

The Hon. Mark Banasiak MLC
Chair, Parliamentary Committee No. 4 - Regional NSW
Parliament of NSW

By email: budget.estimateds@parliament.nsw.gov.au

Dear Chair

I write in respect of comments made about the NSW Environment Protection Authority (EPA) in connection with forestry matters at the Portfolio Committee No. 4 Regional NSW, Budget Estimates 2025-2026 Inquiry in relation to the Agriculture, Regional NSW, and Western NSW portfolio hearing on 1 September 2025.

At the hearing the Chair of the committee made the following comments (Portfolio Committee No. 4 – Regional NSW transcript of hearing page 68):

The Chair: Is DPIRD [the Department of Primary Industries and Regional Development] comfortable with abdicating control of the IFOAs [Integrated Forestry Operations Approval (IFOA)s] to the EPA, given their statements on Friday in estimates, where they were actually quite denigrating toward Forestry and showed probably a bias against Forestry?

...

The Chair: But the regulator shouldn't show a bias one way or the other.

The EPA Chief Executive Officer, Mr Tony Chappel, was a witness before the Portfolio Committee No. 7 – Planning and Environment Budget Estimates 2025-26 Inquiry into Climate Change, and Energy, and Environment, and Heritage on 29 August 2025. At that inquiry Mr Chappel made a number of statements in relation to forestry matters. This included statements made as part of the following exchange (Portfolio Committee No. 7 – Planning and Environment transcript of hearing page 65)

Tony Chappel: No, one way to think about the way forestry – native Crown forestry - is regulated in NSW is there's essentially a document [Mr Chappel referring to the IFOA document] which is a licence to harm the environment, to extract certain wood volumes –

The Hon. Wes Fang: You say, "harm the environment". That's a very pointed term, isn't it?

The Chair: No, that's the law.

Ms Cate Faehrmann: Factual.

Tony Chappel: I think it's the way to legally describe any impact to species that obviously can –

The Hon. Wes Fang: "Sustainably harvest" might be another way.

Tony Chappel: The sustainability comes in the form of the rule set. Some level of harm is accepted, prima facie, and then the rule set seeks, because it's inevitable – and, yes, I agree with you, it's a renewable resource. But it needs to be extracted in a way that complies with those rules. A defence to some of these provisions is conducting an operation in accordance with the relevant IFOA. The EPA allegation sort of goes to that.

In that exchange Mr Chappel refers to “a licence to harm the environment.” That expression derives from the former *Threatened Species Conservation Act 1995* (Threatened Species Act). Section 91 of that Act authorised the granting of a licence to harm or pick threatened species, populations or ecological communities or damage habitat. The Act was repealed on 25 August 2017. The requisite approval for those activities became an integrated forestry operations approval (IFOA), granted by the relevant Ministers under the *Forestry Act 2012* (Forestry Act). The IFOA, under the Forestry Act, operates as a single consolidated forestry approval incorporating individual environmental licences, which historically included a licence to harm under the former Act.

The purpose of IFOAs is to authorise the carrying out of forestry operations in accordance with principles of ecologically sustainable forest management, integrating regulatory regimes for environmental planning and assessment, for protection of the environment and for threatened species, so that the carrying out of those operations occurs under the one instrument of the IFOA. The principles of ecologically sustainable forestry management include, amongst other things, the productive capacity and sustainability of forest ecosystems (s69L(2) Forestry Act). There are offences in connection with forestry operations under a number of Acts including the *Biodiversity Conservation Act 2016* (BC Act) which contains offences for activities relating to harming certain animals, picking certain plants and damaging the habitat of threatened species. Under the BC Act, there is relevantly a defence where an offence occurs through the carrying out of forestry operations in a state forest to which an IFOA applies where the operations are carried out in accordance with the approval.

Mr Chappel's follow-up comments were seeking to explain to the Committee's members the above rule set and how the balancing of interests occurs through IFOAs and that there is inevitably harm to the environment from forestry operations and the EPA's role is to ensure compliance with the rules.

The EPA operates as an environmental steward and regulator committed to a sustainable future. As part of this the EPA seeks to prevent harm, improve environmental regulation and partner with industry. Those goals are embedded in the EPA's narrative and supported through the EPA's strategic plan, regulatory framework and associated policies and procedures.

The EPA's Board has reviewed the transcript and believes that Mr Chappel's comments in their totality accurately reflected the role of the EPA and did not denigrate nor in any way display a bias against FCNSW.

In line with the Procedural fairness resolution of the Legislative Council adopted to provide proper process and fair treatment for inquiry participants, and procedure 13(c) of that resolution, I request that this correspondence be considered by the committee and published as part of the Inquiry's records.

Sincerely

Rayne de Gruchy AM PSM
Chairperson of the Board
NSW Environment Protection Authority

15 September 2025