



ANNUAL REPORT 2023-24

Using the law for a
radically better world



Good laws, properly used, are key to stopping the destruction **and creating a fairer, safer future for all of us.**

Acknowledgement of Country

We acknowledge the Awabakal, Bunurong, melukerdee, Larrakia, punnilerpanner, Wadawurrung and Wurundjeri peoples, the Traditional Owners of the lands on which our team lives and where the EJA office is located. We pay our respects to Elders past and present and recognise that this land always was and always will be Aboriginal and Torres Strait Islander land because sovereignty has never been ceded.

We acknowledge the role of the legal system in establishing, entrenching and continuing the oppression and injustice experienced by First Nations people. We also acknowledge that the law has been an avenue for resistance and a critical framework of action for First Nations justice. It is an inherently complex space; we seek to contribute to using and developing laws in ways that lay foundations for just outcomes for First Nations people across the continent.

WARNING: This document may contain images or names of people who have passed away.



It's time to use
the law to change
the game.

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Photo: Tree ferns in Victoria's Dandenong Ranges.
Photography by Meghan Lindsay.

The challenges are vast, and the time to act is now.

A MESSAGE FROM OUR CO-CEOS AND BOARD CHAIR

The Time to Act is Now



Elizabeth McKinnon
Co-CEO



Nicola Rivers
Co-CEO



Tony Kelly
Board Chair

When you spend your days, as many of us at EJA do, pouring over climate modelling and extinction data, documenting environmental degradation and injustice, investigating government inaction and corporate impunity – a bright ‘north star’ is a vital compass to navigate through the darker times.

Our north star? A radically better world. A healthy planet. Thriving communities, served by a legal system with justice at its heart.

Why radically better? Because the challenges we face are vast, and just a little better won’t cut it. To change our current trajectory as quickly and equitably as we can, we need to grab hold of the levers that stand to transform the systems driving destruction.

This is complex, multi-generational work. But our north star propels us forward.

Looking back over the past year, we couldn’t be prouder of what we’ve achieved together – our courageous clients and partners, donors and supporters and the extraordinary team at EJA.

Fuelled by the wonder of orchids, fungi and ancient trees. Guided by First Nations wisdom and strength. Powered by love for our kids and communities. Awed by the brave communities persisting against Goliaths. The fierce barristers and legal firms giving their services pro bono. Law students volunteering in our office. And of course, the truly humbling number of people and organisations that financially support this work. Your belief in our mission and impact inspires us daily.

Our climate lawyers have spent two years representing a volunteer-run community group from central Queensland, running 18 landmark legal interventions followed by two public interest test cases to compel Australia’s Environment Minister to start assessing the climate impact of new fossil fuel projects.

Our nature team has gallantly supported grassroots groups with litigation, investigations and advocacy campaigns to challenge state-sanctioned deforestation in the Northern Territory, Victoria and Tasmania.

EJA’s pollution team has continued to support frontline communities to challenge coal-fired power station licences and push for better regulation of polluting industries, investigating and exposing damage and contamination, and advocating for clean air and clear skies.

Of course, there can be no environmental justice without First Nations justice. This year, EJA’s justice team has worked with seven First Nations groups to secure legal rights to care for land, water and sea Country. This legal work won protection for totemic species like dingoes and increased public scrutiny on the destruction of sacred sites - stopping the bulldozers at Lee Point on Larrakia Country in Darwin and protecting the Rubicon River from being dammed and diverted on Taungurung Country, Victoria.

Our litigation, advocacy and law reform work are leading to outcomes that shift the trajectory of this continent. The end of native forest logging in Victoria is a monumental turning point; the full Federal Court’s recognition of the importance of public interest litigation reinforces the irreplaceable role our clients play; while the slated closure of Loy Yang coal mine and power station are building momentum towards the transition away from coal.

Across all of this work, the go-to tool in our toolbox is the law.

The law might seem like a rigid jumble of black letters. But at EJA, we find it’s incredibly powerful when used strategically and creatively as a giant multi-tool to hold decision makers accountable; make government listen to the people; challenge corporate impunity; redistribute power; re-centre communities, justice, care and repair – and transform our world for the better.

We know a radically better world will only arrive if we all roll up our sleeves and tackle destructive systems with integrity, intelligence, determination and care.

Heads down, hands busy, hearts forward, with the law as our lever – together, we’re doing just that.

Elizabeth McKinnon and Nicola Rivers, **Co-CEOs**
Tony Kelly, **Board Chair**

WHO WE ARE AND HOW WE WORK

Who we are

We are a leading public interest legal organisation using the law for a radically better world.

We're lawyers, campaigners and specialists. Together we run game-changing court cases, high-stakes legal interventions and bold advocacy campaigns.

We stand shoulder to shoulder with the communities we serve.

Our work is powered by the courageous and visionary EJA community – our clients, donors, volunteers and supporters.

What is environmental justice?

The impact of environmental harm is not felt evenly across society. Too often the law gives privileged groups special treatment and a bigger say and denies nature and affected communities a voice.

Environmental justice is the fair treatment and meaningful involvement of all people in the development, implementation and enforcement of environmental laws, regulations and policies, regardless of their race, ethnicity or nationality, where they live or how much they earn.

Vision

Our vision is a legal system that delivers environmental justice for communities, a safe climate and protects and regenerates nature.

Desired outcomes

Communities are active and empowered agents in the health of people and planet.

Existing laws and policies protect people and planet.

Companies and governments act in ways that reduce harm to people and planet.

Stronger and better laws and policies protect people and planet.

How we work

The law is a powerful way to protect people and our environment from harm. It can hold the powerful to account, shift the overarching systems driving destruction and deliver environmental justice.

We focus on making the biggest impact by:

- **engaging** the public in environment, climate and justice issues that impact them
- **supporting communities** to use democratic and legal processes
- **advocating for better laws** for healthier people and planet.



CLIMATE

All of us want to enjoy life in healthy, resilient and vibrant communities, with a safe and stable climate. Where we take care of each other and know in good times and hard times, we all have the essential things we need.

To create the biggest impact and make this vision a reality, at Environmental Justice Australia, we run public interest court cases, legal interventions and

advocacy campaigns for our clients and partners to:

- challenge polluting and destructive industries that harm our health, environment and climate
- make government decision making transparent and based on sound science
- remove barriers to accelerate the energy transition and transform industries for good
- secure climate justice for people most affected.

THIS YEAR'S HIGHLIGHTS

01

Challenging the Environment Minister's refusal to act on the climate impacts of two large fossil fuel projects in front of the full bench of the Federal Court.

Investigating, exposing and advocating for a federal investigation into a fracking company's tax offset claims.

02

Photo: Environment Council of Central Queensland (ECoCeQ) members Ellie Smith, Christine Carlisle, Tony Fontes and Asbleigh Wyles outside the Federal Court during the Living Wonders appeal. Photography by James Thomas.

'Our laws are failing to keep up with the climate crisis. They are failing to protect the iconic places, plants and animals of this country from the devastation of climate change.'

Elizabeth McKinnon,
EJA Co-CEO



CLIMATE

THE LIVING WONDERS CLIMATE CASES

Our client's landmark Living Wonders climate cases reached the High Court this year. Represented by EJA lawyers, the Environment Council of Central Queensland (ECoCeQ) argued Australia's Environment Minister, Tanya Plibersek, is legally required to protect our environment from the climate harm of two huge coal mine expansions in NSW: the Narrabri Underground Extension Project and Mount Pleasant Optimisation Project.

First heard in the Federal Court, then on appeal to the full bench of the Federal Court, ECoCeQ argued the Minister's decision to refuse to register the climate impacts of these two coal mine expansions was unlawful. Despite both first instance and appeal Federal Court judgments ruling against ECoCeQ, these public interest climate cases had a number of positive non-judicial outcomes:

- in her risk assessments for the mines, the Environment Minister acknowledged for the first time the direct link between greenhouse gas emissions and climate change, setting an important precedent for future decision making
- both judgments emphasised the ill-suitedness of our national environmental laws for the assessment of environmental threats like climate change
- the case generated unprecedented national and global media coverage with over 1,200 media mentions, exposing the Minister's refusal to act on climate science across the country and on the global scale.

Following the unsuccessful appeal, all three Justices of the Full Court accepted ECoCeQ's submissions regarding costs, in a significant decision ruling that ECoCeQ was not liable for the other parties' costs. In reaching that conclusion, the Court stated the appeal proceedings brought by ECoCeQ concerned matters of high public importance and the legal matters raised gave the case special significance. The full bench concluded that community

organisations like ECoCeQ play a legitimate public interest role in ensuring that government bodies are held accountable because 'the environment cannot speak for itself; someone must speak for it', reinforcing the crucial role of public interest litigation in a functioning democracy.

The volunteers from ECoCeQ would rather have not gone to court, but they fear our climate is breaking down and felt they have no choice. In June, the community group made the courageous decision to apply for special leave to the High Court of Australia. ECoCeQ argues, when the Environment Minister assessed the risk of these coal mines, she used what is known as the 'market substitution' argument or 'drug dealers defence', as well as 'drop in the ocean' logic, enabling her to sidestep the climate impacts. The Minister successfully defended her use of this reasoning in the Federal Court. With their High Court special leave application, ECoCeQ continues to argue that this is dangerous logic that is out of step with the law, with science and with public expectations.

At the time of making this special leave application, there were 35 new coal projects on the Environment Minister's desk awaiting approval, highlighting the existential national importance of this public interest litigation. In August 2024, special leave was not granted.

'The Environment Minister says she accepts that coal and gas mines have profound and devastating effects on our climate and environment. But she's refusing to act on that harm.'

Ellie Smith
ECoCeQ volunteer



HEAT STRESS IN SOCIAL HOUSING

The Climate Justice Legal Project (CJLP) is a partnership between EJA, the Victorian Federation of Community Legal Centres and the Climate Council. The project aims to build capacity and support community lawyers to identify and address the impacts of climate injustice – as well as to identify trends in individuals and communities' experiences of climate harm to inform litigation opportunities and shape legal and policy reform.

Heat stress in public and community housing – collectively known as social housing – is the first advocacy focus for the CJLP partnership. EJA commenced development of an extensive report on legal avenues around extreme heat in social housing as a resource for community legal centres across Victoria as they continue to build their climate justice legal practice into the future. We are already seeing many community legal centres implementing their own climate justice frameworks as Victoria, along with the rest of Australia, grapples with the consequences of a heating planet. This important project both exposes the systemic gaps for frontline communities experiencing climate injustice, and advocates for better laws, policies and legal remedies.

INVESTIGATING ALLEGED UNLAWFUL CLAIM OF PUBLIC FUNDS

When Empire Energy, a fracking company active in the Northern Territory's Beetaloo Basin, received \$30 million of public funding, we knew we needed to investigate. Over the past three years, the fracking company reported receiving publicly funded Commonwealth 'research and development' grants from a scheme which explicitly excludes fossil fuel exploration. On behalf of Lock the Gate and the Tax Justice Network Australia, we conducted research and supported these clients in advocating for a review of these tax offset claims.

Our clients are concerned that Empire Energy may have unlawfully taken public money under this scheme based on self-assessment.

This is particularly concerning as Empire Energy claimed last year that the latest handout puts it in a financial position to move towards a final investment decision on its Beetaloo Basin pilot project.

On our clients' behalf, we sent legal correspondence to the Department and Minister for Industry and Science, Ed Husic. Greens Senator Penny Allman-Payne asked pointed questions in Senate Estimates over how Empire Energy and two other gas companies obtained refunds through this scheme. Faced with the research and as a result of our clients' advocacy, the department publicly committed to investigating the research and development grants and reporting back to the committee.

'The Australian public has a right to trust that our public money is being spent wisely and with integrity.'

Mark Zirnsak
Tax Justice Network Australia

IMPROVING THE LAW

Complementing our work applying and enforcing the law is our advocacy for ambitious, meaningful and smart law reforms. In a country that's been sidetracked by the powerful fossil fuel lobby for decades and is slowly lumbering towards an energy transition, this work is absolutely critical for our future.

EJA climate lawyers have worked closely with concerned young people, non-government organisation partners and community groups to provide legal advice, and input into senate inquiries and submissions to improve state and federal laws. This has included in areas of offshore oil and gas, state and federal climate change regulation and net zero targets.

FIRST NATIONS JUSTICE

For thousands of generations, First Nations people have cared for Country. Using Aboriginal law, communities have kept our forests, rivers, and wildlife healthy and thriving.

First Nations justice is at the heart of environmental justice. We are working with First Nations clients and partners to:

- exercise their sovereign authority and knowledge to protect and care for Country, through legal interventions, court cases and advocacy campaigns
- get cultural water onto Country using innovative legal pathways.
- enable First Nations cultural practices by improving legal and policy frameworks

THIS YEAR'S HIGHLIGHTS

01

Representing Traditional Owners to secure a long-term pause on land clearing of significant cultural heritage at Lee Point, Darwin.

Advocacy efforts led to the revocation of an order that enabled the killing of dingoes in northwest Victoria.

02

Supporting Traditional Owners to successfully challenge the damming and diverting of a culturally significant river for private use.

03



‘Our people have been living off this land since time immemorial. We are the First People – Aboriginal People. It’s our home. It’s our library. It’s our science. It’s our food source. It’s part of us and we’re part of the land.’

Tibby Quall

Larrakia Danggalaba Traditional Owner

FIRST NATIONS JUSTICE

RESTORING BALANCE TO VICTORIA'S NORTHWEST LANDSCAPE

It's hard to believe, but in parts of Australia, feral deer have more legal protection than dingoes. In Victoria, all native wildlife is protected under the Wildlife Act. However, a variation in the law – in the form of a Dingo Unprotection Order – declared dingoes to be 'unprotected wildlife' in parts of Victoria. This order permitted the continued slaughter of dingoes on specified public land and all private land, despite dingoes being protected animals and listed as a threatened species.

Dingoes are a totemic species to the First Nations people of the Wotjobaluk Nations, who call them wilkerr. They are considered spiritual relations or kin and form part of their creation stories, lore, and law. There are now estimated to be fewer than 40 dingoes left in the northwest of Victoria.

On behalf of our Traditional Owner client, EJA lawyers pushed the government to review dingo conservation and management in Victoria alongside the rights and cultural obligations of Traditional Owners. In March 2024, following advocacy from EJA, First Nations groups and animal welfare organisations, the Victorian government finally lifted the Dingo Unprotection order in northwest Victoria.

But, as dingoes do not recognise state or administrative borders, they can still be shot, poisoned, trapped and killed across other large areas of Victoria and if they cross into South Australia. The killing of these apex predators can lead to extinctions through the food chain, and an increase of cats and foxes that negatively impact native wildlife in Australia.

On behalf of our clients, we continue to call for the Victorian government to provide dingoes with the full protection of the law, and work with Traditional Owners, conservationists and scientists to enable recovery of dingo populations.

PROTECTING COUNTRY

For hundreds of generations, the waters of the Rubicon River have flowed through the hills that flank the region around the Cathedral Ranges, also known as Nanadhong, in Victoria's high country.

The Rubicon, a tributary of the Goulburn River, is part of a broader cultural landscape of deep cultural and ecological significance to the Traditional Owners, the Taungurung people, and a much-loved place for all Victorians to spend time in nature.

Yet a private landowner was granted a license to divert and dam the river by almost 600 metres to power a small-scale hydroelectric plant for private use – an action that would have dramatic and adverse impacts on that waterway.

On behalf of the Taungurung Land and Waters Council (TLWC), EJA lawyers successfully challenged the license granted by Goulburn Murray Water. The VCAT tribunal agreed with TLWC that the decision to grant the license to construct works was unlawful and sent it back to the decision maker for reconsideration in accordance with the Water Act.

The VCAT decision raises important policy questions about the uses of ecologically healthy waterways and who benefits from them and how. It has significant broader implications for First Nations people and their connection to Country, for water justice, and for the public interest of maintaining ecologically healthy waterways.

'Taungurung Land and Waters Council advocates for healthy waterways on Taungurung Country to protect biocultural values, limit negative environmental impacts and improve ecological conditions; opposing serious interference for personal gain.'

Matthew Burns

Taungurung Land and Waters Council CEO



NORTHERN TERRITORY LAND CLEARING THREATENING ABORIGINAL CULTURAL HERITAGE

In July 2023, the bulldozers rolled into Lee Point, Darwin. Despite a blockade, Defence Housing Australia (DHA) began clearing in part of over 100 hectares of savanna woodland slated for its housing development. The next morning, EJA lawyers lodged an application for an emergency halt to the land clearing under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* on behalf of Larrakia Danggalaba Traditional Owners from the Batcho family. The Traditional Owners were deeply concerned the development would desecrate significant Aboriginal cultural heritage. Land clearing was halted, and after significant outrage from across Australia, DHA postponed development until March 2024 so that a Cultural Heritage Assessment could be undertaken.

However, the Federal Environment Minister refused to declare Lee Point a significant Aboriginal area despite Elders' and experts' evidence provided to the assessment process about multiple Dreaming tracks and significant ongoing cultural use of the site. Shockingly, the documents informing the Minister's refusal were not initially provided, and only received after our client, Mr Quall of the Batcho family, sought a court order for the discovery of these documents. Mr Quall's pursuit of document discovery is about understanding how the government concluded that Traditional Owners were wrong about the significance of their own Country.

In April 2024, DHA recommenced clearing. Acting for our clients, EJA lawyers swiftly sought a halt to the clearing after identifying apparent breaches of both the NT environmental permit and Federal environment law conditions. DHA again postponed further clearing. Both NT and Federal government regulatory investigations commenced into the allegations.

Minister Plibersek promised she would reform Australia's weak cultural heritage laws after the Albanese Government tabled its response to destruction of Juukan Gorge in November 2022 in a report titled *Never Again*. The federal government has since refused to be pressed on a reform timeline and has greenlit the destruction of a site that Elders and experts maintain contains tangible and intangible Aboriginal cultural heritage. EJA is committed to standing with Larrakia Danggalaba Traditional Owners and their pursuit of land justice.

'The system is geared towards approving development and decision makers are failing miserably when it comes to protecting First Nations' culture and heritage.'

Jane Quinlan

EJA Senior Lawyer

Photo: Mililma May and Lorraine Williams, Larrakia Traditional Custodians and EJA clients. Photography by Rebekka Parker.

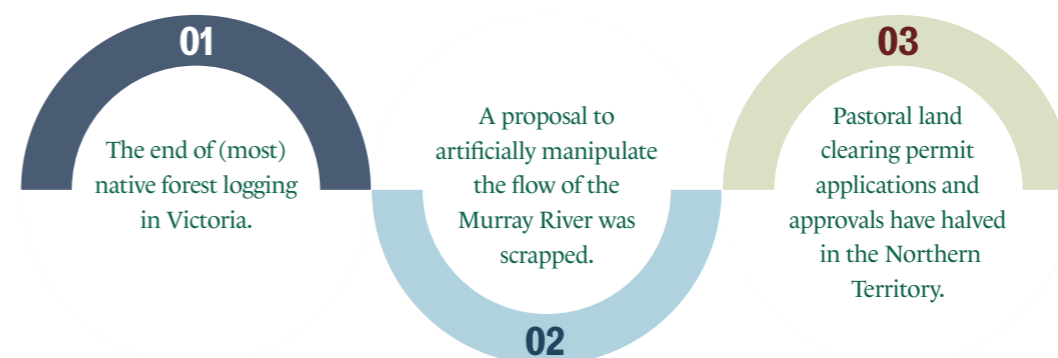
NATURE

The EJA team works tirelessly for meaningful environmental protections that enable nature to thrive, while curbing extinction and ecosystem collapse.

Backed by the community, we run urgent court cases, legal interventions, law reform and advocacy campaigns to:

- ensure laws and policies are effective and based on sound science
- push for First Nations' legal rights to care for Country.
- protect and regenerate whole ecosystems closest to the brink of collapse, especially ancient forests in Southeastern Australia; fragile Savanna woodlands in the Northern Territory; and one of the world's most vulnerable river systems, the Murray-Darling and its floodplains

THIS YEAR'S HIGHLIGHTS



‘It’s a momentous turning point, but the Victorian government still has work to do to restore and protect forests and close loopholes to make sure logging doesn’t continue under another name.’

Luke Chamberlain
EJA Campaign and Policy Officer

Photo: *Towering Victorian forests.*
Photography by Pat Whelen.

NATURE

DEFENDING FORESTS IN VICTORIA AND TASMANIA

Victoria's forests are at a critical juncture. Throughout the year we saw many important dominoes fall. Our client's hard-fought 'Bushfires Case' settled, as did another client's long-running 'Old Growth Case'. The disastrous Regional Forest Agreements were slated to end. The Bill to formally end native forest logging passed parliament. We also finally saw the end of VicForests – the state-owned logging corporation that was subject to dozens of court cases and investigations for illegal logging, greenwashing, covert surveillance of citizen scientists, mismanagement, killing threatened wildlife and destroying critical habitat.

Movement collaboration and advocacy shifted to hopeful reimagining of our spectacular tall forests and calls for national parks and UNESCO World Heritage listing.

But we have also seen attempts to conduct logging disguised as 'forest management'. Our legal team acted for our client when the Victorian government revived a controversial plan to conduct salvage logging operations in the Dandenong Ranges National Park. This would involve removing fallen trees – critical habitat for an array of threatened species – as well as felling standing trees along the access route. Swift action has resulted in the plans not progressing further at this stage.

We mobilised communities during the government's public consultation into the future of the Central Highlands forests, ensuring as many people as possible could have a say. With opportunities to secure lasting protection and future enjoyment of our forests on the horizon, we are focused on closing loopholes and ensuring the government delivers on its promise of the largest-ever expansion to the reserve system in Victoria.

Despite progress in Victoria, Tasmania remains Australia's native forest logging hotbed. EJA has joined the fight in lutruwita/ Tasmania, committing our legal and campaigning expertise to support local groups who are protecting forests and the threatened species that call them home. In May, EJA lawyers – on behalf of our client the Wilderness Society – filed an appeal in the Supreme

Court of Tasmania over their right to criminally charge Forestry Tasmania for alleged illegal logging in the Styx Valley of the Giants, home to some of the world's tallest trees. We stand poised to do all we can to protect these ancient forests from logging.

ENVIRONMENTAL OUTCOMES FLOWING FOR THE MURRAY-DARLING

The Murray-Darling is Australia's largest and most complex river system. Yet it is at risk of ecological collapse, primarily as a result of human intervention interrupting natural flows. That's why EJA lawyers acted for clients to challenge nine proposals to artificially engineer the Murray River flow by manipulating the natural floodplain through levees and regulators, banks, and pumps. As a result of our submissions and advocacy, one of these projects at Burra Creek was rejected on environmental grounds. Assessments for another four projects were placed on hold indefinitely in April 2023, while the remaining four projects received conditional approval. On behalf of Friends of Nyah Vinifera Park Inc, EJA requested the Minister's reasons for the approvals and continues to scrutinise these projects.

The team also made multiple submissions to the federal government relating to the Murray-Darling Basin Plan, including into the Restoring Our Rivers Bill. This Bill passed the Senate in November 2023, enabling the government to start buying water again to keep more water in the Basin to benefit our environment. An amendment relating to the statutory requirement to recover 450 gigalitres of environmental water, as drafted by EJA, was passed in the Senate, together with other amendments, including a requirement to consider the United Nations Declaration on the Rights of Indigenous Peoples in the review of the Basin plan under the Water Act.

'Climate breakdown, politics, industry and agriculture have made this incredible river system one of the most vulnerable water basins on the planet.'

Natalie Hogan
EJA Lawyer



ENSURING PROPER SCRUTINY OF LAND CLEARING APPLICATIONS IN THE NORTHERN TERRITORY

Rampant land clearing is steamrolling the Northern Territory – the only Australian jurisdiction without specific native vegetation laws. Big cotton companies are seeking to establish broadscale crops on pastoral leases – which are intended to be for pastoral purposes not cotton cropping – and can clear up to 5,000 hectares without an environmental assessment under NT laws.

After last year's win of Auvergne Station revoking their own land clearing permit in the face of litigation, our team has continued working closely with our client, the Environment Centre NT. Sustained scrutiny of land clearing applications along with engagement with the regulator and state and federal decision makers has led to a year-on-year decline in land clearing applications made (2022: 11 vs 2023: 6) and permits granted (2022: 9 vs 2023: 4). If not for this ongoing legal work, we believe many thousands of hectares of fragile savanna woodlands would have been approved for clearing to make way for cotton.

Intertwined with this legal advocacy are ongoing efforts at the territory level to tighten environmental laws, and at the federal level calling for the reform of our national environmental laws to properly address Australia's deforestation crisis.

NEW NATIONAL ENVIRONMENTAL LAWS

EJA lawyers know firsthand that good environment laws are key to protecting the air we breathe, the water we drink and the places and wildlife we love. Yet Australia's John Howard-era environment laws are broken, outdated and full of holes. Since they came into force 25 years ago, Australia's Environment Ministers approved 740 coal and gas mines, Australia became a global deforestation hotspot, and we still have one of the worst extinction rates on Earth.

When once-in-a-generation reforms geared up this year, the EJA team worked tirelessly to participate in rolling government consultations, lock-ups, meetings, inquiries and advocacy campaigns. We acted as part of the Places You Love Alliance

as well as independently as legal experts and an organisation with more than 30 years of experience. When the government made the decision to delay the holistic reforms and put forward piecemeal bills, we advocated for three urgent amendments:

1. a federal EPA with integrity and access to justice
2. ending deforestation and safeguarding critical habitat
3. ensuring climate harm is properly assessed.

Our incredible supporters mobilised to ensure that their voices were heard during this reform process. Hundreds of people wrote lengthy submissions to inform the government's reform agenda and in response to important senate inquiries. 2,442 people signed our petition demanding the removal of loopholes and flaws in the draft framework for these new laws. When the Albanese government later announced it was delaying the reforms, 783 people emailed the Prime Minister directly, calling on the new laws to be delivered in full. This extraordinary engagement has helped the chorus of dissent resonate loud and clear in decision makers' ears.

'There's a real opportunity to transform our nature law and end the system of unchecked discretion that's vulnerable to powerful influence, and instead create clear rules that actually protect threatened ecosystems and endangered wildlife.'

Danya Jacobs
EJA Special Counsel

Photo: Leadbeater's possum.
Photography by D Harley.

CLEAN AIR AND COAL POLLUTION

We all want our families and communities to breathe clean air, enjoy swimmable rivers, clear skies and better lives. We all want dignity, access to information and a say in decisions that impact us.

EJA lawyers and campaigners partner with communities at the frontline of environmental injustice – and together we investigate, expose, advocate and litigate for:

- real pollution controls and robust monitoring for communities living near coal-fired power stations

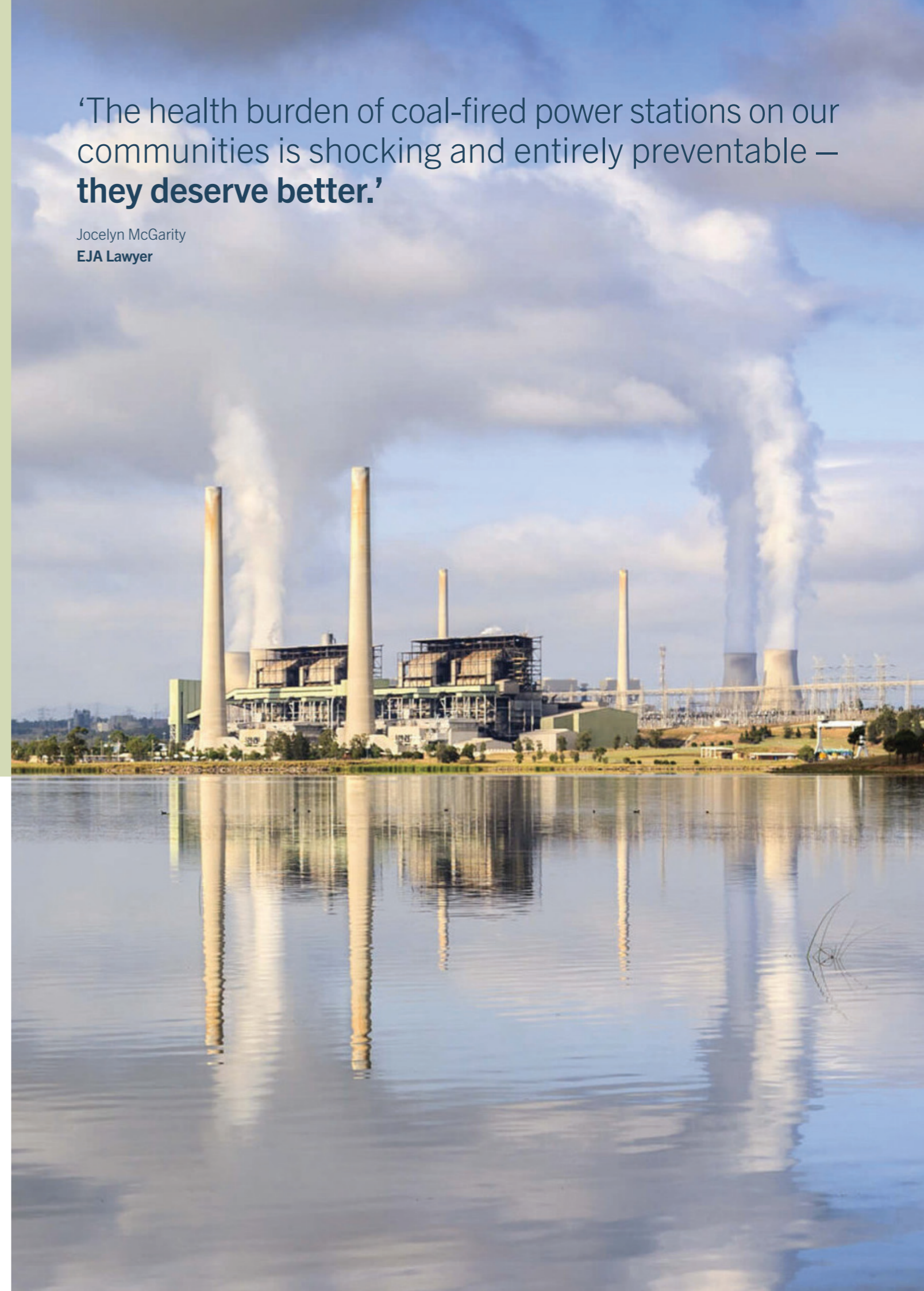
- genuine mine rehabilitation so the companies that profited from burning coal properly clean up their toxic mess
- meaningful regulations and better laws, properly enforced, to protect people and our environment from waste and toxic contamination.

THIS YEAR'S HIGHLIGHTS



‘The health burden of coal-fired power stations on our communities is shocking and entirely preventable – **they deserve better.**’

Jocelyn McGarity
EJA Lawyer



CLEAN AIR AND COAL POLLUTION



ELEVATING COMMUNITY VOICES TO THE UNITED NATIONS

In August 2023, EJA hosted the United Nations Special Rapporteur's visit to the Latrobe Valley in Victoria and Lake Macquarie in NSW during his ten-day tour of Australia. This visit was the result of our work with community groups who made submissions urging the Special Rapporteur to investigate the health impact of Australia's coal pollution.

Community members shared their concerns that toxic air and polluted water from coal-fired power stations contributes to a range of illnesses across these regions. They spoke about their life-altering experiences with serious health conditions like cancer. In the Latrobe Valley, the Special Rapporteur was handed a snap-lock bag of coal dust, collected from a plant in a community member's garden.

People also shared solutions the government can take to better regulate power stations now, as well as actions to make sure communities aren't left with a toxic mess when they close.

The Special Rapporteur's interim report reflected several of the issues highlighted by community members, including:

- air quality standards in Australia are not up to World Health Organization standards
- coal-fired power stations lack adequate pollution controls
- coal ash dams pose serious threats to the environment and community health
- inefficient coal mine rehabilitation.

'We'll keep holding Engie to account because rehabilitation should never be a giant experiment. Our water security and health can't be traded-off for decades to come.'

Tracey Anton

Friends of Latrobe Water

FIGHTING FOR TRANSPARENCY

For nearly a year, the NSW Environment Protection Authority (EPA) refused to publicly release two important reports detailing how Delta Electricity could slash toxic coal pollution from Vales Point Power Station, despite a huge community outcry for greater transparency.

On behalf of the Nature Conservation Council of NSW, EJA lawyers filed an application in the NSW Civil and Administrative Tribunal (NCAT) challenging the EPA's refusal to release these documents. These reports reveal options to reduce toxic coal pollution from the power station, as they currently hold an EPA-granted exemption to produce above-legal limit nitrogen oxides and sulfur dioxide emissions. EJA previously helped mobilise hundreds of community members to make submissions against this pollution exemption license.

The EPA justified its refusal to release the reports by saying it would result in 'public scrutiny and media pressure', which it claims would 'interfere' with its ability to make an independent decision on the regulation of toxic pollution from Vales Point.

EJA lawyers commenced proceedings in NCAT after exhausting every review right available to the Nature Conservation Council – including internal review and review by NSW Information Commissioner. One week later, following media reports and mounting community pressure, the EPA agreed to release the reports which showed that pollution controls at Vales Point Power Station are feasible.

This case also had broader importance because the EPA's refusal to release the documents was on basis that doing so would give rise to public scrutiny and media pressure and compromise the effective exercise of the EPA's functions. This concerning argument reduced transparency of government decision making and undermined the community's right to know information about air pollution directly impacting them. Public access to information is crucial to a functioning democracy and the environmental regulator should never block scrutiny of decision making.

POLLUTION: THE WORLD'S THIRD CRISIS

Pollution is billed as the third planetary crisis alongside climate change and biodiversity loss. Yet community groups tackling these issues locally are under-supported and under-represented. Almost a decade ago, EJA contributed to improving Victoria's Environment Protection Act to address the systemic causes of pollution. The Act is flawed, relying heavily on self-enforcement, but community members now have a newly enshrined legal right to challenge pollution problems. This year, EJA lawyers supported six community groups fighting for proper air and plastics pollution controls.

EJA lawyers worked with concerned communities set to be impacted by the burgeoning waste-to-energy facilities being developed across Victoria and provided legal information to inform their campaigns. The team also worked with and advised community groups in Melbourne's west to discuss how the law can be used to address risks of harm to human health from cumulative air pollution. Melbourne's west is disproportionately impacted by air pollution, including from trucks, major roads, industry and shipping, causing serious environmental justice issues for these affected communities.

'Too often, the toxic toll of pollution disproportionately burdens communities who are excluded from decision making... and who don't have the means to challenge corporate polluters.'

Elke Nicholson

EJA Lawyer

*Photo: EJA lawyers Jocelyn McGarity and Ally McAlpine at Vales Point Power Station, Lake Macquarie NSW
Photography by Edwina Richards.*

IMPORTANT WINS FOR THE LATROBE VALLEY

This year saw power company AGL apply for a water licence for their Loy Yang mine in the Latrobe Valley. This application represents a commitment to close Loy Yang mine in 2035, aligning the mine closure with the closure of its power station, Loy Yang A. AGL's plans to close indicates it has little confidence in the viability of coal-fired power generation beyond 2035 or a proposed third-party coal-to-hydrogen project. EJA lawyers met with AGL to discuss their water application and plans for water use in the rehabilitation of their mine. We will continue to engage with the community and scrutinise AGL's plans when it is publicly available and advocate for the best possible outcomes with the community.

Our team also helped the Latrobe Valley community secure stronger amendments to AGL's coal ash dump plans. Coal ash is one of Australia's biggest waste problems, making up nearly one-fifth of the entire nation's waste stream. Burning coal for electricity produces ash as a byproduct, which power stations mix with water into a toxic slurry. This is then piped to landfill dumps, creating a lethal cocktail of mercury, lead, arsenic, selenium and chromium. If not stored correctly, this toxic contamination can leach into soil and groundwater. EJA wrote a submission and prepared a submission guide for concerned Latrobe Valley residents to engage with the open consultation process regarding AGL's plan to increase the capacity of its coal ash dumps. As a result, AGL agreed to amend its development licence application so that its proposed coal ash liners adhere to a higher standard, considered international best practice for protecting human health and the environment. This sets a precedent for how other operators handle their coal ash waste in Victoria and across Australia.

OUR PEOPLE

Board of directors



Tony Kelly
Chair



Kate Allsopp
Deputy Chair



Ann-Maree Smith
Treasurer



Arjuna Dibley
Secretary



Juliet Le Feuvre
Non-executive Director
(appointed September)



Victoria Marles AM
Non-executive Director



Inshani Ward
Non-executive Director
(appointed September)



Sally Romanes
Non-executive Director



Clint Lingard
First Nations Board Observer

OUR PEOPLE

Leadership team



Nicola Rivers
Co-Chief Executive Officer



Elizabeth McKinnon
Co-Chief Executive Officer



Thea Lange
Chief Operating Officer



Hollie Kerwin
Principal Lawyer
(until November)



Alina Leikin
Principal Lawyer
(from January)



Greer Allen
Development Manager
(until September)



Retta Berryman
Climate Lead &
Senior Specialist Lawyer



Charley Brumby-Rendell
Clean Air & Pollution Lead
& Senior Specialist Lawyer



Tessa Fluence
Head of
Communications



Danya Jacobs
Special Counsel



Bruce Lindsay
First Nations Justice Lead
& Senior Specialist Lawyer



Ellen Maybery
Nature Lead &
Senior Specialist Lawyer



Emma Wills
Head of Fundraising
(from October)

RECONCILIATION ACTION PLAN

We continued to deliver our Innovate Reconciliation Action Plan, which is accessible to the public via at www.envirojustice.org.au/reconciliation-action-plan/

BUILDING RELATIONSHIPS

- Two external members of our RAP Working Group – Brooke Scobie and Clint Lingard – continued in the role this year, and were joined by an EJA First Nations staff member, Lilli Ireland.
- Clint remains as a First Nations Board Observer on the EJA Board.
- We continued regular staff workplace giving to Seed Indigenous Youth Climate Network and increased EJA's financial support to Seed's climate justice programs as our way of Paying the Rent.
- EJA engaged First Nations clients and partners in our strategic planning process.
- EJA worked with a number of new First Nations clients and continued working with existing clients on new and expanded matters.

RESPECT

- EJA supported the Voice campaign and many staff volunteered time to make calls or speak in their local area.
- We finalised our First Nations Engagement Framework, and our RAP Working Group member Brooke Scobie facilitated two half-day workshops for staff on cultural awareness and engagement.

- EJA provided a submission to the Yoorook Justice Commission on Victorian environmental, natural resources and human rights laws. Based on this, the Commission asked us to contribute a supplementary submission expanding further on the application of the legal frameworks.

- We held a National Reconciliation Week virtual and on-site screening of *Rebel with a Cause – Pat O'Shane* for all staff.

OPPORTUNITIES

- We placed one intern through our Aboriginal and Torres Strait Islander Internship program and arranged for a second to join us in July 2024. We expect to host at least two more interns in the coming year.
- We continued to direct as much of our purchases and consulting spend as possible to Aboriginal businesses and individuals. This resulted in a 118% increase this year, totalling \$63,031.

OUR SUPPORTERS

We are proudly powered by the generosity of committed, visionary individuals and collectives who believe in our work using the law to create a radically better world. We wish to gratefully thank all our donors, supporters, volunteers and communities.

Your unyielding generosity is the backbone to our independence and our ability to challenge the overarching systems driving destruction. We are proud to be funded by the community, for the community.

Albert & Barbara Tucker Foundation

Australian Ethical Foundation

B B & A Miller Foundation

Bluesand Foundation

Bob and Bronwyn Baird

Katherine Barraclough and Ashu Jhamb

Ethinvest Foundation

Peter George and Catherine Murphy

Graeme Wood Foundation

Height Morris Foundation
Philip and Jenny Henty

Highgate Foundation,
a sub-fund of Australian
Communities Foundation

Isaacson Davis Foundation

Kaplan-Dascalu Regenerative
Fund, a sub-fund of Australian
Communities Foundation

Koshland Innovation Extension
Fund, a sub-fund of Australian
Communities Foundation

Lord Mayor's Charitable
Foundation through the
Eldon & Anne Foote Trust

Lord Mayor's Charitable
Foundation

Below we recognise those who contributed \$10,000 or more this year and acknowledge the many others who choose to remain anonymous.

Macdoch Foundation

Nature Impact Collective

Naylor Stewart Foundation

Patagonia

PMF Foundation

Pool of Dreams Foundation

Reichstein Foundation

Sally Romanes

Smith & Sheppard Fund,
a sub-fund of Australian
Communities Foundation

Southcoast Foundation

Spinifex

The Aranday Foundation

The Bowden Marstan
Foundation

The Capricorn Foundation

The Coalition (Solutions)

The Fox Family

The Myer Foundation

TREE - The Regenerative
Empowering Earth Fund

Vermilion Foundation

Victoria Legal Aid

Victorian Legal Services Board
Grant Program

PRO BONO AND IN-KIND SUPPORT

A huge thank you to the fierce barristers and legal partners who have offered our clients their services pro bono or at generous reduced rates. Adding the weight of your expertise to our cases has been invaluable and we couldn't do it without you.

Angel Aleksov

Glyn Ayres

Elizabeth Bennett SC

Ashleigh Best

Jamie Blaker

Natalie Blok

Tomo Boston KC

Susan Brennan SC

Roshan Chaile

Adam Chernok

Luke Chircop

Patrick Coleridge

Mark Costello KC

DLA Piper

Hannah Douglas

Emma Dunlop

Rachel Ellyard

Henry El-Page

Kathleen Foley SC

Robert Forrester

Tim Goodwin

Frances Gordon KC

Guthrie Legal

Sebastian Hartford-Davis

Jim Hartley

Laura Hilly

Hive Legal

Michael Hodge KC

Tara Hooper

Noel Hutley SC

James Hutton SC

King & Wood Mallesons

Richard Knowles KC

Jonathan Korman

Landers & Rogers

Clare Langford

Maddocks

Jack Maxwell

Daniel McCredden

Greg McIntyre SC

Jennifer Mee

Rowan Minson

Colette Mintz

Sophie Molyneaux

Throughout the year we were also supported by countless law students and recent graduates who volunteered and interned across our legal teams. Thank you to all these volunteers who made an invaluable contribution to our work.

Maya Narayan

Emrys Nekvapil SC

Minh-Quan Nguyen

Norton Rose Fulbright

Michael O'Donnell

Suganya Pathan

Emily Porter SC

Shawn Rajanayagam

Georgina Rhodes

Dr Laura Schuijers

Angus Scott KC

Sky Discovery

Diana Tang

Julia Wang

Geoffrey Watson SC

Rupert Watters

Dr Kylie Weston-Scheuber

Wotton + Kearney

David Yarrow

GIFT IN A WILL - A LASTING LEGACY

Choosing to leave a gift in your Will to EJA will help shape the future of Australia's unique wildlife and landscapes, and power system-changing legal work for a fair and flourishing world.

Your gift will also help us safeguard our climate, and make sure generations to come can enjoy our world as much as we do.

Environmental Justice Australia was founded on the belief that everyone has the right to a healthy environment. Since 1991, we have been a leading environmental law practice for the environment movement, advocating for environmental justice across Australia. This important work to protect the places we love is only possible because of generous acts of giving. And the most extraordinary gift you will ever give us is including us in your Will.

A gift in a Will to EJA will help protect Australia's unique plants and animals, cut the pollution that causes climate change and

ensure future generations can enjoy our home as much as we do. Thank you to our supporters who have chosen to leave a lasting legacy with a gift in their Will.

You can leave a gift in your Will by simply adding the following words when you next review your Will. The wording below is a guide for your solicitor or trustee:

'I give to Environment Justice Australia (ABN: 74 052 124 375) of Suite 3-01, 60 Leicester Street, Carlton, VIC, 3053 for the purpose of safeguarding the environment [whole/residue of my estate] or [...% of my estate] or [the sum of \$....] or [specified property....] free of all debts, duties or taxes and declare that the receipt of an authorised officer shall be a sufficient discharge for my executor(s).'

If you have left a gift to EJA in your Will, please let us know. It helps us plan for the future and gives us the opportunity to thank you.



Photo: Critically Endangered swift parrot (*Lathamus discolor*).
Photography by JJ Harrison.

FINANCIAL PERFORMANCE

Summary

GENERAL STATEMENT ON FINANCIALS

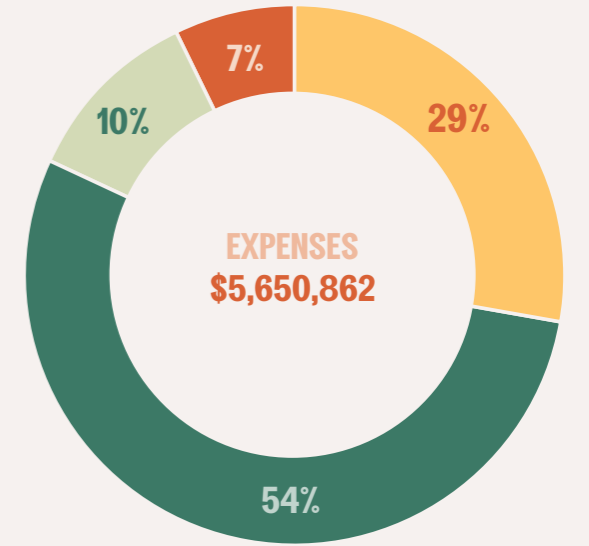
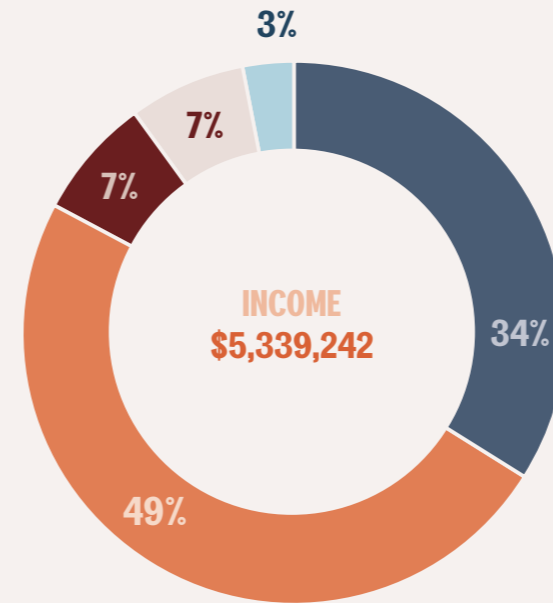
In 2023-2024, Environmental Justice Australia realised a deficit of \$311,620 which was an improvement on what was budgeted. In the previous financial year, we received \$2,620,180 in income from two one-off extraordinary income items, and this year's deficit was a result of planning to spend a portion of the resulting surplus from last year.

Total income achieved was \$5,339,242. This included grants, donations, and smaller amounts of Victorian government community legal centre funding, legal income and income from interest and investments. In particular:

- we achieved Future Fund income of \$65,035 and interest income of \$99,574
- we received \$45,455 in legal fees from settlement of a long-running forests case for one of our clients.

The total value of donations was down on last year, due to the extraordinary one-off donation received in 2022-23. Donation income reflected the difficulty faced by individual donors in these challenging times, with the total number of donations decreasing by 5% from 6,275 to 5,939. However, excluding the extraordinary one-off donation, ordinary donation income grew 7% from \$1.7 million to \$1.8 million, representing a growth in average gift. Grants income from Trusts and Foundations increased from \$2 to \$2.6 million and state government funding through Victoria Legal Aid remained steady.

Total expenses for the year were \$5,650,862. EJA had slower staff growth over the year, with full time equivalent (FTE) staff of 34.0 at the end of financial year and an additional 1.8 FTE roles where replacements were being recruited. Staff costs grew by 18% due to the full year effect of new roles that commenced in 2022-23 and pay level increases. We had corresponding increases in premises costs, IT, office and administrative costs, and consultant support, however these were offset by reductions in legal practice costs and non-cash provisions.



- Donations
- Grants
- Government
- Legal Service Fees & Disbursements
- Membership & Other Income

- Legal Programs
- Operations & Management
- Campaigns & Communications
- Fundraising

EJA AWARDS

Each year we give out three awards to outstanding people or groups who have gone above and beyond in their environmental justice work.

Our winners for 2023–24 are:



Wildlife of the Central Highlands
The Environmental Justice Award

Wildlife of the Central Highlands (WOTCH) have been incredible clients over the past four years.

They have spent thousands of hours in Victorian forests gathering evidence for their long-running legal case to stop VicForests logging critical habitat after the 2019–2020 Black Summer bushfires. They also found themselves giving evidence in court, being cross-examined and working on affidavits – something everyone took in their stride. Their case protected thousands of hectares of forest during litigation and ultimately contributed to ending native forest logging in Victoria. They continue to work tirelessly to protect the magnificent forests that are the Central Highlands.



Rupert Watters and Tara Hooper
Pro Bono Award

Rupert Watters and Tara Hooper both provided extensive time and assistance on the matter concerning the licence issued to dam and divert the Rubicon River.

Their accessibility and key expert counsel at critical times meant that the outcome was successful for our First Nations client and was immensely important in building and solidifying a strong working relationship. We are immensely grateful for their contributions and look forward to a continued partnership.



Sara Sarungallo
Volunteer Award

Sara loved her time so much with EJA that she returned for a second semester of volunteering whilst completing her Master of Environmental Law.

We were equally excited to have Sara return! Sara always wore a smile on her face and was eager to help out where she could – including non-legal work like stuffing envelopes with the fundraising team and attending out-of-hours events. Thank you Sara for all that you gave to EJA.

Because we are bold
and fiercely independent,
**we can ask difficult
questions without fear
or favour.**



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Because this is about all of us
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