committees, this report will focus on the matters in term of reference (c) that have not been addressed in a prior report, specifically: attacks on funding for community environment organisations and the Environmental Defenders Offices, abolition of the Biodiversity Fund, and cuts to certain programs.

Structure of the report

1.8 This report is comprised of three chapters. Chapter 2 sets out current and former Commonwealth funding arrangements, with particular attention on the impact of the abolition of the Biodiversity Fund. The chapter also sets out general concerns

raised by submitters and witnesses about the cuts to funding of community environmental programs.

1.9 Chapter 3 considers the role and history of the Environmental Defenders Network of environmental lawyers, and highlights the significant role that they have played in providing access to justice on environmental matters.

Hansard

1.10 Please note that where references are given to Hansard transcripts of the public hearings, these refer to the proof Hansard transcripts. Page numbers may vary between proof and final transcripts.

Chapter 2

Commonwealth funding of environmental programs

Introduction

2.1 This chapter looks at the abolition of the Biodiversity Fund by the current government and the funding now available from the Commonwealth Department of the Environment (the department) for environmental programs, including current funding opportunities provided by the Green Army and 20 Million Trees programs.

Biodiversity Fund

2.2 The Biodiversity Fund was a Commonwealth government initiative under the previous government. The Fund aimed to improve the resilience of Australia's unique species to the impacts of climate change, enhance the environmental outcomes of carbon farming projects, and help landholders to protect carbon and biodiversity values on their land.¹

2.3 The Biodiversity Fund was part of a larger \$1.7 billion Land Sector Package which was established under the Clean Energy Future plan. The Fund was provided with \$946 million in 2011 for its first six years.² In the 2013–14 Budget, it was announced that for the financial years 2013–2016, \$32.3 million of the Fund would be redirected to resource the implementation of the Tasmanian Forests Agreement and other government priorities. An additional \$225.4 million was also 'rephased' from this four year period, meaning that this money would be spent in 2017–18 and 2018–19. The reason provided by the government for this decision was the lower projected carbon price estimates.³ In July 2013, the then Treasurer, the Hon Chris Bowen MP, announced that \$213 million of unallocated money for the Biodiversity Fund would be returned to the budget in response to a floating carbon price.⁴

2.4 Following the change of government in 2013, funding for the Biodiversity Fund was reduced over four years to achieve savings of \$1.4 million. This saving was in addition to the savings achieved by the government from abolishing the Biodiversity Fund as part of repealing the carbon tax. The Biodiversity Fund was abolished from 15 October 2013.⁵

1 Department of the Environment, *Biodiversity Fund*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/> (accessed 7 April 2015).

2 Australian Government, *Mid-Year Economic and Fiscal Outlook 2011–12*, p. 282.

3 Australian Government, *Budget Measures, Budget Paper No. 2, 2013–14*, 14 May 2013, pp 79–80, 254, 255.

4 Australian Broadcasting Corporation, 'Environment and carbon farming programs cut to pay for ETS', ABC Rural, <http://www.abc.net.au/news/2013-07-16/biodiversity-fund-cuts/4823176>

5 Australian Government, *Mid-Year Economic and Fiscal Outlook 2013–14*, December 2013, pp 140, 143–144.

2.5 Under the Biodiversity Fund, two rounds of general funding were conducted (in 2011–12 and 2013–14). A further two targeted rounds focused on northern Australia and Tasmania. Projects included those in coastal areas, border ranges, urban waterways and central Australia.⁶

2.6 Projects which received funding greater than, or equal to, \$500,000 were required to conduct ecological monitoring and report the data collected to the department. These recipients were required to collect data using one of six methods.⁷

Projects funded under the Biodiversity Fund

2.7 The first round of funding provided \$271 million to 'revegetate, rehabilitate and restore over 18 million hectares of the Australian landscape over the next six years', with \$31 million allocated for the first year of the projects.⁸ A total of 317 projects were funded under round one. The projects funded were generally for a period of three or more years. Information published in 2012 by the then Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) stated that:

Projects selected for Round One will increase the size of habitat areas for a whole range of at-risk native species and improve connectivity between them. The flow-on benefits of this include:

- increasing the biodiversity and therefore resilience of the landscape
- building up the environment's ability to cope with the pressures of climate change, and
- creating a means for more carbon pollution to be naturally captured and stored.⁹

2.8 The Biodiversity Fund represented a significant investment of Commonwealth funds in Australia's environment, and allowed ecologically complex solutions to be pursued across a variety of landscapes across Australia. After the successful projects were announced in 2012, it was stated that:

6 See for example, Australian Government, *Biodiversity Fund Round Two 2013–2014*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-2/pubs/bf-r2-successful-all.pdf> (accessed 11 June 2015).

7 Those six methods were: Habitat Hectares; BioMetric: Terrestrial Biodiversity Tool; BioCondition; TasVeg: Tasmanian Vegetation Condition Assessment Method; Bushland Condition Monitoring; and Native Vegetation Condition Assessment & Monitoring for WA. Australian Government, *Biodiversity Fund*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/meri/index.html> (accessed 2 April 2015).

8 Australian Government, *Biodiversity Fund Round One 2011–2012*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015).

9 Australian Government, *Biodiversity Fund Round One: 2011–2012*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015).

Over 100,000 hectares of land nation-wide will be revegetated, while close to 5 million hectares will be restored. Around 13 million hectares will be protected from invasive species.¹⁰

2.9 The Biodiversity Fund projects also encouraged community support for environmental activities with SEWPaC stating:

The Biodiversity Fund has received overwhelming community support, with an additional \$207 million committed by the biodiversity projects in cash or in kind contributions. A number of project managers have vowed to continue building and working on the projects beyond the funding period.¹¹

2.10 The following case studies highlight the types of projects that were conducted under the Biodiversity Fund and demonstrate the nuanced approach to the conservation of biodiversity that was possible under the Biodiversity Fund.

Case study: Australian Rainforest Conservation Society

2.11 The Australian Rainforest Conservation Society (ARCS) is a non-government, not-for-profit organisation which seeks to 'protect, repair and restore the extraordinary rainforests of Australia' through research, advocacy and public education.¹²

2.12 The ARCS received funding of \$270,000 over three years. The funding was for a long-term project which aimed to:

...restore and enhance critical habitat and functional connectivity, lost over the last century, around the wet heartland of the Gondwana Rainforests Heritage Area...¹³

2.13 The project sought to increase carbon storage by regenerating the canopy cover and 'key ecosystem functions', thus making the area more resilient to climate change and restoring degraded lands. The project aimed to be cost-effective, drawing on current scientific theory and technology to evaluate strategies for regeneration.¹⁴

10 Australian Government, *Biodiversity Fund Round One: 2011–2012*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015).

11 Australian Government, *Biodiversity Fund Round One: 2011–2012*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015).

12 Australian Rainforest Conservation Society, *Our mission*, <http://www.rainforest.org.au/mission.html> (accessed 13 April 2015).

13 Australian Government, *Biodiversity Fund Round One: Queensland*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015), p. 2.

14 Australian Government, *Biodiversity Fund Round One: Queensland*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015), p. 2; see also Dr Aila Keto AO, President, Australian Rainforest Conservation Society, *Committee Hansard*, 21 April 2015, p. 26.

2.14 Dr Aila Keto, President, ARCS, told the committee that the program carried out by the ARCS and funded under the Biodiversity Fund to remove weeds from forest areas was more ecologically complex than planting trees. Dr Keto noted that ARCS's third year of funding was cut, which had a significant impact on its work:

That put enormous pressure on us to compress our work from what was essentially a three-year period into two. It does highlight that substantial funding is required for those really tough problems and not just planting trees.¹⁵

Case study: Australian Wildlife Conservancy

2.15 The Australian Wildlife Conservancy is the largest private owner of land for conservation in Australia, with ownership and management of more than three million hectares across 23 properties around Australia.¹⁶ The Conservancy received funding of \$309,800 for six years under the Biodiversity Fund in order to carry out the restoration of wet sclerophyll forests and woodlands in north-east Australia, at Mount Zero-Taravale.

2.16 Sclerophyll forests provide habitats for native rainforest and woodland fauna. Wet sclerophyll forest is a distinct ecosystem type that occurs at a border between dry savannah and rainforest. It requires management in order to persist and retain its characteristic plants and animals. In the past, management was carried out through Aboriginal fire regimes, or regular planned burning.¹⁷

2.17 These forests require frequent burning in order to maintain their biodiversity and keep their grassy understory. Understory refers to the smallest height class of vegetation that can be found in a forest, and includes very small plants that can grow in the shade of taller trees. By burning the grassy understory regularly, weeds that have begun to dominate the understory of the forest can be removed, allowing the vegetation to be restored.¹⁸

2.18 The funding provided under the Biosecurity Fund allowed the Australian Wildlife Conservancy to thin out the dense understory, which had been taken over by rainforest plants, before reintroducing fire regimes. By undertaking this work, the wet sclerophyll forest is able to be restored to its former habitat. The project has been conducted with attention paid to monitoring of the impact of the work, and has drawn

15 Dr Aila Keto AO, President, Australian Rainforest Conservation Society, *Committee Hansard*, 21 April 2015, p. 26.

16 The Australian Wildlife Conservancy, *About*, <http://www.australianwildlife.org/about/about.aspx> (accessed 13 April 2015).

17 Wet Tropics Management Authority, *Wet sclerophyll forests*, <http://www.wettropics.gov.au/wet-schlerophyll> (accessed 13 April 2015).

18 Australian Government, *Biodiversity Fund Round One: Queensland*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/round-1/index.html> (accessed 2 April 2015), p. 2.

on 'a suite of indicators of ecological health by undertaking each year more than 2,000 live trap nights, 24 vegetation surveys and at least 1,500 camera trap nights'.¹⁹

Case study: Goulburn Broken Catchment Management Authority

2.19 The Goulburn Broken Catchment Management Authority (Goulburn Broken CMA) is the peak natural resource management body for the catchment of the Goulburn and Broken Rivers of northern Victoria and the Murray Darling Basin of southern New South Wales.

2.20 Funding of around \$2.67 million was allocated for six years to aid in the revegetation of Sand Ridge Woodlands. The project aimed to protect the cultural and natural value of sand hills, which have a significant cultural value for the Indigenous Yorta Yorta people in the area.

2.21 The project would work with the Yorta Yorta people in cultural heritage management and to revegetate 'rare, unique, endangered and degraded Sand Woodland ecosystems'.²⁰ Further, it was stated that:

Revegetation will expand the extent and connectivity of these ecosystems, provide linkages to fragmented remnants on farmland, and play a role in securing natural stores of carbon. These sites are also of high Indigenous cultural significance, and are often associated with occupation and burials.²¹

2.22 The Goulburn Broken CMA stated that the first three years of the project has yielded beneficial results including:

- 1,346 hectares of revegetation
- 237 hectares of remnant protection
- 1,583 hectare area managed for pest plant and animals
- 450 kilograms of native seed collected and direct drilled
- 16.56 km kilometres of fencing
- 4,466 plants planted.²²

19 Australian Wildlife Conservancy, *Science: surveys and research at Mount Zero-Taravale*, <http://www.australianwildlife.org/sanctuaries/mount-zero-taravale-sanctuary/science-surveys-and-research.aspx> (accessed 11 June 2015).

20 Australian Government, *Biodiversity Fund Round One: New South Wales*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/projects/pubs/nsw-round1.pdf> (accessed 11 June 2015), p. 7.

21 Australian Government, *Biodiversity Fund Round One: New South Wales*, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/projects/pubs/nsw-round1.pdf> (accessed 11 June 2015), p. 7.

22 Goulburn Broken Catchment Management Authority, *Outcome Stories and Case Studies: Sand Ridge Woodland*, http://www.gbcma.vic.gov.au/publications/published_documents/outcome-stories-case-studies (accessed 11 June 2015).

2.23 The Goulburn Broken CMA noted that the funding provided an opportunity to pursue complex ecological work aimed at conservation of biodiversity and sites of cultural significance to Indigenous Australians:

The unique approach of a project that spans catchment boundaries and the state border has provided opportunity for YYNAC [Yorta Yorta Nation Aboriginal Corporation] to develop partnerships, in areas where there had previously been little engagement, and has allowed for the improved management of many sand ridge woodland sites and associated cultural values that were not previously recorded or protected.²³

Assessment of the Biosecurity Fund

2.24 The Department of the Environment indicated to the committee that the 'total impact of the Biodiversity Fund has not been fully worked through, and it will be not be evaluated until near the completion of that program'. The department went on to state:

The follow-on from that is that it is very difficult to say—in the absence of the quantitative measurement of how many trees and how many threatened species were addressed, in terms of plantings and native vegetation restoration—what the impact of that has been, when you do not know what the full impact of the investments will be...probably a lot of the total value of those investments that are being made now and have been made for the last three years and will continue for the next two years will not be fully realised for a decade.²⁴

Current environmental funding opportunities

2.25 The Department of the Environment currently runs a number of funding and grants programs, including the National Landcare Programme, Reef 2050, Solar Towns and the National Environmental Science Programme.²⁵

2.26 The current National Landcare Programme was announced in the 2013–14 Budget and replaced Caring for Our Country. Funding of \$1 billion would be provided over four years for the National Landcare Programme.²⁶ This represented a significant cut in funding compared to previous programs.

2.27 The committee's recent report on the National Landcare Programme provides an in depth assessment of the impact of funding cuts on natural resource management

23 Goulburn Broken Catchment Management Authority, *Outcome Stories and Case Studies; Sand Ridge Woodland*, http://www.gbcma.vic.gov.au/publications/published_documents/outcome-stories-case-studies (accessed 11 June 2015).

24 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, p. 3.

25 A full list of programs and grants currently offered may be found at: <http://www.environment.gov.au/about-us/grants-funding> (accessed 10 April 2015).

26 National Landcare Program, *About us*, <http://www.nrm.gov.au/> (accessed 10 April 2015).

programs and the consequent threat to environmental outcomes.²⁷ In particular, the committee commented on the loss of grant programs for community and Landcare groups and the diversion of funding to the Green Army and 20 Million Trees programs.

2.28 During the current inquiry, the Department of the Environment provided the committee with information on funding for on-the-ground small local projects. The department noted that these were consistent with regional priorities under the National Landcare Programme framework. It was indicated that the target of \$90 million of funding for small and local groups, out of a total \$450 million in total funding over the forward estimates, has been exceeded and that approximately \$120 million would be provided to these groups.²⁸

2.29 The committee's report on the National Landcare Programme also commented on the newly created Green Army Programme, which provides training and experience in environmental and heritage conservation for young people in a practical setting,²⁹ and the 20 Million Trees project.

2.30 The department explained that the Green Army Programme is 'a hands-on, practical environmental action programme that taps into local knowledge and supports grassroots action to meet local environmental challenges'.³⁰ The program, which has been allocated \$525 million over four years,³¹ provides funding for a range of activities, such as:

- habitat restoration;
- revegetating river catchments, coastal foreshores, rainforests and wetlands;
- constructing boardwalks;
- restoring culturally significant sites while working closely with traditional owners,;
- weed control; and
- monitoring threatened species.³²

27 Senate Environment and Communications References Committee, *National Landcare Program*, March 2015.

28 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, p. 2.

29 Department of the Environment, *About the Green Army programme*, <http://www.environment.gov.au/land/green-army/about> (accessed 10 April 2015).

30 Department of the Environment, *Submission 33*, p. 5.

31 Department of the Environment, *About the Green Army programme*, <http://www.environment.gov.au/land/green-army/about> (accessed 10 April 2015). The program will support 250 projects in 2014–15, 500 projects in 2015–16, 750 projects in 2016–17, 1,150 in 2017–18 and 1,500 in 2018–19.

32 Department of the Environment, *Submission 33*, p. 5.

2.31 The department commented that the Green Army is being used by local groups as a way to deliver local environment outcomes.³³

2.32 The 20 Million Trees Programme will provide \$50 million over the next four years to support projects that deliver environmental benefits at the local level through community participation in re-establishing native vegetation.³⁴

Response to changes in funding arrangements

2.33 The committee received general concerns from witnesses and submitters about the implications that changes to access to Commonwealth funding and decreases in the level of funding for environmental projects would have for the future of Australia's environment. For example, the Australian Conservation Foundation (ACF) stated that:

Reducing our investment in the long term management and stewardship of our essential national assets is unwise and ultimately a false economy.³⁵

2.34 The ACF went on to add:

The stewardship of national environmental assets, and the management of these assets, is a key test of any federal government or Parliament.³⁶

2.35 The Wildlife Preservation Society of Queensland, Fraser Coast Branch, added:

...cuts to or abolition of environmental programs sabotage the investment in our environment by the tax-payer and the community over the last 25 years. Like health and education, the environment requires on-going investment. These cuts also undermine our democracy.³⁷

2.36 Submitters and witnesses warned of the danger that funding gaps and short-term environmental planning would have on the future of Australia's environment. The Wildlife Preservation Society of Queensland, Fraser Coast Branch, stated:

A sustainable future for Australia depends on long-term vision, transcending the three-year federal election cycle. It also depends on achievement of 'triple bottom line' objectives: social and environmental, not just economic. Importantly, a vibrant economic future for Australia depends on diverse industries. Quite simply, the Abbott Government has shown a complete disregard for all sectors of the economy other than the mining sector. Without a healthy environment and a broad-based economy

33 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, p. 2.

34 Department of the Environment, *Submission 33*, p. 5.

35 Australian Conservation Foundation, *Submission 10*, p. 2.

36 Australian Conservation Foundation, *Submission 10*, p. 4.

37 Wildlife Preservation Society of Queensland Fraser Coast Branch, *Submission 13*, p. 4.

targeting future needs in a post-industrial world, our communities and personal well-being, and our economy overall, will inevitably suffer.³⁸

2.37 The Adelaide Hills Climate Action Group wrote that 'the damage caused by this Government on environmental assets and protections will not be able to be fully undone'.³⁹

2.38 The Wildlife Preservation Society of Queensland submitted that, with regard to funding cuts environmental programs, 'the big loser is the environment and its biodiversity'.⁴⁰ Similarly, the Society's Fraser Coast Branch expressed the view that:

...short-sighted actions and decisions taken by the current federal Government which we are convinced will have an overwhelmingly negative impact on both our natural heritage and Australia's future prosperity.⁴¹

2.39 The concerns for the environment as a result of the decrease in funding under the National Landcare Programme were canvassed by the committee in its recent report. However, submitters to this inquiry also commented specifically about the abolition of the Biodiversity Fund and the impact on community groups. The following paragraphs consider this evidence.

Abolition of the Biodiversity Fund

2.40 Submitters commented on the importance of biosecurity and asserted that the abolition of the Biodiversity Fund was a backward step. One submitter, for example, stated that:

There appears to be no consideration or concern for conserving the biological factors, the existence of which underpin our human existence, neither is there any apparent concern for degrading features that pollute the environment. The government policies defunding environmental protections for the various representative bodies are shockingly devoid of any pretence of environmental protections – which by extrapolation means society's health and welfare.⁴²

2.41 The Australian Wildlife Protection Council stated that the 'axing of the Biodiversity Fund is a shock as it is replaced with nothing'.⁴³ The ACF also commented on the abolition of the Biosecurity Fund, with Mr Don Henry, CEO, stating:

...cuts to the Biodiversity Fund weaken Australia's efforts to protect our natural environment from the impacts of climate change and is a backward step.

38 Wildlife Preservation Society of Queensland Fraser Coast Branch, *Submission 13*, p. 2.

39 Adelaide Hills Climate Action Group, *Submission 5*, p. 9.

40 Wildlife Preservation Society of Queensland, *Submission 12*, p. 3.

41 Wildlife Preservation Society of Queensland Fraser Coast, *Submission 13*, p. 1.

42 Ms Leila Huebner, *Submission 1*, p. 3.

43 Australian Wildlife Protection Council, *Submission 30*, p. 1.

Our natural environment, including the Great Barrier Reef, our forests and tropical savannahs, are being impacted by climate change now – it's important we invest more in protecting, managing and restoring these landscapes so they can naturally store carbon more effectively.

ACF urges the Government to strengthen efforts to protect our natural environment from the impacts of climate change.⁴⁴

2.42 Dr Keto, ARCS, argued that the loss of long-term funding would have detrimental effects on the environment:

The problem is that there is a loss of durable, long-term core funding for long-term environmental problems. More seriously, social capital can be lost. We had a coherent set of programs within a framework that was allied to monitoring outcomes that involve the atlas of living Australia. The original budget, whereas it was not long term, provided a good start for trying to recover the environmental problems that we have today.⁴⁵

2.43 In evidence, the department acknowledged that 'biodiversity remains in decline', but added that there was evidence that 'activities and responses that have been made since the mid-nineties and particularly since 2001 or 2002 are beginning to show evidence of having an impact'. Further, although 'there has been recovery in a number of areas where there has been investment, the overall trend of biodiversity is still one of decline'.⁴⁶

2.44 The department noted that, while the Biodiversity Fund has been abolished, 'the Government is...honouring the contracted projects entered into by the previous Government under the Biodiversity Fund'.⁴⁷

Impact of cuts on small community environmental organisations

2.45 The committee received evidence of the importance of engagement of community groups in environmental projects. Engagement of community groups not only leads to improved environmental outcomes, but it also provides significant benefits through capacity building within communities and improving community cohesiveness.⁴⁸

2.46 The recent reduction in the funding available for these groups to access was viewed with concern. For example, Ms Kate Watson commented that the funding cuts for environmental groups sends the message that 'the government does not actually

44 Mr Don Henry, CEO, Australian Conservation Foundation, 'Ups and downs in climate policy changes', *Media Release*, 16 July 2013.

45 Dr Aila Keto AO, President, Australian Rainforest Conservation Society, *Committee Hansard*, 21 April 2015, p. 25.

46 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, p. 1.

47 Department of the Environment, *Submission 33*, p. 5.

48 See Ms Leila Huebner, *Submission 1*, p. 1; Ms Samantha Willis, *Submission 7*, p. 1; Mr Kevin Shaw, *Submission 44*, p. 1.

value the environment and perhaps regards it as something that will survive despite all the cuts and without any support⁴⁹.

2.47 Ms Nicky Hungerford from the Queensland Conservation Council indicated to the committee that the cuts to funding would have a significant detrimental impact on the capacity for organisations to provide assistance, for example, to farmers. Ms Hungerford went on to comment that this will have an impact on sustainable agriculture and noted that the Queensland Conservation Council has, in the past, provided advice to farmers to enable sustainable land management.⁵⁰

2.48 In addition, Ms Hungerford noted that lack of funding for staff means that small organisations would not be able to provide current information or advice when changes are made to legislation.⁵¹

2.49 In a group submission, a network of state-level conservation councils and organisations commented on the role of community environment organisations. They argued:

Non-profit, non-government environment organisations play an important part in democratic society and make significant contributions to the protection and conservation of Australia's environment. For example, environmental NGOs can:

- Provide input into agenda-setting and policy development processes, including local, on-ground perspectives and case studies
- Support long term policy development, unlike Governments who operate within short term election cycles.
- Collate and disseminate information to supporters and the broader community.
- Keep Government accountable, including by monitoring the Government's performance and calling them to account.
- Undertake on-ground activities to restore and conserve natural landscapes.
- Advocate for the public interest and environmental justice.⁵²

2.50 Submitters also voiced concern about the impact of new programs on community conservation groups. The Australian Council of Trade Unions, in relation to the Green Army, stated that:

49 Ms Kate Watson, *Committee Hansard*, 21 April 2015, p. 20.

50 Ms Nicky Hungerford, Coordinator, Queensland Conservation Council, *Committee Hansard*, 21 April 2015, pp 15–16.

51 Ms Nicky Hungerford, Coordinator, Queensland Conservation Council, *Committee Hansard*, 21 April 2015, p. 16.

52 Nature Conservation Council of NSW, Environment Tasmania, Conservation Council of WA, Queensland Conservation Council, Environment Victoria, Conservation Council ACT Region, Environment Centre NT, Conservation Council of SA, *Submission 37*, p. 10.

We also wish to register our disappointment with the 2014 Federal Budget announcement that stripped more than \$480 million from the National Landcare Program, which provides community grants to conservation volunteers. The funds previously allocated to Landcare have now been diverted into the Coalition's 'Green Army' Program. The Green Army pays young jobseekers less than the minimum wage to work on the very environmental projects that Landcare volunteers used to undertake. This may mean that local conservation groups are forced to shut down to make way for underpaid and poorly trained Green Army workers. We call upon the Senate to provide additional funding to those conservation projects that were defunded or had their funding stripped as a result of the 2014 Federal Budget.⁵³

Response to new programs

2.51 The committee commented on the 20 Million Trees and the Green Army programs in its recent report on the National Landcare Program. However, the committee received further evidence on these two programs during this inquiry.

2.52 In relation to the 20 Million Trees program, Dr Keto, ARCS, noted that according to the Aichi Biodiversity Targets, as set out by the Convention on Biological Diversity, planting trees should be seen as a last resort.⁵⁴ In addition, Dr Keto commented that the 20 million trees was not adequate to address broad scale environment concerns:

...you do not plant unless you have evidence that you absolutely need to because effectively the 20 million trees only amounts to the equivalent of about 25,000 hectares. That is infinitesimally small compared to the scale of the problem we have to address. To address that scale of a problem we have to find economically viable ways of scaling up small-scale work and we can only do it if we utilise the services of nature—let nature do most of the planting wherever it is possible. That is just not there in the 20 Million Trees Program or the current program so I think there is a lot of rethinking that needs to be done.⁵⁵

2.53 The ARCS concluded that locally-targeted funding programs run by the Department of the Environment are not sufficient replacements for the Biodiversity Fund:

53 ACTU, *Submission 21*, p. 2.

54 Australia ratified the Convention on Biological Diversity on 18 June 1993, but has not signed or ratified the Nagoya Protocol which sets out the Aichi Biodiversity Targets. Convention on Biological Diversity, *Aichi Biodiversity Targets*, <https://www.cbd.int/sp/targets/> (accessed 1 June 2015).

55 Dr Aila Keto AO, President, Australian Rainforest Conservation Society, *Committee Hansard*, 21 April 2015, p. 26; see also Australian Koala Foundation, *Submission 62*, p. 2.

The replacement by the 20 Million Trees, Green Army, National Environmental Science Program Threatened Species Hub is unlikely to help avert an escalating number of species extinctions.⁵⁶

2.54 Submitters also did not consider that the Green Army initiative would make up for the loss of overall funding for environmental programs and was unlikely to deliver long-term environmental improvements.⁵⁷

2.55 The department commented on both the 20 Million Trees and the Green Army programs. On the 20 Million Trees Programme, the department noted that a significant source of funding was being provided:

In terms of where else people can go for funding, there are significant funding rounds being undertaken with respect to 20 Million Trees as well, which is incredibly important, not only for delivering the target of 20 million trees and in terms of the connectivity that it is going to deliver in regional Australia, but also, importantly, for looking at plantings in both urban and peri-urban areas. So, again, there is funding in that that is available to those groups, but, obviously, the Biodiversity Fund funding is now fully allocated and being delivered.⁵⁸

2.56 In relation to the Green Army, the department commented it is increasingly being used by local groups as a way to deliver local environment outcomes.⁵⁹

Committee comment

2.57 The committee considers that there is now a gap in environmental protection with the abolition of the Biodiversity Fund. The committee received evidence that biodiversity conservation requires complex environmental programs. The Biodiversity Fund provided much-needed funding for nuanced environmental programs which require more complex approaches than currently offered by locally targeted programs.

2.58 The Biodiversity Fund was also a significant investment by the Commonwealth in environmental programs which aimed at conserving biodiversity around Australia. Given that the outcomes of programs funded under the Biodiversity Fund have yet to be evaluated, the committee considers that its abolition was premature.

2.59 The committee acknowledges that funding will be provided to complete projects. However, the committee considers that the benefits arising from targeted funding programs are extremely important to the long-term biodiversity of the

56 Australian Rainforest Conservation Society, *Submission 45*, p. 3.

57 See Adelaide Hills Climate Action Group, *Submission 5*, p. 8; Environmental Defenders Office of Northern Queensland, *Submission 23*, p. 3.

58 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, pp 2–3.

59 Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division, Department of the Environment, *Committee Hansard*, 13 May 2015, p. 2.

Australian environment and therefore the funding, which had previously been available under the Biodiversity Fund, should be reinstated.

Recommendation 1

2.60 The committee recommends that the Department of the Environment undertake an evaluation of the impact of the Biodiversity Fund.

Recommendation 2

2.61 The committee recommends that the Commonwealth Government reinstate funding for projects for biodiversity conservation to the level which had been available under the Biodiversity Fund.

Chapter 3

Environmental Defenders Offices

Introduction

3.1 This chapter outlines the history of the Environmental Defenders Offices (EDOs), the functions it undertakes and its funding arrangements.

3.2 This chapter draws on the evaluation of the EDOs in the Productivity Commission's 2014 report, *Access to Justice Arrangements*,¹ as well as evidence provided in the committee's submissions and at public hearings.

Environmental Defenders Offices

3.3 The EDO in New South Wales was founded in 1985, and was the first of the national network of environmental lawyers which unified in 1996. The national network of EDOs is governed by a managing committee, made up of members of the state and territory EDOs.²

3.4 Currently, there are eight state and territory community environmental law centres which form the EDOs of Australia.³ The work undertaken by the EDOs relate to:

- legal advice and representation;
- community legal education programs; and
- formulation of environmental policy and law reform.⁴

3.5 The EDOs are the only public interest environmental lawyers in Australia. As a result of this status the EDOs of Australia has argued that:

...access to environmental justice ultimately depends upon our continued capacity to deliver a range of specialist legal services to the community.⁵

3.6 The Productivity Commission, in its 2014 report on access to justice, noted that the EDOs spend the majority of their time on public education and public interest litigation:

1 Productivity Commission, *Access to Justice Arrangements*, Inquiry Report No. 72, September 2014.

2 EDOs of Australia, *Our Management Committee*, <http://www.edo.org.au/management> (accessed 16 April 2015).

3 EDO Victoria became Environmental Justice Australia as of 1 May 2014.

4 EDOs of Australia (formerly Australian Network of Environmental Defenders Offices Inc), *Submission 11*, p. 2.

5 EDOs of Australia, *Submission to the Productivity Commission on Access to Justice Arrangements*, p. 4.

...around one quarter of total EDO activities relate to law reform, with the remainder involving advice and education, and conducting public interest environmental litigation.⁶

3.7 The EDOs have argued that they provide a unique service to local communities through their education programs:

EDOs deliver services that are not provided by any other organisation. We play a critical role in ensuring that community members understand the laws and decisions that affect them, and that their involvement in decision-making is efficient and effective.⁷

3.8 EDOs have also played a significant role in public interest environmental litigation, which they noted is defined as:

...litigation undertaken by a private individual or community group where the dominant purpose is not to protect or vindicate a private right or interest, but to protect the environment.⁸

3.9 Their main criteria for assessing requests for legal assistance concern:

- whether the matter is one of environmental protection;
- whether it is in the public interest; and
- whether the applicant could otherwise afford private legal assistance.⁹

3.10 In their submission to the Productivity Commission, the EDOs provided a breakdown of their state and territory offices' activities (Figure 3.1):

Figure 3.1: Work undertaken by EDOs in 2012–13

	Advice	Litigation	Education	Law reform
EDO QLD	20%	50%	10%	20%
EDO SA	10%	50%	10%	30%
EDO ACT	30%	0%	30%	40%
EDO TAS	45%	15%	20%	20%
EDO NT	40%	5%	40%	15%

Source: Australian Network of Environmental Defenders Offices, *Supplementary Submission on Draft Productivity Commission report into Access to Justice Arrangements*, 2 July 2014, p. 5.

6 Productivity Commission, *Access to Justice Arrangements*, Vol. 2, No. 72, 5 September 2014, p. 712.

7 EDOs of Australia, *Submission 11, Attachment 1*, p. 2.

8 EDOs of Australia, *Submission 11, Attachment 1*, p. 4.

9 EDO Queensland, *Who we help*, <http://www.edoqld.org.au/who-we-help/> (accessed 8 April 2015).

3.11 Collectively, the EDOs currently employ 20 full-time legal staff and 17 non-legal and support staff.¹⁰

Funding arrangements

3.12 The EDOs receive funds through fees, donations, gifts and government grants and programs. EDOs of Australia commented that 'the funding received by each office fluctuates markedly from year to year, due to project-based funding, one-off philanthropic grants and the variable success of fundraising efforts and income from services'.¹¹

3.13 In addition, government funding arrangements for EDOs vary across their state and territory offices with each office receiving different levels of funding from their state or territory government and the Commonwealth. The Commonwealth has provided recurrent funding for over 18 years. Recurrent funding was around \$100,000 in 2014–15 for the EDOs through the Community Legal Service Program managed by the Attorney-General's Department.¹²

3.14 Commonwealth recurrent funding, as a proportion of funding as at 30 June 2013, was as follows:

- Queensland – 100 per cent;
- Northern Territory – 85 per cent;
- South Australia – 80 per cent;
- North Queensland – 75 per cent;
- Tasmania – 73 per cent;
- Australian Capital Territory – 56 per cent;
- Western Australia – 45 per cent; and
- New South Wales – 5.2 per cent.¹³

3.15 In addition to recurrent funding, the previous Commonwealth government provided supplementary funding of \$300,000 per year from 2013 through four-year funding agreements with the EDOs.¹⁴ While only a portion of the supplementary funding was received before the agreements were terminated at the end of 2013, the funding provided the means to increase services. The Northern Territory EDO (EDONT), for example, indicated that it had employed an additional solicitor. The additional capacity allowed the EDONT 'to provide a kind of outreach service for the

10 EDOs of Australia, *Answer to question on notice*, 21 April 2015 (received 19 May 2015), p. 1.

11 EDOs of Australia, *Answer to question on notice*, 21 April 2015 (received 19 May 2015), p. 1.

12 See EDO NSW, *Annual Report 2013–14*, p. 45; EDOWA, *Annual Report*, p. 3.

13 EDOs of Australia, *Answer to question on notice*, 21 April 2015 (received 19 May 2015), p. 2.

14 Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 1.

first time, highlighting the dramatic levels of unmet need for our services in remote NT communities'.¹⁵

3.16 The Attorney-General's Department indicated that the EDOs had received base (recurrent) and supplementary funding.¹⁶

Work of the Environmental Defenders Offices

3.17 One of the principal functions undertaken by EDOs is community legal education. EDOs produce fact sheets on a range of topics and bulletins providing updates on changes to laws and policies. They also run outreach programs in consultation with Indigenous communities in NSW, Western Australia and the Northern Territory.¹⁷

3.18 The EDOs have been involved in a number of high-profile environmental cases. The EDO Queensland, for example, has been involved in cases concerning the Springbrook rainforest, which resulted in the protection of rare and threatened species from a proposed development,¹⁸ and the Nathan Dam case, in which the Commonwealth Minister for the Environment was compelled to consider the flow-on impacts of a proposed dam in Central Queensland.¹⁹

3.19 Nationally, the EDOs have been involved in numerous actions on a range of environmental matters, including: mining and coal seam gas, native plants and animals, climate change and energy, Aboriginal communities, coastal marine and fisheries management, and planning development and heritage.²⁰

3.20 The EDOs of Australia commented that EDO advice 'redresses a significant imbalance between community members and comparatively well-resourced government authorities and private companies'.²¹

15 EDONT, *Annual Report*, p. 24.

16 Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 7.

17 EDOs of Australia, *Submission 11*, p. 2.

18 EDO Queensland, *Protecting Springbrook rainforest*, <http://www.edoqld.org.au/success-stories/protecting-springbrook-rainforest/> (accessed 10 April 2015).

19 EDO Queensland, *The Nathan Dam case: protecting the Reef and making legal history*, <http://www.edoqld.org.au/success-stories/the-nathan-dam-case-protecting-the-reef-and-making-legal-history/> (accessed 10 April 2015).

20 EDOs of Australia, *Court cases*, <http://www.edo.org.au/cases> (accessed 10 April 2015).

21 EDOs of Australia, *Submission 11*, p. 3.

Defunding of the Environmental Defenders Offices

3.21 In December 2013, the Mid-Year Economic and Fiscal Outlook (MYEFO) outlined cuts for Legal Policy Reform and Advocacy Funding including a \$10 million cut in funding over four years to the EDOs.²²

3.22 The Attorney-General's Department noted that the supplementary funding agreements entered into by the previous government included an immediate termination clause. This was executed immediately with the December 2013 MYEFO announcement. At this time, the EDOs were also notified that their ongoing base funding would not be renewed beyond its expiry date of 30 June 2014. The Attorney-General's Department commented that the recurrent funding was not terminated or cancelled; rather, the government had agreed to not continue this funding at the expiration of the current funding arrangement, that is, 30 June 2014.²³

3.23 The Attorney-General's Department commented that the defunding decision came from a need to achieve a set amount of savings in the legal assistance program, and that the EDOs had been identified as being a 'lesser priority' for funding. The EDOs were notified of this rationale for defunding.²⁴

3.24 The decision to defund the EDOs was relayed to them firstly through a phone call, and then in writing. An example of the letters is provided at Appendix 3. The letter from the Attorney-General's Department to the EDOs states that:

In this time of fiscal constraint, the Australian Government sees the provision of enhanced frontline legal services to disadvantaged members of the community as the first priority in facilitating access to justice...²⁵

3.25 Further, the letter sets out that the two streams of funding received by the EDOs will cease. The letter states that the government has decided to:

1. not extend the Service Agreement beyond its current term, which is due to expire on 30 June 2014, and
2. cancel the Grant Agreement in accordance with subclause 19.1 of the General Grant Conditions (the Conditions), which form part of the Grant Agreement (see paragraph headed 'Scope of this Agreement' of the Grant Details).

With respect to the cancellation of the Grant Agreement, we advise that due to this change in government policy the Commonwealth is cancelling the Grant Agreement effective immediately.²⁶

22 Australian Government, *Mid-Year Economic and Fiscal Outlook 2013–14*, December 2013, p. 119.

23 Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 7; see also p. 9.

24 Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 8.

25 Attorney-General's Department, *Answer to question on notice*, 13 May 2015 (received 27 May 2015).

3.26 On 26 March 2015, the Attorney-General announced a reversal of cuts to funding for legal aid providers, but specifically excluded the EDOs:

After considerable consultation with State and Territory Governments and service providers, it has been decided there will be no reduction in Commonwealth funding to Legal Aid Commissions, Community Legal Centres (except Environmental Defenders Offices) and Indigenous legal assistance for the next two years.²⁷

Response to defunding of EDOs

3.27 Many submitters expressed concern at the defunding of EDOs. The Australian Conservation Foundation stated:

Defunding the EDOs means Australians are less able to speak up for themselves, ensure that the environments they value are looked after, and keep political decision makers honest.²⁸

3.28 Another group of submitters provided the following view on the defunding of the EDOs:

It is appalling that the Abbott government allowed the mining industry lobby to persuade it to cut funding to the Environmental Defenders Office. The EDO is the only legal service dedicated to ensuring that decisions relating to the environment are lawful and fair, and to assist the community in understanding their legal obligations towards the environment and in abiding by planning regulatory frameworks. The role of the EDO in making submissions relating to proposed legislation is invaluable as they have years of experience, scientific and legal knowledge. That knowledge is unique and of enormous assistance to the governments of the day in their legislative role.

In cutting funding for the EDO the Abbott government has shown great naivety and cynicism and frankly, has displayed a clear disdain for people who will live longer than, or after, them. They are a government of aging men who demonstrably care nothing about the planet, its humanity or its creatures. They are opportunists for themselves personally and their corporate cohorts. They have mounted an unending attack upon the environment from every available angle.²⁹

26 Attorney-General's Department, *Answer to question on notice*, 13 May 2015 (received 27 May 2015).

27 Senator the Hon George Brandis, Attorney-General, and Senator the Hon Michaelia Cash, Minister Assisting the Prime Minister for Women, 'Legal aid funding assured to support the most vulnerable in our community', *Joint Press Release*, 26 March 2015.

28 Australian Conservation Foundation, *Submission 10*, p. 3.

29 Dr Mary MacGibbon, Ms Kate Watson and Ms Ingrid Strewe, *Submission 25*, p. 12.

Reasons for defunding

3.29 The EDOs disagreed with the argument for defunding put forward by the Attorney-General's Department in its letter to the EDOs, which stated that only frontline legal services would receive funding. The EDO in Western Australia (EDOWA) argued that 'the delivery of frontline legal services for disadvantaged Australians is precisely what EDOs provide'.³⁰

3.30 EDOWA noted that its clients include Indigenous Australians seeking to protect traditional lands from mining, and local farmers and landowners. EDOWA argued that they provide a unique service:

These clients often cannot get specialised legal advice and representation on environmental law issues elsewhere. In many instances, EDOs are the only legal service providers to which such citizens can turn for help in understanding their rights and the options available to them to protect their health, prosperity and the environment.³¹

3.31 Other submitters also noted the important work undertaken by EDOs. The group of environmental organisations, for example, stated:

The Australian Network of Environmental Defenders Offices (ANEDO) has provided important public interest environment law services for over 25 years, when the NSW office was first established. ANEDO plays an important role in providing legal advice to the community on public interest environment matters, and representing third parties in court proceedings. The ANEDO offices are made up of lawyers, scientists and other professionals and support staff, who provide professional, expert and independent legal advice to individuals and community groups within clear public interest guidelines.

ANEDO's work has helped to protect coastal areas, private land, rivers and catchments, Aboriginal culture and land, and native flora and fauna, signifying the broad extent to which the organisation affects local people and communities.³²

3.32 In evidence to the committee, the Attorney-General's Department indicated that it was not aware of any analysis of the work of EDOs undertaken prior to the MYEFO announcement. Rather, the only analysis was 'about options that might be available to the government in achieving the financial savings that it was requiring'.³³

30 Environmental Defenders Office of Western Australia, 'Commonwealth continues campaign to discontinue EDO funding', *EDO News*, Vol 21, No. 1, Autumn 2015, p. 4.

31 Environmental Defenders Office of Western Australia, 'Commonwealth continues campaign to discontinue EDO funding', *EDO News*, Vol 21, No. 1, Autumn 2015, p. 4.

32 Nature Conservation Council of NSW; Environment Tasmania; Conservation Council of WA; Queensland Conservation Council; Environment Victoria; Conservation Council ACT Region; Environment Centre NT; Conservation Council of SA, *Submission 37*, p. 11.

33 Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 8; see also Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 11.

In answer to a question on notice in relation to this matter, the Attorney-General's Department added:

The department provided analysis and advice on how the required level of savings could be achieved. This included the fact that removing all EDO funding would deliver a total of \$11.25 million over four years.³⁴

3.33 The EDOs noted that the decision to defund the EDOs was made before the completion of the Productivity Commission's review of access to justice.³⁵

3.34 The EDOs also commented on the reinstatement of funding for community legal centres which specifically excluded EDOs. Ms Rachel Walmsley, EDO NSW, noted that the EDOs 'are very happy that the funding has been restored more broadly to the sector because community legal centres do really important work', however, she indicated that no justification for the continued defunding of EDOs had been provided. The EDOs had sought to meet the Attorney-General to discuss this, however, they had not been able to do so.³⁶

3.35 It was also suggested in evidence that the defunding of EDOs may have been influenced by factors other than the need to find financial savings. Ms Jo-Anne Bragg, EDO Queensland, commented:

In terms of the earlier question, as to why EDOs had been defunded, I might venture that we are often very successful at helping clients use the law to protect the environment and to protect communities. Many people applaud that as part of access to justice in a fair and democratic society, but certain interest groups might prefer that communities did not have access to those sorts of legal resources. We feel we are a very important part of the environmental access to justice for communities across the country.³⁷

3.36 Ms Walmsley concluded that the defunding, and then failure to reinstate funding for EDOs, sent two signals:

It is saying that environmental protection is somehow an indulgence or a luxury rather than [actually fundamental] to Australia's economy, society and long-term wellbeing. Secondly, it sends a message that if communities wish to protect their environment against powerful interests including breaches and wrongful decision making that they are on their own.³⁸

34 Attorney-General's Department, *Answer to question on notice*, p. 7.

35 Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 7.

36 Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 5.

37 Ms Jo-Anne Bragg, Principal Lawyer, Environmental Defenders Office, Queensland, *Committee Hansard*, 21 April 2015, p. 9.

38 Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 6.

Impact of defunding of EDOs

3.37 The committee received evidence on the consequences that the defunding of the EDOs would have for the organisations and the work that they undertake. The EDOs of Australia pointed to the importance of stable funding for the long-term delivery of services. It stated that:

Recurrent funding has been the only secure basis for forward planning and stable, long-term service delivery. In the absence of a stable funding source, offices are required to dedicate considerable time and resources in order to generate income, often at the expense of direct service delivery.³⁹

3.38 Without recurrent funding, the EDOs are facing significant financial constraints which have implications for staffing. The EDOs of Australia indicated that staffing numbers are likely to decrease significantly in the next 12 months as the impact of the funding cuts lead to office closures and reduced services.⁴⁰ EDOWA also commented on changes to staff and stated in its Annual Report that it:

...had to abandon the idea of a northern office and reduce planned staff...defunding left the EDOWA with 1.4 Full Time Equivalent lawyers rather than the 2.6 FTE lawyers planned for February 2014.⁴¹

3.39 These financial constraints have been exacerbated in some jurisdictions by decreases in state and territory governments funding to the EDOs. For example, funding for the EDOWA was cut from the state budget, as announced in May, with funding reallocated to the Employment Law Centre.⁴² State government funding for the EDOs in the Northern Territory and South Australia has been withdrawn and these offices face imminent closure, while the Tasmanian and Australian Capital Territory offices face closure by the end of the year.⁴³

3.40 The financial situation of EDONT was highlighted in its 2014 Annual Report which stated:

Firstly, we feel it important to bring the reader's attention to the fact the EDONT's auditor's report highlights "the existence of material uncertainty over the Association's ability to continue as a going concern and therefore may be unable to realise its assets and discharge its liabilities in the normal

39 EDOs of Australia, *Answer to question on notice*, 21 April 2015 (received 19 May 2015), p. 1.

40 EDOs of Australia, *Answer to question on notice*, 21 April 2015 (received 19 May 2015), p. 1.

41 EDOWA, *Annual Report 2014*, p. 3.

42 Daniel Weber, 'Government funding pulled from Environmental Defender's Office without explanation', *ABC News*, 26 May 2015, <http://www.abc.net.au/news/2015-05-26/funding-of-environmental-defenders-office-withdrawn/6498990> (accessed 15 June 2015).

43 PM with Mark Colvin, *Environmental Defender's Office funding cuts linked to advocacy work on controversial projects*, 27 May 2015, <http://www.abc.net.au/pm/content/2015/s4243663.htm> (accessed 15 June 2015); EDO ACT, *EDO ACT Faces Closure without Budget Support*, http://www.edoact.org.au/edo_act_faces_closure_without_budget_support (accessed 15 June 2015); see also Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 3.

course of business". This is of course a direct result of the Federal Government's withdrawal of the EDONT's funding and it is well recognised that without alternative sources of funding, the EDONT is likely to close at the end of this coming financial year.⁴⁴

3.41 EDONT was scheduled to close its doors on 30 June 2015 in the absence of additional funding. The EDONT indicated that it had attempted to raise funding from the Northern Territory Government without success. The Law Society Northern Territory had provided funding and some \$10,000 was raised through a crowd-funding campaign prior to Christmas 2014. Nevertheless, it appears that the office is not sustainable after June 2015.⁴⁵

3.42 Ms Jess Feehely, EDO Tasmania, commented that the EDOs in other jurisdictions 'have slightly more positive outlooks based on funding they have been able to continue to receive from their state governments'.⁴⁶ EDO Queensland for example, commented that it was hoping to get state funding and it was surviving on temporary project funding and public donations. As a consequence, EDO Queensland has had to severely restrict the number and detail of advice it provides and has not been able to do its normal rural outreach and education.⁴⁷

Environmental and community implications of defunding

3.43 The impact of environmental harm on communities was noted by the Productivity Commission:

The rationales for government support for environmental matters are well recognised. The impact of activities or actions that cause environmental harm typically extend beyond a single individual to the broader community. For example, inappropriate developments by governments or the private sector that reduce air quality, water quality or the amenity of an area can impose costs on all residents in that area. Costs might include poor health outcomes or decreased land values.⁴⁸

3.44 The EDO office in Northern Queensland highlighted its role in providing a voice for Australian communities through access to justice as well as, more broadly, the protection of the environment. According to it, the defunding of the EDOs:

44 EDONT, *Annual Report 2014*, p. 24.

45 Mr David Morris, Principal Lawyer, Environmental Defenders Office, NT, *Committee Hansard*, 21 April 2015, p. 3; see also p. 8.

46 Ms Jess Feehely, Principal Lawyer, Environmental Defenders Office, Tasmania, *Committee Hansard*, 21 April 2015, p. 3.

47 Ms Jo-Anne Bragg, Principal Lawyer, Environmental Defenders Office, Queensland, *Committee Hansard*, 21 April 2015, p. 3; see also p. 8.

48 Productivity Commission, *Access to Justice Arrangements*, Vol. 2, No. 72, 5 September 2014, p. 711.

Defunding the EDOs means Australian communities are less able to speak up for themselves, less able to ensure that the environments they value are looked after, and less able to keep political decision makers honest.⁴⁹

3.45 The impact that defunding the EDOs can have on access to justice has been noted by the EDOs of Australia. According to the EDOs, environmental laws 'can help to address social disadvantage and fairness in our legal system', as:

...environmental issues disproportionately affect members of marginalised or lower socio-economic groups who are exposed to inappropriate developments which lower air quality, water quality or the amenity of an area. This may have flow-on effects leading to ill-health, reduced land values, disadvantage and disempowerment.⁵⁰

3.46 Ms Walmsley, EDO NSW, added:

As recently recognised by the Productivity Commission, we have a very crucial role in terms of access to environmental justice. Without EDOs there really is no community legal centre, no government service that actually provides the kind of information and assistance that we provide. As I was saying in the opening statement, our clients include a really diverse cross-section. We have farmers, Aboriginal clients and governments who come to us for advice. We are really the only independent non-government source of information on environmental law and we are crucial for access to justice.⁵¹

3.47 The need for ensuring access to justice on environmental law issues was highlighted by EDO North Queensland, which commented that 'this is particularly serious when many are suffering the consequences of the streamlined approvals process created by the Queensland government's aggressive campaign of slashing "green tape"'.⁵²

3.48 This view was supported by other submitters with the network of state-level conservation councils and organisations asserting that:

Without ANEDO's [Australian Network of Environmental Defenders Offices] legal services many Australians could not afford to get legal advice or mount a legitimate legal challenge against large companies or governments over major development projects which threaten their local communities and environment.⁵³

49 EDO Northern Queensland, *Submission 23*, p. 1.

50 EDOs of Australia, *Submission to the Productivity Commission on Access to Justice Arrangements*, p. 4.

51 Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, NSW, *Committee Hansard*, 21 April 2015, p. 4.

52 Environmental Defenders Office of Northern Queensland, *Submission 23*, p. 3.

53 Nature Conservation Council of NSW, Environment Tasmania; Conservation Council of WA, Queensland Conservation Council, Environment Victoria, Conservation Council ACT Region, Environment Centre NT, Conservation Council of SA, *Submission 37*, p. 11.

3.49 Ms Kate Watson also argued that the EDOs perform a valuable service for the Australian community:

Apart from the services to the community, the EDO is also an important institution of our democracy. For a government to withdraw the means by which the community can lawfully question or challenge decisions by that government about our environment takes us fast in a direction which is undemocratic.⁵⁴

3.50 Ms Elizabeth Quinn, Director, Community Legal Services Section in the Attorney-General's Department, noted that no replacement service to provide free legal advice on environmental matters received Commonwealth funding.⁵⁵ However, Ms Quinn expressed the view that there would be nothing to 'prevent a generalist community legal centre from assisting someone'.⁵⁶

Frivolous or tenuous litigation

3.51 A further matter raised in evidence was the role of the EDOs in reducing frivolous or tenuous litigation. For example, Ms Watson stated:

Both the Abbott government and the New South Wales state government failed to recognise that EDOs not only serve the community and the environment; they also save the government money by advising potential litigants about the law, their prospects and avenues other than courts that they can use to bring attention to any grievances. EDOs thereby unclog the courts of unrepresented individuals and communities who would otherwise take court time to run cases that were either not well founded or had no basis in law.⁵⁷

3.52 The EDOs also argued that they play 'a critical role in reducing the number of frivolous or tenuous litigation activities being pursued, and in improving the efficiency of matters which do proceed'.⁵⁸

3.53 The EDOs highlighted the process they use when determining whether to proceed with a case. They stated that they:

54 Ms Kate Watson, *Committee Hansard*, 21 April 2015, p. 19.

55 Ms Elizabeth Quinn, Director, Community Legal Services Section, Legal Assistance Branch, Access to Justice Division, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 9.

56 Ms Elizabeth Quinn, Director, Community Legal Services Section, Legal Assistance Branch, Access to Justice Division, Attorney-General's Department, *Committee Hansard*, 13 May 2015, p. 9.

57 Ms Kate Watson, *Committee Hansard*, 21 April 2015, p. 19; see also Michelle Paine, 'Women's legal service cash crisis', *Mercury*, 16 June 2014, <http://www.themercury.com.au/news/tasmania/womens-legal-service-cash-crisis/story-fnj4f7k1-1226955316168> (accessed 29 April 2015).

58 Australian Network of Environmental Defenders Offices, *Supplementary Submission on Draft Productivity Commission report into Access to Justice Arrangements*, 2 July 2014, p. 6.

...undertake a rigorous assessment of prospects (often in consultation with an experienced barrister), and ensure that clients are aware of both the potential risks and the evidentiary burden involved in the litigation.⁵⁹

3.54 The EDOs pointed out that while they provide advice on a number of matters, they run very few cases. They noted that in 2012–13, they provided 1,288 phone advices and 193 written advices, but ran only 19 public interest cases.⁶⁰

3.55 The Productivity Commission noted, in its 2014 report, that 'in the past five years, no cases in which EDO offices were engaged have been dismissed on the basis that the case was frivolous or vexatious'.⁶¹

Committee comment

3.56 The committee acknowledges the vitally important role that EDOs have undertaken over many years. The EDOs have empowered communities through education about their legal rights regarding the environment and the provision of advice on legal matters.

3.57 The EDOs also play a significant role in providing access to justice where it is in the public interest for environmental matters to be pursued by those who cannot afford private legal representation. By providing this important legal assistance, the EDOs serve to reduce frivolous litigation by taking very few matters to court. The committee notes the finding of the Productivity Commission that, in the past five years, no cases in which the EDOs were engaged were dismissed on the grounds that they were frivolous or vexatious.⁶²

3.58 The committee is concerned that without the EDOs, communities and individuals across Australia will not be able to access legal assistance or legal advice on matters that directly affect their local environment.

3.59 The committee heard that the future is bleak for the EDOs. Without reinstatement of Commonwealth funding, all EDO offices now face an uncertain future with some facing closure or are reducing the services they provide. The environment is a public good and those who seek to protect it should not have to rely on the donations or indeed crowd-funding.

3.60 The reasons given by the government for the defunding of the primary avenue communities have to access environmental legal aid are not compelling, particularly as there appears to have been no analysis by the Attorney-General's Department on the environmental and social impact of the defunding. Further, no analysis has been

59 Australian Network of Environmental Defenders Offices, *Supplementary Submission on Draft Productivity Commission report into Access to Justice Arrangements*, 2 July 2014, p. 6.

60 Australian Network of Environmental Defenders Offices, *Supplementary Submission on Draft Productivity Commission report into Access to Justice Arrangements*, 2 July 2014, p. 5.

61 Productivity Commission, *Access to Justice Arrangements*, Vol. 2, No. 72, 5 September 2014, p. 713.

62 Productivity Commission, *Access to Justice Arrangements*, Vol. 2, No. 72, 5 September 2014, p. 713.

undertaken on the impact the defunding will have on the court system, as the EDOs have acted as a filter for frivolous or vexatious litigation.

3.61 While acknowledging the financial constraints faced by the Commonwealth government, the committee considers that the long-term cost to communities and to the environment will far outweigh the short-term financial gains achieved by the defunding of the EDOs.

Recommendation 3

3.62 The committee recommends that the Commonwealth Government establish new funding agreements for the Environmental Defenders Offices which reinstate the recurrent funding previously provided.

**Senator Anne Urquhart
Chair**

Government Senators' dissenting report

Government Senators' comments

1.1 Government Senators consider the premise of this inquiry to be essentially baseless and motivated by political considerations. The Abbott Government is not 'attacking the environment'; following the disaster of the carbon tax, green loans and home insulation programs under the previous government, the Abbott Government is not only repairing environmental policy but embarking on the most significant practical environmental reform program in Australia's history. This is exemplified in UNESCO's draft decision that the Great Barrier Reef be removed from the path to an in-danger listing.

1.2 Another key example of the Government's commitment to the environment is the Emissions Reduction Fund, which in its first reverse auction purchased 47 million tonnes of CO₂-equivalent abatement, almost four times as much as that achieved under the previous government's carbon tax.

1.3 The Australian Government is investing more than \$2 billion to manage natural resources and enable communities to undertake practical action to improve the environment, including the conservation of biodiversity. This investment includes the National Landcare Programme along with complementary initiatives such as the Green Army, Working on Country and the Reef Trust.

1.4 The Government's redesigned Landcare programme returns decision-making back to local communities, enables commitment to long-term projects, and provides for a simpler and more effective reporting and application process.

1.5 The Government's Green Army program does not replace Landcare funding. Rather it is complementary to Landcare projects by providing groups with additional manpower to undertake local action on the ground, with the additional benefit of providing young Australians with practical skills and training.

1.6 While the committee acknowledges 'financial constraints' faced by the Government, it fails to acknowledge their extent or the urgent need for significant Budget savings measures to be implemented as soon as possible. In this context, the Government cannot and will not restore funding to Environmental Defenders Offices (EDOs).

1.7 The discontinuation of funding for EDOs does not reflect an adverse judgement on the merits of EDOs or their work, rather it reflects the broader context of stringent resource constraints.

Recommendation 1

1.8 That the committee commends the Government for undertaking massive investment in environmental programs in an unprecedented environment of fiscal constraint.

**Senator Anne Ruston
Deputy Chair
Senator for South Australia**

**Senator James McGrath
Senator for Queensland**

Australian Greens additional comments

The Abbott Government's Attacks on the Environment

1.1 Since coming to office, the Abbott Government has launched an unprecedented attack on our natural environment, our national environment laws and the voices of the environment.

1.2 The Australian Greens are disappointed that the scope of this inquiry was substantially narrowed by a decision of the Committee to focus almost exclusively on funding for community environment organisations, the Environmental Defenders Offices, the abolition of the Biodiversity Fund and cuts to Landcare and Caring for Our Country. This decision means that the final report of the Committee omits substantive discussion of clean energy, our national environment laws and World Heritage matters.

1.3 The Australian Greens would like to thank everyone who made a submission to this inquiry including environmental organisations, unions, renewable energy organisations, academics and over 1,000 members of the public whose submissions were not published. Your time and passion for our precious places and species and our safe climate are appreciated.

Attacks on the voices of the environment

1.4 The Abbott Government has launched an insidious attack on the voices of the environment which threatens not only a safe, clean future for future generations, but also the fabric of our democracy.

1.5 This is far from the first time the Abbott Government has tried to silence independent voices standing up for the environment. The government abolished the independent Climate Commission and for the first time in almost 20 years, totally axed federal support for Environmental Defenders Offices around Australia. In total, these cuts amounted to \$10 million over four years. These were the only cuts specifically excluded when the Attorney-General backed down on cuts to other legal assistance in March 2015.

1.6 This government has also cut grants of \$5.4 million over four years under the Grants to Voluntary Environment, Sustainability and Heritage Organisations (GVESHO) program, which has provided core funding to organisations such as conservation councils since 1973.

1.7 Using a House of Representatives inquiry, and with the support of the Minister for the Environment, Coalition MPs are seeking to strip away deductible gift recipient status from groups on the Register of Environmental Organisations, under the premise that it is improper for environment groups to engage in law reform or to criticise the Abbott Government for its appalling environmental track record and agenda.

1.8 The Abbott Government is pushing forward with this attack despite the fact the High Court has ruled that advocacy with tax-deductible status have the right to

advocate and engage in political debate and that this is "indispensable" for "representative and responsible government".

1.9 Time and time again, everyday Australians have banded together to save our world-renowned environmental assets from short-sighted, government-endorsed destruction. Through protest, the community and the environment movement have worked together to end whaling in Australia, stop sand mining on Fraser Island, save the Great Barrier Reef from oil rigs and stop the Franklin River from being dammed.

1.10 By pretending that the only worthy environmentalism is planting trees or cleaning up litter, the Abbott Government allows big business and mining magnates to continue their destruction unchallenged. Local, on-the-ground efforts are vital, but systemic issues cannot simply be ignored. The environment movement's job is not just to clean up after destruction — it is to help the community raise its voice to stop it in the first place. Not content with just ignoring, ridiculing and de-funding those voices, the Abbott Government now wants them silenced.

1.11 Apart from being alarmingly undemocratic, the government's plan to strip tax-deductibility from environmental organisations would set a blatant double standard. There's no talk from the Coalition of removing tax deductibility for donations to Tony Abbott's favourite think tank, the Institute of Public Affairs. Instead, the government has ruthlessly pursued the IPA's wish list of scrapping our effective price on carbon, scrapping federal environmental protections by handing them to the states, repealing the mining tax, cutting university funding and attacking Medicare.

The invaluable role of the Environmental Defenders Offices

1.12 For 30 years, the Environmental Defenders Offices (EDOs) have been providing free legal advice to community members who want to use the law to protect the environment in the public interest. It is an invaluable service, and is the only means through which members of the public can be empowered to understand and enforce environmental laws in the public interest without charge.

1.13 It is part of a functioning healthy democracy that citizens are able to hold government to account and enforce the rule of law. Frequently government enforcement of environmental laws is under-resourced and overlooked (as countless reports attest, including recent reports by both the Queensland and the federal Auditors General), so the role of the community in enforcing laws is all the more important. Giving communities a voice as the EDOs do warrants government support and it is outrageous that the Abbott Government has removed all federal funding for EDOs for the first time in the 18 year history of federal funding. Given the program of attacks on our natural environment by this government, never has the EDO been more needed.

1.14 The Productivity Commission's recent report on Access to Justice Arrangements found that community legal centres (CLCs), of which the EDOs are an example, are vital. The report found that they save governments money in the long term and deserve an additional \$200 million in government funding. EDOs are expert environmental lawyers and their law reform submissions are of impeccable standard in using the lessons learned from practicing to identify systemic reforms which would

be more efficient and effective. CLCs, and EDOs, save government money and help fix flaws and oversights in our laws.

1.15 They are a public good and should be overwhelmingly supported and funded by governments of all political persuasions as a service and a crucial element of a healthy democracy.

Disclosure: I was proud to work as a solicitor at the EDO Qld for 9 years prior to commencing my term in the Senate, and I regularly donate to EDO Qld in recognition of the outstanding work they provide to the community and our natural environment.

Recommendation 1

1.16 The Abbott Government should abandon its ideological attack on deductible gift recipient status of the voices of the environment.

Recommendation 2

1.17 The Abbott Government should restore funding to the Environmental Defenders Offices to at least the level which existed in September 2013 (including both recurrent and supplementary funding) and should consider increasing that funding based on the Productivity Commission's recommendations for \$200 million increase in funding for community legal centres.

Recommendation 3

1.18 The Abbott Government should remove the gag clauses in funding agreements with non-government organisations which prevent them from advocating for better protections for the environment and which prevent them from standing with the community against extractive industries such as coal and unconventional gas to protect our land, water and a safe climate.

Recommendation 4

1.19 The Abbott Government should restore core funding for the voices of our environment under the Grants to Voluntary Environment, Sustainability and Heritage Organisations (GVESHO) program.

Cuts to the Biodiversity Fund and other programs

1.20 The abolition of the Biodiversity Fund, starting under Labor with cutting the Biodiversity Fund in half, and concluding under the Abbott Government with the abolition of the remainder, was staggeringly short-sighted and represents a huge loss to our environment and to future generations.

1.21 The Abbott Government's cuts in the 2014 Budget to the Landcare and Caring for Our Country are also a disaster for our environment. Landcare experienced a cut of \$484 million in the 2014 Budget with the money redirected to more questionable programs.

1.22 In the 2015 Budget, the Abbott Government made further \$100 million in cuts to environmental programs including Landcare and Green Army, to fund commitments on the Great Barrier Reef. While those commitments are welcome though do not go far enough and are not adequately funded, that money should not

have come at the expense of other environment programs. Expenditure on the environment needs to be increased, rather than reducing and reshuffling the deckchairs on the Titanic.

Recommendation 5

1.23 The Biodiversity Fund should be fully restored, up to a total level of \$946 million, inclusive of projects already funded under previous funding rounds.

Recommendation 6

1.24 Funding for the National Landcare Programme should be restored to September 2013 levels.

Recommendation 7

1.25 Funding for welcome commitments on the Great Barrier Reef should not come at the expense of other environment programs.

**Senator Larissa Waters
Senator for Queensland**

Appendix 1

Submissions, tabled documents and answers to questions taken on notice

Submissions

- 1 Ms Leila Huebner
- 2 Mr Ken Brown
- 3 Ms Margaret Hender
- 4 CORENA (Citizens Own Renewable Energy Network Australia Inc)
- 5 Adelaide Hills Climate Action Group
- 6 Mrs Ann Palmer
- 7 Ms Samantha Willis
- 8 Ms Kirsty Macpherson
- 9 Ms Julie Lawson
- 10 Australian Conservation Foundation
- 11 Australian Network of Environmental Defenders Offices
- 12 Wildlife Preservation Society of Queensland
- 13 Wildlife Preservation Society of Queensland Fraser Coast Branch
- 14 Ms Juanita Johnston
- 15 AMWU
- 16 Ms Carolyn Bussey
- 17 Conservation Council of South Australia
- 18 Queensland Resources Council
- 19 Huon Resource Development Group
- 20 NSW Young Lawyers Environment and Planning Law Committee
- 21 Australian Council of Trade Unions
- 22 Mr Brynn Mathews
- 23 Environmental Defenders Office of Northern Queensland
- 24 Ms Lindy Frazer
- 25 Dr Mary MacGibbon, Kate Watson and Ingrid Strewe
- 26 Dr Judith Bourne
- 27 Ecosure Pty Ltd
- 28 Transition Adelaide Hills
- 29 Mr David Arthur
- 30 Australian Wildlife Protection Council
- 31 Fraser Island Defenders Organisation
- 32 Mr Robert Westerman
- 33 Department of the Environment
- 34 Mr Daniel Gibson
- 35 Mr Helmut Schwabe
- 36 Mr Henning Herringe
- 37 Nature Conservation Council of NSW; Environment Tasmania;
Conservation Council of WA; Queensland Conservation Council;
Environment Victoria; Conservation Council ACT Region;
Environment Centre NT; Conservation Council of SA

38	Ms Maureen Brannan
39	Mr Mat Hardy
40	Mr Kyla Burtland
41	Koala Action Inc
42	Mr Lindsay Hope
43	Ms Anita Bickle
44	Mr Kevin Shaw
45	Australian Rainforest Conservation Society Inc
46	Ms Jessica Urbach
47	Mr Steven Douglas
48	Ms Dorte Planert
49	Ms Annie Nolan
50	Ms Rachel Ryan
51	Ms Nathalie Shepherd
52	Ms Claire Bettington
53	Mr Jimmy Malecki
54	Ms Jessica Yeoman
55	Mr Geoff Dowsett
56	Ms Rickie-Lee McLaurin-Smith
57	Confidential
58	Mr Martin Hawes
59	Ms Leonie Stubbs
60	Mr Rod Crispin
61	Ms Sybelle Foxcroft
62	Australian Koala Foundation

Tabled documents

NSW Minerals Council – Letter to the Attorney-General from Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, dated 11 October 2013 (public hearing, Brisbane, 21 April 2015)

Attorney-General – Letter to Mr Stephen Galilee, Chief Executive Officer, NSW Minerals Council, dated 14 November 2013 (public hearing, Brisbane, 21 April 2015)

Australian Network of Environmental Defender's Offices – Supplementary Submission on Draft Productivity Commission report into Access to Justice Arrangements, 2 July 2014 (public hearing, Brisbane, 21 April 2015)

Answers to questions taken on notice

EDOs of Australia – Answers to questions taken on notice (public hearing, Brisbane, 21 April 2015)

Attorney-General's Department – Answers to questions taken on notice (public hearing, Canberra, 13 May 2015)

Appendix 2

Public hearings

Brisbane, 21 April 2015

Australia's Network of Environmental Defenders Offices

Ms Jo-Anne Bragg, Chief Executive Officer, Solicitor, Environmental Defenders Office, Queensland

Ms Jess Feehely, Principal Lawyer, Environmental Defenders Office, Tasmania

Mr David Morris, Principal Lawyer, Environmental Defenders Office, Northern Territory

Ms Rachel Walmsley, Policy and Law Reform Director, Environmental Defenders Office, New South Wales

Queensland Conservation Council

Ms Nichola Hungerford, Coordinator

Ms Ingrid Strewe, Private capacity

Ms Kate Watson, Private capacity

Australian Rainforest Conservation Society Inc

Dr Aila Keto, President

Canberra, 13 May 2015

Department of the Environment

Ms Benedikte Jensen, First Assistant Secretary

Mr Sean Sullivan, First Assistant Secretary, Biodiversity Conservation Division

Ms Emma Campbell, Acting Assistant Secretary

Attorney-General's Department

Ms Elizabeth Quinn, Assistant Secretary, Legal Assistance Branch

Ms Joan Jardine, Director, Community Legal Services Section, Legal Assistance Branch, Access to Justice Division

Appendix 3

Letter from the Attorney-General's Department to Environmental Defenders Offices



13/15568-02

17 December 2013

Office Coordinator, Environmental Defender's Office of Northern Queensland Inc.
Suite 1, Level 1, 96-98 Lake Street
CAIRNS QLD 4870

Dear

**Agreement between Commonwealth of Australia and Legal Aid Queensland and
Environmental Defender's Office of Northern Queensland Inc. (Service Agreement)**

**Commonwealth Grant Agreement between the Commonwealth represented by the Attorney-
General's Department and Environmental Defender's Office of Northern Queensland Inc
(Grant Agreement)**

We refer to the above two agreements. In this time of fiscal constraint, the Australian Government sees the provision of enhanced frontline legal services to disadvantaged members of the community as the first priority in facilitating access to justice, and accordingly has decided to:

1. not extend the Service Agreement beyond its current term, which is due to expire on 30 June 2014, and
2. cancel the Grant Agreement in accordance with subclause 19.1 of the General Grant Conditions (the Conditions), which form part of the Grant Agreement (see paragraph headed 'Scope of this Agreement' of the Grant Details).

With respect to the cancellation of the Grant Agreement, we advise that due to this change in government policy the Commonwealth is cancelling the Grant Agreement effective immediately.

Pursuant to subclauses 19.2 (a) and (b) of the Conditions, we request that you stop the performance of all your obligations with respect to the Activity (see paragraph B of the Grant Details), and take all available steps to minimise loss resulting from the cancellation.

This letter constitutes written notice in accordance with subclause 3.2 of the Conditions.

We advise that in accordance with subclause 19.3 (a) of the Conditions we are currently assessing what part, if any, of the Grant may be due and owing to you under the Grant Agreement.


Yours sincerely

David Fredericks
Deputy Secretary
Civil Justice and Legal Services Group