

Talk Given to the Women Lawyers Association, Environmental Law Networking Forum, on the Contribution of Women to Environmental Law in Australia, 29 September 2010, Sydney^{*}

Introduction

- 1 Thank you for the invitation to talk to you tonight. It is an honour.
- 2 In 1962 Rachel Carson's seminal work *Silent Spring* ignited a revolution in how societies and individuals interact and value the environment. Her description of "a spring without voices" where children were falling ill, where the birds and fish had disappeared and where there were no apple blossoms or bees, has haunted generations.¹ She made us rethink our impact on the environment and gave birth to, at least in the west, the modern environmental movement.
- 3 Australia was not immune from this revolution. One manifestation of which, was the establishment of the Land and Environment Court of New South Wales on 1 September 1980. The Court is currently celebrating its thirtieth anniversary.
- 4 It was upon reflecting on the role of the Court in the development of environmental law in Australia over the past three decades that caused me to consider the contribution that women have made more generally in the evolution of domestic environmental law. Hence the topic of this talk tonight. I should note that for present purposes the term 'environmental law' includes, as it must, planning law. The two are inextricably intertwined as any one with an interest in the subject knows.

^{*} I wish to acknowledge the more than substantial contribution my tipstaff, Holly Kendall, has had in the preparation of this paper. All errors are, of course, mine alone.

¹ Rachel Carson, *Silent Spring*, (Houghton Mifflin, 1962), p 2.

- 5 Curiously, however, as I began to prepare for this presentation I was struck by how little had been written on the role of women in environmental law in Australia. The writing consists of disparate articles and occasional references in textbooks.
- 6 This lacuna is no doubt typical of the wider absence of written work when it comes to women in the law. It perhaps reflects the sentiment expressed by the English scholar and poet Edward Fitzgerald in 1861²:

Mrs Browning's death is rather a relief to me, I must say... A woman of real genius, I know; but what is upshot of it all? She and her sex had better mind the kitchen and her children; and perhaps the poor: except in such things as little novels, they only devote themselves to what men do much better, leaving that which men do worse or not at all.

Women in the Environmental Movement

- 7 Notwithstanding the literature, women have, and persist in being, full participants in environmental law. And I want to prove my point by giving you what I am certain will be an incomplete survey of some of the more significant contributors to environmental law in Australia by way of activists, litigants, politicians and lawyers. As we shall see this taxonomy is somewhat arbitrary, with many individuals wearing all four hats at once.

Activists

- 8 Turning first to the activists, which is a deliberate choice because more often than not, it has been the environmental agitators who have driven the debate and who, at great risk, have been the catalysts for change, socially, politically and legally.

² Letter to W H Thompson, 15 July 1861, in A M and A B Terhune (eds), *Letters of Edward Fitzgerald* (1980), Vol 2.

The Bradley Sisters

- 9 Two of the first female environmentalists in New South Wales were the Bradley sisters. They were the founders of a pervasive method of bush regeneration that continues to be utilised today.
- 10 In the mid 1960s the women observed that Mosman Council's attempts to preserve native bushland were proving futile as no sooner had weeds been cleared from native bushland, the weeds grew back bigger and better. As a result, the Bradley sisters pioneered a new method of bush regeneration that focused on the careful removal of scattered weeds which allowed native plants to establish themselves much more effectively.³
- 11 The women became instrumental in lobbying councils to ensure that bush regeneration was carried out by the most effective means known at the time.
- 12 Their legacy is carried on today by many land care groups across Australia such as Iluka Landcare lead by Kay Jeffery and Wycare lead by Marlene Pennings. They inspired women like Ruth Readford, who continues to work tirelessly to restore degraded dunes in the Ballina region and they have encouraged many others to take responsibility for their local environment.⁴

³ Robin A. Buchanan, *Bush Regeneration: Recovering Australian Landscapes* (TAFE Student Learning Publications, 1989), p 77.

⁴ Bruce Thom, "Saving the Coast: The Impact of Women" (speech delivered at the Mitchell Library, 12 February 2008), p 5.

Judith Wright

- 13 Judith Wright was a poet and short story writer (1915-2000). But she was also a passionate conservationist and activist. This passion was reflected in her work.⁵ In “Northern River”, she lamented:

Northern River

When summer days grow harsh
my thoughts return to my river,
fed by white mountain springs,
beloved of the shy bird, the bellbird,
whose cry is like falling water.
O nighted with the green vine,
lit with the rock-lilies,
the river speaks in the silence,
and my heart will also be quiet.

Where your valley grows wide in the plains
they have felled the trees, wild river.
Your course they have checked, and altered
your sweet Alcaic metre.
Not the grey kangaroo, deer-eyes, timorous,
will come to your pools at dawn;
but, their tamed and humbled herds
will muddy the watering places.
Passing their roads and cities
you will not escape unsoiled.

But where, grown old and weary,
stagnant among the mangroves,
you hope no longer – there on a sudden
with a shock like joy, beats up
the cold clean pulse of the tide,
the touch of sea in greeting;
the sea that encompasses
all sorrow and delight
and holds the memories
of every stream and river.

- 14 At a time when the extent of the effects of human behaviour on the Great Barrier Reef were unknown, Judith Wright was a visionary of

⁵ For example, *The Coral Battleground* (Angus & Robertson, 1977).

conservation. Recognising the unique value of the Great Barrier Reef Judith campaigned tirelessly throughout the 1960s for the formation of the Great Barrier Reef Marine Park. As a known poet she capitalised on her public image.⁶ In 1962, Wright founded the Wildlife Preservation Society of Queensland together with Kathleen McArthur and David Fleay.

- 15 This was a response to a growing consciousness in the 1960s that the Great Barrier Reef was under threat from the tourism and mining industries.⁷ At that time the tourism industry was relatively unregulated and tourists did not understand the lasting and cumulative impact of taking 'souvenirs' from the reef. The threats came, however, not just from tourists. In 1967 the Queensland government proposed to lease 20 million ha of the Great Barrier Reef for oil exploration.⁸
- 16 At that time the scientific community was not aware of what adverse ramifications the drilling would have. Initially, for example, the Australian Conservation Foundation did not oppose the drilling.⁹
- 17 Indeed when Wright sought the assistance of the World Wildlife Fund in Switzerland, it responded by suggesting that the Wildlife Preservation Society of Queensland should reduce its aim from creating a Marine Park for the whole Great Barrier Reef to smaller areas. Wright, undeterred, indignantly responded, "what good would be a marine national park in which pollution rode through on every tide?"¹⁰
- 18 Accordingly, the Wildlife Preservation Society of Queensland ran a test case against one of the first proposed uses for the leased reef, which was to mine Ellison Reef for limestone for use in agriculture. The case was an important turning point in generating public awareness of the

⁶ Drew Hutton and Libby Connors, *A History of the Australian Environment Movement* (Cambridge University Press, 1999), p 103.

⁷ *Ibid*, p 130.

⁸ *Ibid*, pp 100-101.

⁹ Thom, above n 9, p 3.

¹⁰ Hutton and Connors, above n 10, p 102.

unique value of the Reef. Ultimately the Society was successful in preventing the mining of Ellison Reef.¹¹

- 19 Capitalising on its success the Society set up a poll at a suburban fair at which 95% of respondents opposed mining or drilling on the Reef. The Society then took the enormous task of conducting a state wide poll which returned a similar result.¹²
- 20 The efforts of the Wildlife Preservation Society of Queensland culminated in a Royal Commission into exploratory and production drilling for petroleum in the area of the Great Barrier Reef in 1970.¹³ In 1975 the Whitlam government used the Royal Commission Report to legislatively protect the Reef by creating a marine national park and an authority to manage it.¹⁴

Battlers for Kelly's Bush

- 21 In no less politically charged circumstances, the women of Hunters Hill banded together with the Builders Labourers Federation ("BLF") in 1970 to take on developers to preserve the last remaining section of bushland on the Parramatta River.¹⁵ They were known as the "Battlers for Kelly's Bush", however, it is unlikely anyone in the BLF would have described the women as 'battlers' in any other sense.
- 22 The Battlers for Kelly's Bush campaigned state wide in an attempt to save this last bastion of bushland. Despite meeting with A.V. Jennings, the proposed developer, and Premier Askin, they were unsuccessful in

¹¹ *Forbes v Wildlife Preservation Society of Queensland* (unreported, Mining Warden's Court of Queensland, Mr. J. W. Ashfield, 1967).

¹² Hutton and Connors, above n 10, p 103.

¹³ *Ibid*, p 105.

¹⁴ *Ibid*, p 106.

¹⁵ Terri McCormack, *Kelly's Bush Dictionary of Sydney* (2008) http://www.dictionaryofsydney.org/entry/kellys_bush.

convincing either to act to stop the development.¹⁶ The Battlers decided to get radical.

- 23 It was out of character for women such as Betty James, Kath Lehany and Chris Dawson to collaborate with a trade union, let alone one led by communists like Bob Pringle, Joe Owens and Jack Munday, but the women were desperate. The only way to save Kelly's Bush, was to utilise the trade union's economic power to counter the developers and to mobilise community support.¹⁷ The leaders of the BLF lent their support to the Battlers' cause, despite some trepidation from union members, in the belief that all people benefited from open spaces.¹⁸
- 24 On 17 June 1971, the Battlers called a public meeting to officially request the BLF to ban union workers on the site.¹⁹ The motion was supported which resulted in the first 'green ban'.²⁰
- 25 In response, A.V. Jennings threatened to continue with the project using non-union labour. As a major developer in Sydney, however, A.V. Jennings could not escape the monopoly on labour held by the union, who declared that if non-union labour was used on the site they would immediately stop work on an A.V. Jennings building in North Sydney which would remain unfinished as a monument to Kelly's Bush.²¹
- 26 Ultimately A.V. Jennings capitulated and the preservation of Kelly's Bush was assured in 1983 when Premier Wran purchased the area as an open space.²²
- 27 This first 'green ban' started a movement to preserve similar areas of environmental and heritage value, including an area earmarked for a

¹⁶ Ibid.

¹⁷ Hutton and Connors, above n 10, p 129.

¹⁸ Ibid, p 130.

¹⁹ Ibid.

²⁰ Ibid.

²¹ McCormack, above n 21.

²² Ibid.

residential development at Eastlakes, the historic buildings of the Rocks, the Pitt Street Congregational Church, the Theatre Royal and Centennial Park.²³

Juanita Neilsen

28 Another pioneering woman of the environmental movement was Juanita Neilsen. As an heiress and the publisher of *NOW*, an alternative Kings Cross newspaper, Neilsen conducted an editorial campaign to mobilise local residents and enforce a 'green ban' similar to that pioneered by the Battlers for Kelly's Bush. In particular, Nielsen sought to prevent the demolition of a row of historic King's Cross terraces, causing the eviction of the tenants and the high rise redevelopment of Victoria Street.²⁴

29 Neilsen disappeared on 4 July 1975. It has been rumoured that she was abducted and disposed of by a so-called 'security adviser' to Frank Theeman, a Victoria Street developer.²⁵ The motive being an exposé into the redevelopment that was to be published in *NOW*.²⁶

30 Although her body was never found, the coronial inquest concluded that Neilsen had been murdered. It did not find who was responsible.²⁷ It is believed that her body lies in the foundations of one of the buildings constructed along Victoria Street.

Politics

²³ Hutton and Connors, above n 10, p 130.

²⁴ Lee Rhianon, Juanita Nielsen Memorial Lecture Series (12 July 2010) <<http://www.leerhiannon.org.au/juanita-nielsen>>.

²⁵ Barry Ward, "Crossed by Evil" (1995), 4 July 1995, *The Bulletin*, p 20.

²⁶ Paul Kidd, *The Australian Crime File* (The Five Mile Press, 2005), p 390.

²⁷ Ward, above n 31, p 20.

31 Because, as we all know, judges do not make the law but merely apply it, whereas it is Parliament that makes the rules and regulations that mandate what, from an environmental perspective, is to be preserved and what will perish, I will now too briefly discuss the impact women in politics have had on the environment, at the Federal, State and local government level.

Christine Milne

32 Christine Milne was elected to the federal senate in 2004.²⁸ She is now deputy leader of The Australian Greens. She also holds the position of Vice President of the International Union for the Conservation of Nature.²⁹ In 1989 she was elected to the Tasmanian Parliament and in 1993 became the first woman to lead a political party in Tasmania.³⁰ More recently, she was selected as the co-deputy chair of the Federal Government's Climate Change Committee.

33 Christine Milne's interest in the environmental movement and in environmental law began with her conservation work. She was acknowledged for this in 1990 when she was appointed to the United Nations Global Roll 500 of Honour.³¹

34 In 1983 she was an active member of the campaign to save the Franklin River, which led to her arrest and incarceration.³²

35 As a result of this experience and her success in leading a campaign to prevent the demolition of low cost walking huts in and around Cradle Mountain, she became the spokeswoman for the Concerned Residents Opposing Pulp Mill Siting ("CROPS"). The group formed in 1988 as a

²⁸ *About Christine Milne*, The Greens < <http://christine-milne.greensmps.org.au/about-christine-milne>>.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² Hutton and Connors, above n 10, p 205.

coalition of the Tasmanian Farmers and Grazier's Association, the Tasmanian Fishing Council, Trade Unions, the Australian Conservation Foundation and the Wilderness Society that was opposed to the construction of a pulp mill at Wesley Vale on the North Coast of Tasmania. The group contended that not only was the site inappropriate but an inadequate environmental impact statement had been carried out which did not reflect the true environmental costs of the development.³³

36 The pulp mill did not go ahead. Although cabinet was willing to authorise its construction with conditions, the developer decided not to proceed because it feared the imposition of these measures might adversely affect other proposed developments.³⁴

37 During Christine Milne's time in the Tasmanian legislature the Labor Party required the Greens' support to form government.³⁵ This arrangement resulted in significant environmental reforms in Tasmania, in particular the doubling of the size of the Tasmanian Wilderness World Heritage Area.³⁶

38 This experience will no doubt be an asset during the 43rd sitting of Federal Parliament.

Lee Rhiannon

39 Lee Rhiannon has been a member of the Greens since 1991. She was elected to the New South Wales Legislative Council in 1999.

40 Lee Rhiannon has been politically active since she was a high school student attending Vietnam War protests. She continued this activism as

³³ Ibid.

³⁴ Ibid, p 206.

³⁵ Ibid, p 229.

³⁶ The Hon Christine Milne, Maiden Speech (speech delivered in the Commonwealth Senate, 10 August 2005).

a member of the NSW Women's Advisory Council to the Wran government and was the Secretary of the Union of Australian Women.

41 As a member of the NSW Legislative Council she has campaigned for more sustainable public transport, the protection of native forests and she has opposed over-development.³⁷

42 In the recent Federal election Lee Rhiannon was elected to the Senate.

43 Other prominent Greens politicians include Sylvia Hale, Rachel Siewert, Kerry Nettle and Sarah Hanson-Young.

Pam Allan

44 In 1995 Pam Allan ran as an Australian Labor Party candidate on a platform of protection of coastal environment from excessive development.

45 Upon election she became the Environment Minister in the Carr Government. As Minister she was responsible for implementing a ban on canal estates, she created marine parks, enlarged coastal national parks and introduced the 1997 NSW Coastal Policy, which co-ordinates the management of coastal areas by different government and non-government bodies in an ecologically sustainable way.³⁸

Pam Green

46 At a local government level, Pam Green was a Councillor from 1995 to 2004 and the Mayor of Eurobodalla Shire Council from 2002 until 2004. She played a major role in the establishment of natural resource

³⁷ *Lee's Biography* (16 September 2010) Lee Rhiannon, The Greens <<http://www.leerhiannon.org.au/about>>.

³⁸ Thom, above n 9.

management bodies and plans in New South Wales and co-ordinated various national regional coastal entities.³⁹

- 47 The majority of Australia is now covered by strategic regional natural resource management plans. The plans are returning positive environmental outcomes as riparian zones are being enhanced and protected by fencing and revegetation, as degraded land is being rehabilitated and the impact of dryland salinity ameliorated.⁴⁰
- 48 There are three other female local government councillors who should be mentioned and who have dedicated years of political endeavour to improve our coast. They are the late Joy Matthews of Clarence Valley (formerly Maclean Council) and Patricia Harvey of Mosman. Both showed leadership at state and regional, as well as local, levels in advocating improved coastal management and planning. Both endured criticism and ridicule from less enlightened colleagues, but persisted in their respective positions. Finally, Jan Barham, the Green Mayor of Byron is another woman prepared to engage in confrontation to effect tangible environmental change. Few men have persisted in local politics with such strong coastal environmental advocacy as Jan, Joy or Patricia.

Litigants

- 49 What they frequently lack in representation and, more often than not, means, they have in abundance in tenacity and courage. They are those who are motivated by principle. They are applicants, contradictors and intervenors. They are the litigants.

³⁹ Thom, above n 9.

⁴⁰ Pam Green, *Progress in Restoring Our Environment* (2006), Department of Sustainability, Environment, Water, Population and Communities
<<http://www.environment.gov.au/soe/2006/publications/emerging/nrm-progress/index.html>>.

Lorraine Onus and Christina Frankland

- 50 Take for example, Lorraine Onus and Christina Frankland who were members of the Gournditch-jmara people, the custodians of land which was owned by Alcoa of Australia Ltd upon which it was proposed to build an aluminium smelter.
- 51 Onus and Frankland sought an injunction to restrain Alcoa from carrying out work that would interfere with aboriginal relics in breach of the *Archaeological and Aboriginal Relics Preservation Act 1972* (Vic). At first instance it was held that Onus and Frankland had failed to make out a prima facie case of a right to standing to prevent a contravention of the Act by the disturbance of Aboriginal relics in the construction of an aluminium smelter. The decision was upheld by a full bench of the Supreme Court.⁴¹
- 52 On appeal to the High Court, Onus and Frankland were found to have standing because, as custodians of the land they had more than an emotional or intellectual interest to the subject matter of the proceedings.⁴²
- 53 Although no injunction was granted, the case was nevertheless seminal in permitting Aboriginal people to institute proceedings to protect their land. It recognised the important link between traditional ownership and heritage protection.⁴³ And it broadened the traditionally narrow concept of standing, paving the way for challenges such as *Mabo*.⁴⁴

⁴¹ *Onus v Alcoa of Australia Ltd* (unreported, Supreme Court of Victoria, Brooking J, 28 November 1980) and *Onus v Alcoa of Australia Ltd* (unreported, Supreme Court of Victoria, Starke, Kaye and Jenkinson JJ, 19 December 1980).

⁴² *Onus v Alcoa of Australia Ltd* (1981) 149 CLR 27 at 36.

⁴³ Jessica Weir, *The Gunditjmarra Land Justice Story* (2009), Australian Institute of Aboriginal and Torres Strait Islander Studies

<http://www.aiatsis.gov.au/ntru/docs/publications/monographs/MonographGunditjmarra.pdf>.

⁴⁴ *Mabo v Queensland (No 2)* (1992) 175 CLR 1.

Wendy Jarasius

- 54 In 1987 Wendy Jarasius, representing the Towamba Valley Catchment Protection Association, sought an injunction to stop logging at Coolangubra and Tantawangalo in the south-eastern forests near Eden. The two areas had been placed on the interim register of the National Estate by the Australian Heritage Commission and New South Wales National Parks and Wildlife Service had recommended them for consideration as national parks.⁴⁵
- 55 Despite being identified as areas of natural and heritage value clear felling began in the areas in mid 1987.⁴⁶
- 56 The application for an injunction was upheld on the basis that the logging activities were on such a scale that a comprehensive environmental impact statement was required to ensure that the consent authority could “consider to the fullest extent reasonably practicable matters likely to affect the environment”.⁴⁷ The Court held that the impact of forestry activities had to be considered not merely at a localised level, but more broadly in relation to the entire forest.⁴⁸
- 57 Suffice it to say that Coolangubra and Tantawangalo are now protected as State Forests.
- 58 But the case was not without vilification and harassment. Wendy Jarasius was described in Parliament as the representative of “a group of extreme people”, “a person of straw, an unemployed person, and an unmarried mother.” She was threatened with rape and murder; even

⁴⁵ Hutton and Connors, above n 10, p 190, *Jarasius v Forestry Commission of NSW* (1988) 71 LGRA 84.

⁴⁶ Hutton and Connors, above n 10, p 190.

⁴⁷ *Jarasius v Forestry Commission of NSW* (1988) 71 LGRA at 96 and 104.

⁴⁸ *Ibid* at 92.

injury to her then 5 year old daughter. The threats continued four years later even though she had moved from the Eden area.⁴⁹

May Leatch

59 In 1992 May Leatch objected to a decision by the Director-General of the National Parks and Wildlife Service to grant a general license subject to conditions to allow Shoalhaven City Council to take or kill endangered fauna.⁵⁰ Shoalhaven City Council had made a development application to itself to build a new road to alleviate traffic congestion. The intended route was likely to disturb the habitat of the Giant Burrowing Frog and the Yellow-bellied Glider. The disturbance to the habitat required a license from the Director-General.⁵¹ A fauna impact statement was conducted and advertised that although questioning the long term viability of the species, recommended that the road be constructed with mitigation measures in place.⁵²

60 Stein J held that the granting of the licence could not be justified. In so doing he applied a hitherto relatively unknown concept, namely, the precautionary principle, stating that, “where there is a scarcity of scientific knowledge about species population, habitat and impacts” then “caution should be the keystone to the Court’s approach.”⁵³

Dr Carol Booth

61 In 2001 Dr Carol Booth, a student and research assistant with the Queensland Conservation Council, brought proceedings to restrain the

⁴⁹ Tim Bonyhady, *Places Worth Keeping: Conservations, Politics and Law* (Allen & Unwin, 1993), p 72.

⁵⁰ *Leatch v National Parks and Wildlife Service* (1993) 81 LGERA 270 at 271.

⁵¹ *Leatch* at 271-272.

⁵² *Leatch* at 276.

⁵³ *Leatch* at 284.

Bosworth family from killing Spectacled Flying Foxes in and near their lychee orchard in Kennedy, Queensland.⁵⁴

- 62 The Bosworths had constructed an electric grid that they operated for the purpose of electrocuting flying foxes that flew near their lychee trees. The farm was situated just outside the Wet Tropics World Heritage Area.⁵⁵
- 63 On average during lychee season 377 Flying Foxes were killed each night.⁵⁶
- 64 The injunction was granted. It was the first injunction granted under s 475(2) of the *Environment Protection and Biodiversity Conservation Act* 1999 (Cth) preventing an individual from causing significant impact on an area of world heritage value.⁵⁷ The Court held that the killing of the flying foxes was significant because were it to be allowed to continue on an annual basis there would be a dramatic decline in the population of the Spectacled Flying Fox in less than five years.⁵⁸ This decline would significantly effect the genetic and biological diversity that contributed to the character of the Wet Tropics World Heritage Area as an in-situ conservation area.⁵⁹

Lawyers

- 65 “The first thing we do, let’s kill all the lawyers” said Dick to Cade in *Henry VI*.⁶⁰ Surely this helpful suggestion must have been directed at the male variant because the female lawyer, particularly the female environmental lawyers, are far too valuable to harm.

⁵⁴ *Booth v Bosworth* (2001) 117 LGERA 168 at 170.

⁵⁵ *Booth* at 170.

⁵⁶ *Booth* at 175.

⁵⁷ *Booth* at 195.

⁵⁸ *Booth* at 195.

⁵⁹ *Booth* at 195.

⁶⁰ Part 2 (1592) act 4, sc 2,1[88].

30 Years of Women in the Land and Environment Court

66 If I may say so, this is particularly the case in the Land and Environment Court of New South Wales. It would amount to a dereliction of duty were I not to mention the significant contribution that women have made to the development of environmental law in the context of this Court.

67 In 1980 the *Land and Environment Court Act 1979* (NSW) established the Land and Environment Court of New South Wales as the world's first specialist environmental court of superior record.⁶¹ The Court was created to resolve issues of inconsistent decision-making and delay that had resulted from the existing fractured processes for the determination of environment and planning disputes. Proceedings previously involved various courts and government bodies, which created confusion as to where matters were to be filed and resulted in additional time and expenditure for parties then having to seek to enforce any decision obtained.⁶²

68 At its conception there were no women in decision-making positions in or on the Court.

69 All this changed in 1992 when Chief Judge Pearlman was appointed as a judge on the Land and Environment Court.⁶³

70 A decade later Justice Pain was appointed to the Court in 2002. This was quickly followed by the appointment of Justice Jagot in 2006 and

⁶¹ Section 5. See Biscoe J "Jurisdiction, Structure and Civil Practice and Procedure" (paper presented at Australasian Conference of Planning and Environment Courts and Tribunals, Sydney, 2 September 2010), at [1].

⁶² The Hon John Hatzistergos, "Attorney General's Opening Speech for the Australasian Conference of Planning and Environment Courts and Tribunals 2010" (speech delivered at Australasian Conference of Planning and Environment Courts and Tribunals, Sydney, 1 September 2010), p 2.

⁶³ Tony Stephens, "Enter Justice Pearlman, and a Court Comes of Age", *Sydney Morning Herald*, 26 March 1992, p 1.

myself in 2009. Women now comprise one third of the Land and Environment Court judiciary.

- 71 Moreover, currently two thirds of the Court's Commissioners and two fifths of the Acting Commissioners are women.
- 72 The Acting Registrar and Assistant Registrar, Joanne Gray and Maria Anastasi respectively, are also women.
- 73 This means that currently women comprise 58% of the Court's decision-making positions. An enviable statistic for a superior court in Australia.
- 74 Compare this figure with the Supreme Court of New South Wales where, based on the most current publicly available information, women comprise 20% of the decision-making roles and the Federal Court of Australia, where women comprise 27%.

Chief Justice Mahla Pearlman

- 75 The Hon Mahla Pearlman AM had a string of firsts in her legal career. She was the first woman President of the Law Society of New South Wales, the first woman President of the Law Council of Australia, the first woman judge of the Land and Environment Court, the first female head of jurisdiction in Australia and the first solicitor to be elevated to the bench.⁶⁴ She was also the Deputy Secretary General of the International Bar Association.⁶⁵
- 76 This pioneering spirit proved critical because during her time on the Court, the Land and Environment Court was the subject of sustained

⁶⁴The Hon Chief Judge Mahla Pearlman, "Appeal to the Courts, New South Wales Public Schools" <http://www.schools.nsw.edu.au/nswconstitution/html/5th/expert/pearlman.html>.

⁶⁵The Hon P E J Collins, "Swearing in Ceremony of Miss Mahla Pearlman AM as the Chief Judge of the Land and Environment Court of New South Wales" (speech delivered at the Supreme Court of New South Wales, 6 April 1992).

criticism and eradication attempts. Frank Sartor then (and perhaps now) described the Court as an “out of control millstone around the neck of councils”.⁶⁶ A working party was set up by the Attorney General to examine whether the Land and Environment Court should retain its jurisdiction to review local government planning decisions.⁶⁷

77 The result was that amendments were made to the *Land and Environment Court Act* to include persons with heritage and urban design knowledge and experience to be eligible for appointment as commissioners and that where appropriate major matters should be determined by panels comprising commissioners or a judge and a commissioner.⁶⁸

78 At the apex of the Court for over a decade, Chief Judge Pearlman left a significant mark on the functioning and procedure of the Court. As Chief Judge she created the Court Users Group to allow those using the Court (including barristers, solicitors, litigants and experts) to discuss how the Court ought to be run.⁶⁹ She encouraged alternative dispute resolution, which was no doubt influenced by her experience as an arbitrator of Local and District Court matters and as the Director of the Australian Commercial Disputes Centre. She facilitated on-site hearings and site visits and sought to make the Court less formal and more user friendly.⁷⁰ She facilitated access to justice through the implementation of e-callosers in order to promote greater access to justice for rural litigants.⁷¹

79 She also left a significant mark on the jurisprudence of the Court. In *Greenpeace Australia Ltd v Redbank Power Company Pty Ltd* she

⁶⁶ Robert Harley, “Planning Laws Court Controversy”, 7 September 2000, *The Australian Financial Review*, p 23.

⁶⁷ *Ibid.*

⁶⁸ Land and Environment Court Annual Review 2001, p 4.

⁶⁹ Mary Rose Liverani, “Mahla Pearlman’s String of Firsts”, (2003) August, *Law Society Journal*, p 16.

⁷⁰ *Ibid.*, The Hon P E J Collins, “Swearing in Ceremony of Miss Mahla Pearlman AM as the Chief Judge of the Land and Environment Court of New South Wales” (speech delivered at the Supreme Court of New South Wales, 6 April 1992).

⁷¹ Land and Environment Court Annual Review 2001, p 3.

entrenched by comment that “the application of the precautionary principle dictates that a cautious approach should be adopted in evaluating the various factors in determining whether or not to grant consent”.⁷²

- 80 In *Schaffer v Hawkesbury City Council* she emphasised the importance of environmental impact statements in encouraging public participation and facilitating transparency and accountability by stating that:

The purpose of an environmental impact statement is to alert the decision maker and the public to the inherent problems of the proposed development, to encourage public participation, and to ensure that the decision maker takes a hard look at what is proposed.⁷³

- 81 So highly regarded was the Chief Judge, that her description in the June 1995 edition of *Justinian* read:

Very fair, very personal, pleasant and relaxed in court. She treats everyone equally, does not kowtow to QCs or barristers, and treats everyone with respect.

She was not one of the judges with the additional annotation, “(see also Worst Judges)”.

Justice Nicola Pain

- 82 Prior to being appointed to the Land and Environment Court, Justice Nicola Pain was the principal solicitor at the Environmental Defender’s Office (“EDO”) in New South Wales from 1987 to 1992. She was the acting Director of the EDO from May 2001 to January 2002. Justice Pain also held senior advisory roles with the New South Wales Environment

⁷² *Greenpeace Australia Ltd v Redbank Power Company Pty Ltd* (1994) 86 LGERA 143.

⁷³ *Schaffer v Hawkesbury City Council* (1992) 77 LGRA 21.

Protection Authority and had lectured in Environmental Law at the University of Technology, Sydney.⁷⁴

- 83 Justice Pain has and continues to enhance the jurisprudence of the Court and the development of environmental law. Her Honour has grappled with the contribution of coal mines to climate change and the extent to which decision-makers must take into account ecologically sustainable development, the precautionary principle and intergenerational equality.⁷⁵
- 84 In *Gray v Minister for Planning* her Honour held that climate change was widely recognised as having a significant environmental impact to which there were many global contributors, but this did not mean that a contribution from a single source such as that proposed by the Anvill Hill coal mine, the subject of the litigation, could be ignored in any environmental assessment process.⁷⁶
- 85 She found there was a sufficiently proximate link between the mining of a very substantial reserve of thermal coal in NSW, the only purpose of which was for use as fuel in power stations, and the emission of greenhouse gases required assessment of that greenhouse gas contribution in any environmental assessment under Pt 3A of the *Environmental Planning and Assessment Act 1979* (NSW).⁷⁷
- 86 In *Blue Mountains Conservation Society Inc v Delta Electricity* the Court was asked, for the first time, to make a protective costs order where the moving party claimed to be undertaking the litigation in the public interest. Her Honour made a protective costs order limiting the amount either party could recover to \$20,000.⁷⁸ In so doing, Justice Pain laid

⁷⁴ National Environmental Defender's Office Network, "Impact: Public Interest Environmental Law", 6 March 2002, p 1.

⁷⁵ *Gray v Minister for Planning* (2006) 152 LGERA 258.

⁷⁶ *Ibid* at 287.

⁷⁷ *Ibid* at 288.

⁷⁸ *Blue Mountains Conservation Society Inc v Delta Electricity* (2009) 170 LGERA 1 at [71].

down the relevant factors the Court should have regard to in determining whether such an order was appropriate.

Justice Jayne Jagot

87 Justice Jayne Jagot commenced her legal career at Mallesons Stephen Jaques in 1991 and quickly rose through the ranks to become a partner in 1997. While at Mallesons she acted on behalf of private and public institutions and local government authorities in relation to all matters involving environment and planning law.⁷⁹

88 In 2002 Justice Jagot was called to the bar. Albeit limited in duration, her success as a barrister was no less meteoric.⁸⁰

89 Thus on 1 February 2006, she was appointed as a judge to the Land and Environment Court.

90 Although she was only at the Land and Environment Court for a brief period of time before migrating to the Federal Court of Australia in 2008, her contribution to the Court has nevertheless been enduring.

91 In particular, her Honour strove to maintain transparency in the planning process. In *Milne v Minister for Planning* she emphasised that the objects of the *Environmental Planning and Assessment Act 1979*, “contemplated that development would stimulate social and economic change” but that change in itself was not always appropriate and was to be assessed not on the basis of “personal values or idiosyncratic perceptions”, but “in a strategic planning context established by publicly available criteria,

⁷⁹ The Hon R J Debus, “Swearing in of Jayne Margaret Jagot as a Judge of the Land and Environment Court of New South Wales” (speech delivered at the Supreme Court of New South Wales, 1 February 2006).

⁸⁰ *Ibid.*

determined by planning authorities as part of a process in which the public has had extensive opportunities to participate.”⁸¹

92 Justice Jagot’s decision in *Harvey v Minister Administering Water Management Act 2000* has been influential in administrative decision-making with respect to the allocation of water rights.⁸² In that case her Honour was required to interpret provisions of the *Water Management Act 2000* (NSW) to determine whether the relevant Minister was required to provide procedural fairness to licence holders in amending a Water Management Plan. Her Honour held that the Minister did not. The amendments did not affect the essential character of the plan because the objective of achieving sustainable use of resources remained.⁸³ The decision was upheld in the Court of Appeal.

93 On the Federal Court, Jagot J’s contribution to the development of environmental law has been no less important (see, for example, *Spencer v Commonwealth*).⁸⁴

Commissioners and Acting Commissioner’s of the LEC Court

94 I am delighted to say that time and volume do not permit me to go through in detail the contribution that women have made to the Land and Environment Court in their capacity as Commissioners and Acting-Commissioners. But I do wish to refer to a few, albeit briefly.

95 Two of the earliest female Commissioners of the Court were Joan Domicelj and Professor Catherin Bull.

⁸¹ [2007] NSWLEC 66 at [26]-[27] and see *CEAL Ltd v Minister for Planning* (2007) 159 LGERA 232 at 259.

⁸² (2008) 160 LGERA 50.

⁸³ *Ibid* at [61].

⁸⁴ (2009) 174 FCR 398 at [13] and [18]. See also *Arnold v Minister Administering Water Management Act 2000* (2008) 163 LGERA 429.

Commissioner Joan Domicelj

- 96 Commissioner Joan Domicelj served as a Commissioner of the Land and Environment Court from 1981-1988.⁸⁵ Her expertise ranged from architecture to heritage adviser.
- 97 After working at the Court she was involved in preparing the 1995 World Heritage Nomination of the Opera House and was again successful in 1998 in the nomination of the Greater Blue Mountains area.⁸⁶ She and her husband were both awarded Australian Centenary Medals for this achievement.
- 98 She has served on international advisory bodies to the World Heritage Committee and also on the Australian State of Environment Advisory Council, the Australian Heritage Commission and the NSW Heritage Council.
- 99 She is currently the Chair of the Australian World Heritage Advisory Committee to the Environmental Protection and Heritage Council of Commonwealth and State Ministers.⁸⁷

Commissioner Professor Catherin Bull

- 100 Professor Catherin Bull currently holds the Elisabeth Murdoch Chair of Landscape architecture at the University of Melbourne. She served as a Commissioner of the Land and Environment Court from 1993–1997 exercising her considerable expertise in architecture and open urban spaces.⁸⁸

⁸⁵ Joan Domicelj, "Songlines, Shattered Glass and Keeper of the Earth" (paper presented at Heritage Under Glass, Sydney, 8 March 2004) <<http://www.nationaltrust.com.au/conservation/files/hug%20Domicelj.pdf>>.

⁸⁶"Domicelj Resigns from Cultural Centre Role", *Blue Mountains Journal* (12 March 2009) <<http://bluemountainsjournal.com.au/?p=272>>.

⁸⁷ Ibid.

⁸⁸ *Professor Catherin Bull Biography*, Department of Innovation, Industry, Science and Research <http://www.innovation.gov.au/Section/Industry/Documents/Catherin_Bull.pdf>.

101 Prior to joining the Court she had practiced privately as an architect and was a founding member of the award winning landscape architectural firm EBC.

102 Since leaving the Court, Professor Bull has chaired and been a member of many review panels advising on open space and urban design including Sydney Olympic Park, South Bank, Brisbane and Federation Square Melbourne.⁸⁹

103 In 2008 she was awarded a Member of the Order of Australia in recognition of her contribution to Australian landscape architecture.

Commissioner Janette Murrell

104 Commissioner Janette Murrell was appointed as a Commissioner of the Court in 1998.

105 She served as the Executive Assistant to the Director of the Department of Planning from 1980-1983 and in 1984 was seconded to the Sydney Cove Authority to work on key development sites. She became the Deputy Manager at the Department of Planning with responsibility for statutory and strategic planning and assessment of major development in the Southern Sydney region.⁹⁰

106 Prior to joining the Court, in 1992 she was a member of the Coastal Committee of New South Wales which took on the task of drafting the New South Wales Coastal Policy. She represented New South Wales on

⁸⁹ Ibid.

⁹⁰ *Janette Murrell Biography*, (17 August 2010) Land and Environment Court of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_MurrellC.pdf/\\$file/Bio_MurrellC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_MurrellC.pdf/$file/Bio_MurrellC.pdf)>.

the National Coastal Management working group to develop a National Ecologically Sustainable Development Strategy.⁹¹

107 Before joining the Court she was the Corporate Manager of Liverpool City Council responsible for local government area structure plans, statutory planning, subdivision, building and development assessment and the establishment of the first Independent Hearing and Assessment Panel in New South Wales.⁹²

Commissioner Annelise Tuor

108 Commissioner Annelise Tuor was appointed to the Court in 2002. Commissioner Tuor has been instrumental in the development of planning principles. For example, she has developed principles relating to the impact of the intensification of use,⁹³ and the role of the Court in assessing consolidation negotiations when redevelopment has the effect of isolating an adjacent site.⁹⁴

109 She has been recognised for her contribution to the planning profession when she was awarded with the Royal Australian Planning Institute President's Award in 1999 and the Australian Planning Ministers' National Award for Planning Excellence in 2000.⁹⁵

110 In 2009 three more female Commissioners were appointed, namely Commissioners Susan Dixon, Linda Pearson and Judy Fakes.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ *Randall Pty Ltd v Leichhardt Council* [2004] NSWLEC 277.

⁹⁴ *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251.

⁹⁵ *Annelise Tuor Biography*, (17 August 2010) Land and Environment Court of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_ Lec.nsf/vwFiles/Bio_TuorC.pdf/\\$file/Bio_TuorC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_ Lec.nsf/vwFiles/Bio_TuorC.pdf/$file/Bio_TuorC.pdf)>.

Commissioner Susan Dixon

111 Commissioner Susan Dixon was previously the Registrar and Chief Executive Officer of the Court from 2004 till 2009.⁹⁶

112 Previously Commissioner Dixon had an extensive private practice and had served as a Senior Lawyer at the Department of Mineral Resources where she advised the Minister on mining prosecutions, coronial inquiries, the *Mining Act 1992* (NSW), *Petroleum (Onshore) Act 1998* (NSW) and environmental and planning issues.

Commissioner Linda Pearson

113 Commissioner Linda Pearson has accumulated an impressive list of qualifications including a Master of Laws and a Master of Public Policy. She is also a member of the International Union for the Conservation of Nature Commission on Environmental Law⁹⁷ and has been a co-contributor of several leading texts in environment and planning law, namely, *Environmental and Planning Law in New South Wales*, the *Environmental Law Handbook* and *Local Government Law in New South Wales*.

Commissioner Judy Fakes

114 Commissioner Judy Fakes was appointed to the Court primarily due to her acclaimed expertise in arboriculture.

⁹⁶ *Susan Dixon Biography*, (17 August 2010) Land and Environment Court Of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_DixonC.pdf/\\$file/Bio_DixonC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_DixonC.pdf/$file/Bio_DixonC.pdf)>.

⁹⁷ *Linda Pearson Biography*, (17 August 2010) Land and Environment Court Of New South Wales Land and Environment Court of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_Pearson.pdf/\\$file/Bio_Pearson.p](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_Pearson.pdf/$file/Bio_Pearson.p)>.

115 Commissioner Fakes' work in the field of arboriculture has been recognised by her being awarded the International Society of Arboriculture Australian Chapter Award of Merit for Service to Australian Arboriculture and the Australian Institute of Horticulture Award of Excellence.⁹⁸

Commissioner Sue Morris

116 The most recent female addition to the Court is Commissioner Sue Morris, appointed on 28 June 2010.

117 She brings over 30 years experience in town planning and statutory planning, particularly in relation to urban renewal, heritage issues and planning for rural areas and new residential release areas in South Western Sydney.⁹⁹

118 Prior to joining the Court she was the Director of Development and Environment at Camden Council.

Acting Commissioner Megan Davis

119 Acting Commissioner Megan Davis was the first Indigenous Fellow at the Office of the High Commissioner for Human Rights at the UN and has contributed to the drafting of the United Nations Declaration on the Rights of Indigenous People.¹⁰⁰

120 Recently, she was the first Australian Indigenous woman elected to a UN body, the UN Permanent Forum on Indigenous Issues which advises the

⁹⁸ *Judy Fakes Biography*, (17 August 2010) Land and Environment Court of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll Lec.nsf/vwFiles/Bio_FakesAC.pdf/\\$file/Bio_FakesAC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll Lec.nsf/vwFiles/Bio_FakesAC.pdf/$file/Bio_FakesAC.pdf)>.

⁹⁹ Adam Bell, "New Land and Environment Court Commissioner" (Media Release, 5 May 2010).

¹⁰⁰ James Giggacher, "Dissolution and Resolution" Spring 2010, *ANU Reporter*, p 16.

UN on indigenous issues relating to economic and social development, culture, the environment, education, health and human rights.¹⁰¹

Acting Commissioner Professor Larissa Behrendt

121 Acting Commissioner Professor Larissa Behrendt is a Professor at the University of Technology, Sydney.¹⁰²

122 She has published widely on the interaction of indigenous communities and the law. Titles include *Dispute Resolution in Aboriginal Communities*, *Achieving Social Justice*, *Treaty* and *Conflict Management in Native Title*.¹⁰³

123 She was a member of the Consultative Committee on a Bill of Rights for the ACT, is a member of the Australian Institute of Aboriginal and Torres Strait Islander Studies Research Advisory Council and the Indigenous Advisory Group Australians for Native Title and Reconciliation.¹⁰⁴

Acting Commissioner Dr Mary Edmunds

124 Acting Commissioner Dr Mary Edmunds brings extensive experience to the Court in social anthropology and mediation.¹⁰⁵

125 She has been a member for the National Native Title Tribunal, the National Alternative Dispute Resolution Advisory Council, the Royal Commission into Aboriginal Deaths in Custody and the Institute of

¹⁰¹ Ibid.

¹⁰² *Professor Larissa Behrendt Biography*, (17 August 2010) Land and Environment Court Of New South Wales Land and Environment Court of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_BehrendtAC.pdf/\\$file/Bio_BehrendtAC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_BehrendtAC.pdf/$file/Bio_BehrendtAC.pdf)>.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ *Dr Mary Edmunds Biography*, (17 August 2010) Land and Environment Court Of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_EdmundsAC.pdf/\\$file/Bio_EdmundsAC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_EdmundsAC.pdf/$file/Bio_EdmundsAC.pdf)>.

Aboriginal and Torres Strait Islander Studies, Indigenous Facilitation and Mediation Project Advisory Committee.¹⁰⁶

Acting Commissioner Professor Sharon Sullivan

126 Acting Commissioner Professor Sharon Sullivan is a heritage consultant with local, regional, national and international experience. She was reappointed as an Acting Commissioner in 2010, having first been appointed in 2007.

127 She has been awarded an Order of Australia for her service to cultural heritage conservation, including indigenous heritage. She has held the roles of Cultural Heritage Manager, Regional Manager and Deputy Executive Director at the New South Wales National Parks and Wildlife service. She has been the Director of the Australian Heritage Commission and led the Australian delegation to the World Heritage Committee.

128 She now, somehow, balances her role as Acting Commissioner with duties as the Deputy Chair of the Heritage Council of New South Wales and as a consultant to UNESCO.¹⁰⁷

Other Notable Female Lawyers

129 As I look around the room I am reminded of the enduring contribution that female lawyers are making in the development of Australian environmental law. Whether you be students, academics, graduate solicitors, senior associates, partners, junior barristers or silks, your individual and collective daily endeavours in this important field of law not

¹⁰⁶ Ibid.

¹⁰⁷ *Professor Sharon Sullivan Biography*, (17 August 2010) Land and Environment Court Of New South Wales <[http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_SullivanAC.pdf/\\$file/Bio_SullivanAC.pdf](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Bio_SullivanAC.pdf/$file/Bio_SullivanAC.pdf)>.

only raises the profile of environmental law, but raises the profile of women in environmental law, and more importantly, in the law more generally.

130 At the risk of offending many by singling out but at few, there are three individuals who merit specific mention.

Judge Christine Trenorden

131 The first is Judge Christine Trenorden of the Environment, Resources and Development Court of South Australia.¹⁰⁸

132 In 1993 Judge Christine Trenorden was appointed to the District Court and to the Environment, Resource and Development Court. She became the Senior Judge of the latter Court in 2002.

133 Judge Trenorden has been critical to the development of specialist environmental courts in Australia and overseas. Before this she played a central role in the establishment of the Environmental Defenders Office in South Australia.

134 In 1992 she met with a group of enthusiastic environmental lawyers that were seeking to create a free service aimed at helping people to use the law to protect the environment.¹⁰⁹ The group had no money, no staff and no office but managed to launch the Environmental Law Community Advisory Service, which provided the foundation of the Environmental Defenders Office.¹¹⁰

¹⁰⁸ Established by the *Environment, Resources and Development Court Act 1993 (SA)*.

¹⁰⁹ Newsletter of the Environmental Defender's Office South Australia, *Greenlaw*, May 2002. No 15 <http://www.edo.org.au/edosa/publications/newsletter/green%20law%20newsletter%20no.15%20may%202002.html>.

¹¹⁰ *Ibid.*

135 As the senior judge of the Environment Resource and Development Court her Honour has shaped the jurisprudence of South Australian and Australian environmental law.

136 In particular, Judge Trenorden has had an interest in the allocation of water rights arising out of increasing competition for the use of the Murray Darling Basin with its commensurate decreasing capacity. Her Honour has recognised that in deciding whether or not to grant water licenses the needs of dependent ecosystems and the public interest are relevant considerations.¹¹¹

137 Her Honour retires from the Court this year.

Jennifer Blackman

138 Jennifer Blackman was a pioneering woman at the NSW Bar who had a significant practice in the Land and Environment Court. Blackman began her career as a stenographer at 11 Wentworth/Selbourne Chambers in 1958. In 1965 she left the floor to be the associate to Else-Mitchell J. During this time she completed the Barrister's Admission Board course and was admitted as a barrister in 1968. As a newly admitted barrister Jennifer was instrumental in the establishment of the Women Reader's Room at Frederick Jordan Chambers. The Women Reader's Room provided an opportunity for many women to commence their careers at the Bar, including Justice Mary Gaudron, Justice Virginia Bell, Justice Elizabeth Fullerton and Justice Ann Ainslie-Wallace.

Kirsty Ruddock

139 Finally, a very honourable mention must also go to Kirsty Ruddock.

¹¹¹ *Simes v Minister for Environment and Conservation* (2006) 152 LGERA 16 at 19-22.

140 Kirsty Ruddock is the current principal solicitor at the EDO in New South Wales.

141 Previously, she worked in the Public Solicitor's Office in the Solomon Islands where she appeared on behalf of customary landowners who were seeking a cessation of logging on their land.

142 She has been involved in a number of significant judicial and merits review cases including *Wildlife Preservation Society of Queensland Proserpine/Whitsundays Branch Inc v Minister for the Environment and Heritage*, one of the first climate change actions brought under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.¹¹²

Conclusion

143 Returning to the quote I commenced with, now is not the time to debate whether the development of environmental law in Australia is something that men “do better”, do “worse” or simply don’t do “at all”.

144 But what I hope I have demonstrated is, despite a paucity of information of this topic, that women have left and will continue to leave an indelible mark on the past, present and future of environmental law in Australia.

145 Thank you for listening.

Justice Rachel Pepper
Land and Environment Court of New South Wales

¹¹² Environmental Defenders Office, <http://www.edo.org.au/edonsw/site/staff.php>.