

✓ = fully implemented

Progress on implementing the NSW Government response to the coal ash inquiry recommendations		
<p>The NSW Government responses to 8 out of 16 recommendations have been fully implemented (1, 4, 5, 11, 13, 14, 15 and 16). The remaining 8 recommendations are in the progress of being implemented. An outline of the work undertaken for each NSW Government response to a recommendation is set out below.</p>		
✓	1	<p>The EPA and Dams Safety NSW have established a Memorandum of Understanding which is available on the EPA website.</p>
	2	<p>Air and groundwater monitoring frameworks are in place under all environment protection licenses for operating coal-fired power stations and related coal ash dams. This framework includes specific monitoring points for each site under the licence. It also includes pollution studies and reduction programs or other special conditions. These put additional requirements on licensees relating to monitoring, management or reporting of air and groundwater pollution. There is a strong framework in place for assessing the potential pollution impacts on air and groundwater at and around these sites. Further, licensees are required under their licence to publish the results of monitoring data that relates to pollution. Current and historical monthly monitoring data is published on each licensee’s website as required under the Protection of the Environment Operations Act 1997 with links available to that information on the EPA website.</p> <p>The NSW Government also operates an extensive ambient air monitoring network. This network monitors air quality across different regions of NSW. Current and historical data from this air monitoring network is available on the Department of Planning and Environment’s website.</p> <p>Next steps</p> <p>NSW EPA is currently undertaking its five-yearly review of environment protection licences for all operating coal-fired power stations: Eraring, Mount Piper, Vales Point and Bayswater. Public consultation opened on 23 October 2023 and closes on 27 November 2023. Following that process and any changes to licence conditions relating to the regulation of coal-fired power stations (including for the monitoring, management or reporting of air and groundwater pollution) the NSW Government response to this recommendation is anticipated to be fully implemented.</p>
	3	<p>The EPA is currently monitoring the environmental conditions near Eraring and Vales Point power stations in Lake Macquarie to assess the current condition, provide a basis for comparison in the future and contribute to any future remediation activities. The study investigates four key lines of evidence: surface water quality sampling, surface sediment sampling and sediment depth profiling, sediment ecotoxicity testing, and benthic ecological assessment.</p> <p>Next steps</p> <p>The EPA technical team coordinating the study has advised that reports covering all elements of the study will be peer-reviewed by independent experts, finalised and reported to the public by mid-2024. This time frame was also publicly stated by the Hon Penny Sharpe MLC in response to Legislative Council Question on Notice No. 861 asked by the Hon Abigail Boyd MLC on 10 July 2023.</p>
✓	4	<p>Notices of environmental protection legislation breaches are published on public registers accessible on the EPA website. Establishing a breach of environmental protection legislation often involves an evaluative process, which once finalised, is manually input into an EPA public register. This is done as close to real time as practically possible.</p>

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✓	5	Annual Dams Safety Standards reports are publicly available on each power station dam owner’s website. Dams Safety NSW would publish prosecutions and penalty notices on its website, but there are none to date.
	6	<p>NSW Health has engaged the Department of Planning and Environment (DPE) to lead analysis of existing environmental data relating to coal ash repositories. DPE have drafted a conceptual site model report based on available data which is currently being reviewed. A conceptual site model represents how contaminants move from sources through the environment to environmental receptors. This helps identify potential exposure pathways of contaminants to humans.</p> <p>Next steps</p> <p>NSW Health has advised that further community consultation will occur once the conceptual site model has been reviewed by all relevant agencies. Finalised findings will be shared with the community.</p>
	7	<p>The study of the environmental condition of Lake Macquarie that is referred to against recommendation 3 will provide a basis for further work to identify the impacts of coal ash repositories compared to other sources of the same pollutants at power stations.</p> <p>Next steps</p> <p>The full implementation of this recommendation is dependent on the completion of the study of the environmental condition of Lake Macquarie.</p>
	8	<p>The NSW Government noted this recommendation to establish a coal ash reuse taskforce. The intent of this recommendation is being achieved through programs under the <i>Waste and Sustainable Materials Strategy 2041: Stage 1, 2021-2027</i>. The Office of Environment and Climate Change is progressing work on a policy for NSW Government departments to preference products that contained recycled materials on an ‘if not, why not’ basis. Further, coal ash has been identified as a priority recycled material for the Circular Innovation Fund announced under the <i>Waste and Sustainable Materials Strategy</i>. The aim of this fund is to support research into new technologies and uses for recycled material and provide opportunities to pilot them in government projects. The Environment Protection Authority has also launched its program of work under the Carbon Abatement and Recycling Fund, which includes measures to support increased coal ash recovery and the use of coal combustion products in cement production.</p> <p>Next steps</p> <p>The Office of Environment and Climate Change is in the process of rolling-out Stage 1 of the Circular Innovation Fund, which includes: NSW Government support to identify recycled material procurement opportunities, tools and resources to assist NSW Government procurement of recycled materials, education and awareness raising of recycled materials, specification development for priority recycled materials, and targeted investment attraction.</p>
	9	<p>The NSW Government supported this recommendation in principle and stated in its response that “existing regulatory controls combined with commitments in the Waste and Sustainable Materials Strategy 2041 provide a comprehensive way forward to ensure robust regulation and encourage innovation”.</p>

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	Next steps
	The implementation of the NSW Government response to this recommendation is dependent on the completion of the EPA's five-yearly review of environment protection licences for all operating coal-fired power stations and relevant programs of work under the <i>Waste and Sustainable Materials Strategy 2041</i> outlined above to be established.
10	In answers to questions on notice at Budget Estimates 2022-2023 for the Environment and Heritage Portfolio, it was advised that Transport for NSW will review its procurement practices on using recycled materials by 30 June 2023 and will include any amendments to its construction standards by 31 December 2023. This work is on track according to that timeline.
✓ 11	Infrastructure NSW has reviewed its procurement practices and noted that it does not have a role in determining specifications for materials or building methods for infrastructure delivered by other agencies.
12	In answers to questions on notice at Budget Estimates 2022-2023 for the Environment and Heritage Portfolio, it was advised that Transport for NSW will complete a determination of the acceptable fly ash (loss on ignition) limits by 30 June 2023 and will amend construction standards according to the findings by 31 December 2023. This work is on track according to that timeline.
✓ 13	The EPA entered a memorandum of understanding with the Ash Development Association of Australia on 17 October 2023. This supports an initiative to map and characterise ash repositories across NSW to gain a better understanding of resource supply and applications to inform industry investment. A program of work under the Carbon Abatement and Recycling Fund has been publicly announced on the EPA website, which includes initiatives for the use of coal combustion products in cement production. This program of work is complemented by the publicly announced EPA Protection of the Environment Policy (PEP) for sustainable construction. The PEP promotes low-carbon design and construction, and increased use of remanufactured waste in NSW public infrastructure projects. These established programs of work fulfil the implementation of the NSW Government's response in support of this Inquiry recommendation.
✓ 14	On 19 and 20 October 2023, the EPA varied the licences of operating coal power stations to impose conditions to ensure that the quantity of coal ash stored and produced, and the destination and purpose of coal ash reused, is publicly reported. These licence variations are available on a public register accessible on the EPA website. The first annual report relating to these new licence conditions is due to be published on each licensee's website and submitted to the EPA by 31 October 2024.
✓ 15	As outlined in relation to recommendation 13, the NSW Government has promoted circular economy principles when dealing with coal ash waste and promoting reuse through the established and publicly announced program of work under the Carbon Abatement and Recycling Fund.
✓ 16	NSW Treasury has published on its website the baseline environmental studies conducted for each operating power station.