

# An interview with Hon Justice Murray Wilcox AO QC

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On 19 April 2018, the Legal Practice Section's Australian Environment and Planning Group will be hosting the 2018 Environmental Law Symposium. The Symposium concludes with a special tribute acknowledging the contribution of the Honourable Justice Murray Wilcox AO QC to environmental jurisprudence.

Justice Wilcox AO QC served as a Judge of the Federal Court of Australia from 1984 to 2006, chief justice of the Industrial Relations Court, and a member and acting Chairman of the Australian Law Reform Commission.

After graduating from Sydney Law School in 1960, his Honour practised as a solicitor, specialising in planning and local government law, until being called to the Bar in 1963. He was appointed Queen's Counsel in 1977.

A strong advocate for environmental governance, his Honour has also served as Foundation President of the Environmental Law Association of New South Wales, President of the Australian Conservation Foundation from 1979 to 1984, and chair of the Environmental Defender's Office New South Wales from 2007 to 2013.

**Chair of the AEPLG, Jess Feehely, spoke with Justice Wilcox AO QC ahead of the Symposium.**



Honourable Justice Murray Wilcox AO QC



Jess Feehely

## What initially sparked your interest in environmental issues?

My mother was a country girl, having grown up in the Riverina, and had a real affinity for nature that she passed on to my brothers and me. We would go on long bushwalks and she would point out things along the way to help us to understand connections within the environment. We moved to Dee Why when I was a teenager and I also developed a love of the ocean that continues to this day.

I suppose that when you have a love or a respect for the environment and see it being degraded, there comes a point where you realise that you have little choice but to do something about it.

## You've had a varied and distinguished career. Is there one thing in particular that you're most proud of?

I will always be proud of the role I played in establishing the Environmental Defenders Office in the 1980s. There were many people involved in getting the office off the ground, but the original idea to establish the office arose from my experience of the need for greater access to legal advice on environmental issues.

In my roles as both the president of the Australian Conservation Foundation and Chair of the Environmental Law Association of NSW, I had become keenly aware of the scale of environmental concerns confronting the community. I was also a barrister with a busy practice, and was constantly getting calls from people seeking advice regarding environmental matters. While I provided assistance where I could, those matters often required information to be gathered, research to be undertaken and other tasks which were beyond what I had capacity to assist with.

All those involved in bringing the EDO to life recognised that the office needed to be staffed not just by dedicated environmentalists, but by talented lawyers who could match the legal expertise, strategy and confidence of better-resourced opponents in the resource and development industries. I will always be grateful for the initial sponsorship provided by the Environmental Law Association, and was delighted to watch the EDO network grow across the country.

EDO NSW and its counterparts in other states have done phenomenal work in matching the legal skills and tenacity of their opponents in numerous battles, and continue to serve their communities well.



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**You've been involved with the Australian Panel of Experts on Environmental Law and the project to develop a Blueprint for the Next Generation of Environmental Laws.**

**What changes do you think would make the most significant improvements in Australia's environmental governance?**

The APEEL project has been hugely influential in bringing together people who have been thinking about these matters for years, often decades. A lot of the recommendations in the Blueprint are not new, they're simply the evolution of ideas, or pushing back against some regressive changes in policies over time.

In my view, one key reform that will improve environmental outcomes is increasing public access to information. Where secret deals continue to be done between developers and governments, and the public is denied information on the basis of commercial-in-confidence or Cabinet matters exemptions, rigorous assessment cannot occur. Where projects have the potential to completely reshape a city, or a place, it's outrageous that the public faces so many hurdles to find out what's going on.

One of the more innovative recommendations from the Blueprint calls for a drastic increase in the role of the Commonwealth in environmental regulation. While the *Environment Protection and Biodiversity Conservation Act 1999* made a move towards centralising responsibility, far more needs to be done.

For that reason, I am strongly in favour of establishing a Commonwealth Environment Commission, akin to the Reserve Bank, with powers to monitor performance and take enforcement and restorative action where needed.

Without an independent body, we risk letting politics, rather than science, dictate our responses to environmental issues. Climate change is a case in point. The science leaves no doubt that climate action is needed, yet ideology has prevented successive governments from acting.

I have grandchildren, and a great grandchild now, and I'm even more keenly aware of the need for decisive action to protect their future. We need a strong, independent body that can rise above the ideology and just focus on what we need to do to address the problem.

**The Future of Environmental Symposium will be followed by the presentation of the Mahla Pearlman Young Environmental Lawyer of the Year. What advice would you offer young practitioners?**

My advice is simple: go for it. Be bold, and don't let people talk you out of pursuing a passion just because it is challenging.

It is good, and in some ways inevitable, to find a practice area that you love and to develop your expertise in that field, but it's also important to try new things. By working hard on things that interest you, and remaining open to everything that comes along, a legal career can offer opportunities to do the most incredible and unexpected things.

**To register for the 2018 Environmental Law Symposium, [click here](#).**

**Nominations for the Mahla Pearlman Young Environmental Lawyer of the Year close on 2 March 2018. To nominate a young lawyer making a significant contribution to environmental law, [click here](#).**



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