



## The ethics of water management: the role of independent experts and civil society in upholding – and reforming – the law

Dr Emma Carmody

Senior Policy and Law Reform Solicitor, EDO NSW

Legal Advisor, Secretariat of the Ramsar Convention on Wetlands

Visiting Fellow, Faculty of Law, University of New South Wales

International River Symposium  
15 October 2018



# EDO NSW



DONATE

ADVICE ABOUT CASES LAW REFORM INFORMATION HAVE YOUR SAY PUBLICATIONS OUTREACH NEWS

An independent community legal centre specialising in public interest environmental law



## 'Invalid' Code immediately remade

EDO NSW reacts to the events whereby the land-clearing Code was declared invalid in Court and immediately remade; plus NSW Regional Forests Agreement and much more...



## Protecting the marine environment

What tools do lawyers have to protect the marine environment and achieve justice in administrative law? Solicitor Belinda Rayment and marine scientist Jess Monte discuss.



## Help us respond to the threat of climate change

With your support, we can continue to pursue ground-breaking cases that test laws designed to assess the climate change impacts of coal mining.

# Today's presentation

- 1) Four Corners episode 'Pumped'
- 2) Why did it happen?
- 3) Outcomes
- 4) Ethics
- 5) River Lore, Water Lore



# 1) Four Corners episode 'Pumped'

- Allegations of non-compliance
- Allegations that investigations into non-compliance were shut down
- Allegations of misconduct by senior bureaucrats
- Cultural issues within government vis-à-vis compliance



## 2) Why did it happen?

- Concern about legality of Basin Plan implementation
- No parity re. community consultation and access to information – tipping point Northern Basin Review
- Legal pumping of environmental water.
- Concern re. Barwon-Darling Water Sharing Plan
- No action re. compliance and enforcement.



EDO NSW engaged by client



Evidence that led to civil enforcement case in NSW Land and Environment Court



**Four Corners**



### 3) Outcomes

- Inquiries, reviews, reports
- Independent Commission Against Corruption – ongoing investigation
- South Australian Murray-Darling Basin Royal Commission
- Legislative changes in NSW
- Prosecutions

#### Former NSW water minister, top bureaucrat to be referred to ICAC after ABC investigation

By Peter Derman (ABC News)  
NSW 11 May 2017 - Updated 10:45am AEST

f t +

A senior water official and the state's former water secretary, Sarah Thompson, will be referred to the state corruption watchdog over their relationship to contractors and politicians, Labor said, following an exposure trial of alleged mismanagement of the Murray-Darling Basin by the ABC.

Their Commission of Inquiry about alleged mismanagement of a 2011 NSW water agreement, *Canals of Deceit*, apparently offering to share confidential information with business lobbyists, including a possible plan to reallocate the state's water from the Murray-Darling Basin plus allegations.



## 4) Ethics

- Civil society – 4th pillar of democracy
- EDO NSW and experts acted where government would not
- Open standing provisions
- Not a substitute for government acting in public interest



## 5) River lore, water law



The image shows a screenshot of a Facebook post. At the top, the Facebook navigation bar is visible with the 'facebook' logo and a 'Log Out' button. Below the navigation bar, there are search and login fields. The main content of the post is a video player showing a man in a green shirt and a hat, identified as Uncle Badger Bates, standing by a river. The video player has a play button icon in the center. Below the video, the text reads: 'EDO Uncle Badger Bates Barkambi water and art at Wat Willem's NSW'. To the right of the video, there is a small box with the text: 'Watch: Uncle Badger Bates at Wat Willem's NSW'. Below the video, the post is from 'EDO NSW (Environmental Defenders Office NSW)' with a profile picture and a timestamp of '17:00:41 on 21'. The text of the post says: 'River lore, water law - our film about the people of the Barkambi-Caring Stone and their relationship to the mighty river and the EDO. Your support is also welcome: <http://www.edonsw.org.au/donate>'. At the bottom of the post, there is a 'Share' button.



Thank you

[www.edonsw.org.au](http://www.edonsw.org.au)

