

GENERAL PURPOSE STANDING COMMITTEE NO 5  
INQUIRY INTO THE PERFORMANCE OF THE ENVIRONMENT PROTECTION AUTHORITY  
**QUESTIONS ON NOTICE – HEARING 4**

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## MINISTERIAL DIRECTIONS

### QUESTION 1

**Mr LUKE FOLEY:** I think I am right in saying that the Act requires, in the event of any ministerial direction, that that would be in writing and reported to Parliament. That is correct, is it not?

### ANSWER

Section 13(3) of the *Protection of the Environment Administration Act 1991* provides:

(3) A report of:

- (a) any direction of the Minister for the inclusion of additional information in a state of the environment report under this Act, or
- (b) any direction of the Minister under section 13A and the determination of the Minister with respect to the exercise of the licensing function concerned,

is required to be tabled by or on behalf of the Minister in each House of Parliament (within 14 sitting days of that House) and is to be included in the next available annual report of the Authority.

### QUESTION 2

**The Hon. LUKE FOLEY:** Can I ask you to search your files after today's hearing and if there has been any advice from the Public Service Commissioner on how you manage the dual responsibilities of being both chairperson and chief executive officer, would you be prepared to furnish the Committee with that written advice?

### ANSWER

There are no records on file of such advice from the Public Service Commissioner.

**EPA MUSWELLBROOK OFFICE****QUESTION 3**

**Dr MEHREEN FARUQI:** Do you know when that office (Muswellbrook) was closed? If you would not mind, I would like to know when that office was closed.

**ANSWER**

2004

## CHESTER HILL

### QUESTION 4

**Dr MEHREEN FARUQI:** I have a couple of questions about the Chester Hill fire. I understand that it has cost in excess of \$2 million to clean up, not including the health impacts on surrounding communities. How much of this has been recovered from the operator, if indeed that is the cost?

**Mr BUFFIER:** That is an approximation of the cost. We did hold a bond for the site. I would have to take it on notice as to what that was—it was less than \$100,000....

### ANSWER

The EPA obtained \$2.1 million in emergency funding from the NSW Environmental Trust to take the necessary clean up action to protect the local community and the environment. The EPA is conducting a criminal investigation into those who caused the fire and the associated impacts and is also seeking advice on the opportunities for cost recovery from the operators or their insurers.

The EPA has already claimed the \$100 000 financial assurance held for the site and paid this to the Environmental Trust.

## EPA STAFFING AND BUDGET

### **QUESTION 5**

**The Hon. LUKE FOLEY:** Would you be to take on notice and come back to us with some written advice on the recurrent budget increase since 2012—the increase that you drew our attention to from \$117 million to \$142 million—and attempt, as best you can, to break that down for the Committee into what the extra appropriations have been, if I can put it that way, and what has been a transfer to the authority from other arms of Government, whether it be the Office of Environment and Heritage, the Office of Coal Seam Gas or indeed any others? Would it be possible to do that for us?

### **ANSWER**

Base or core funding for the EPA has remained around \$61.5 m per annum over this period. Additional funding received by EPA has been for projects funded mainly from external sources such as:-

Function	\$ million per annum
Coal seam gas regulation	2.5
Risk Based licensing implementation	0.7
Waste Less Recycle More program	around 11.0
Contaminated land management	2.0
<b>Functions transferred from the Office of Environment and Heritage</b>	
Air policy staff	1.9
Noise policy	1.3
Clean air projects	3.0
Private native forestry regulation	1.3
Public affairs staff	0.5

Capital funding has also increased from \$150,000 to more than \$3.8 million for 13/14.

### **QUESTION 6**

**The Hon. LUKE FOLEY:** What can you tell us about staff numbers in the authority? How many staff, expressed in full-time equivalents, did the authority have at the time of the reconstitution of the authority in early 2012? How many staff, in full-time equivalent numbers, does the authority have today? Could you assist us with that?

### **ANSWER**

EPA reports each year to NSW Treasury on staffing numbers, which are published in the annual Budget Papers. For 2011-12 the Treasury Budget Papers show that the total EPA average staffing level in that year was 395 FTE. The EPA has a total of 454.5 FTE staff as at 30 November 2014. These staff numbers include all operational staff as well as any business support staff.

### **QUESTION 7**

**The Hon. LUKE FOLEY:** So you have increased your staff by about 50 over the last 2½ years. Once again can I ask is that because people elsewhere in government are now in your bailiwick as employees of the EPA and/or have there been new positions created that were not under the employ of the New South Wales Government in early 2012?

**The Hon. LUKE FOLEY:** Could you do your best to get back to us with some breakdowns?

### **ANSWER**

The major initiatives approved by Government that have increased EPA staff levels are:-

<b>Initiative</b>	<b>Staff FTE</b>
Waste Less Recycle More Program	20
Water policy function transfer (from the Office of Environment and Heritage)	3
Coal Seam Gas regulation	12
Contaminated Land management program	5
Risk Based Licensing implementation	7
WELE funded air programs (from the Office of Environment and Heritage)	6
<b>TOTAL</b>	<b>53</b>

### **QUESTION 8**

**The Hon. LUKE FOLEY:** How many sections does the Environment Protection Authority have in the sense of your organisational structure? I note when Mr Harley took us into the forest he advised us that there is a forestry section with around 27 staff. I am just interested in learning how many sections you have operationally.

**Mr Gifford:** In the Regulatory Services Division and operationally, I do not know the exact numbers—we could take it on notice—but the number of operational staff in the Regulatory Services Division are over half the number of staff in the organisation. Then there are, as I say, operational staff in Waste and Hazardous Incident as well. I would have to take on notice the actual number in total (EPA to supply numbers of staff for RSD, Waste and HIEH).

### **ANSWER**

The EPA consists of one division and seven branches (see the organisation chart accompanying these responses):

• Regulatory Services Division	244.4 FTE
– Metropolitan Branch	41.2 FTE
– North Branch	63.2 FTE
– South Branch	67.4 FTE
– Reform and Compliance Branch	69.6 FTE
• Waste and Resource Recovery Branch	119.0 FTE
• Hazardous Incidents & Environmental Health Branch	66.0 FTE
• Stakeholder Engagement and Governance Branch	23.1 FTE

All but Stakeholder Engagement and Governance Branch undertakes operational functions. The Service Agreement with the Office of Environment and Heritage provides corporate, legal and scientific services.

**QUESTION 9**

**Chair:** Mr Buffier, just to clarify matters, if you have not already done so would you be able to provide the Committee with an organisation chart that shows the number of employees and the different divisions and so on? That might save a lot of trouble for Hansard.

**Mr Buffier:** I am certainly happy to take it on notice.

**ANSWER**

An EPA organisation chart accompanies this document.

**Additional questions on staffing (coal seam gas) – see questions 14 and 15.**

## COAL SEAM GAS – PILLIGA

### QUESTION 10

**The Hon. RICK COLLESS:** What do you mean by "elevated levels"? Was there any uranium detectable in the pond water?

**Mr GIFFORD:** I think it was below the detectable limit...

### ANSWER

'Elevated levels' indicates that the concentrations detected within those bores were higher than the concentrations detected within the surrounding bores, including up-gradient and down-gradient bores. The gradient refers to the direction that the ground water moves.

Testing of the pond water showed uranium levels in the ponds to be below the laboratory detection limit. The detection limit is 5 parts per billion.

### QUESTION 11

**Mr BUFFIER:** Yes. A similar article had run in the *Northern Daily Leader* back in April, so it was difficult to understand the time pressures.

**Mr SCOT MacDONALD:** What do you think that does to the quality of the debate and the information necessary for people to make informed decisions, if you like?

**Mr BUFFIER:** I think the issue is that we would like to put more resources into making sure that the public understands what the actual position is. On those very short time frames even with the best will in the world it is very difficult for someone to get their head around all of the issues. What I would like to do possibly is to table our response to that request because you can see there that we have provided a very detailed response.

**Mr SCOT MacDONALD:** And what do you get—one sentence in the paper?

**Mr BUFFIER:** I am not making a comment about the sentence but what I am saying is in terms of improving environmental outcomes it would be good to be able to get that story into the general arena. I might have to find where that response is first.

**CHAIR:** That is okay. You can provide it to us at your leisure.

### ANSWER

A copy of the tabled response was provided to the Committee by email on 26 November 2014.



## CLARENCE COLLIERY

### QUESTION 12

**Mr SCOT MacDONALD:** Can I ask you specifically about some statements made by the Colong Foundation for Wilderness. They say in their submission that macroinvertebrate richness below the mine discharge has decreased by 65 per cent and abundance by 90 per cent. Are you in a position to respond to that?

**Mr BUFFIER:** In broad terms we are in a position to respond to that. I think the general statements made by the Colong Foundation we are in agreement with in terms of the licensed discharges do need to be improved. This is something that has been there for a considerable period of time, it certainly predates me on the existing board, but there is room to improve. We have reviewed this licence on a number of occasions. We do believe that the licence conditions on the discharge need to be changed. This is not unique, I suppose. We have other issues with discharges from coalmines. I think West Cliff would be a good example of that where we have significantly tightened up and tightened the restrictions. I will ask Mr Gifford to elaborate in a bit more detail.

**Mr SCOT MacDONALD:** I am going to run out of time so you can take the question on notice.

**Mr GIFFORD:** We are happy to receive information from anyone at any time about environmental impacts. This particular report is one that we are considering currently as part of a review of the licence for the colliery that is discharging into the Wollangambe River.

### ANSWER

The findings of the research paper by Belmer et. al (2014)\* which reported the decrease in macroinvertebrate richness below the mine discharge of 65 per cent and abundance by 90 per cent are being taken into consideration by the EPA as part of its five year licence review of the Clarence Colliery environment protection licence.

In order to add to this research, the EPA has engaged the Office of Environment and Heritage to conduct an assessment of the aquatic ecosystem of the Wollangambe River upstream and downstream of the discharge from Clarence Colliery. This research, which was conducted in October 2014, included sampling of the water quality and macroinvertebrate communities in the Wollangambe River and nearby streams, and also sampling the quality of the mine water being discharged from the colliery. The EPA is waiting for OEHL to provide a report early in 2015 which will be used in the licence review. This report will be peer reviewed and publicly available.

On 19 December 2014, the EPA is meeting with one of the co-authors of Belmer et al (2014), Dr Ian Wright, of the University of Western Sydney, to discuss these findings in relation to the EPA's licence review. Other parties which made a submission to the Inquiry, such as The Colong Foundation for Wilderness and the Blue Mountains Conservation Society, will also be attending the meeting.

Information provided by research papers based on field assessments of water quality and aquatic ecosystems inform the EPA of the state of the rivers which receive licensed discharges, and form the basis of future decisions about what changes need to be made to licence limits for pollutants authorised by the licence.

\*Belmer, N., C. Tippler., P.J. Davies., and Wright, I.A. (2014). Impact of a coal mine discharge on water quality and aquatic ecosystems in the Blue Mountains World Heritage area, in Vietz, G., Rutherford, I.D. and Hughes, R. (editors), Proceedings of the 7<sup>th</sup> Australian Stream Management Conference, Townsville, Queensland, Pages 285-291.

## HUNTER RIVER WATER QUALITY

### QUESTION 13

**Mr SCOT MacDONALD:** My next question goes to the Lock the Gate Alliance submission. Their first point on page 1 states:

Pollution standards and load limits must be imposed based on objective environmental and health standards ... and so unlimited quantities of dangerous toxins are being discharged for example from Hunter Valley mines into the Hunter River, and from flaring at coal seam gas sites into the air near homes.

You would take from that that the Hunter River is in serious trouble. Could the EPA come back to us on that one? It is a very broad statement and the public reading it would be concerned, I would have thought.

**CHAIR:** The question is: Can the EPA respond?

**Mr BUFFIER:** We will provide a response.

### ANSWER

The EPA is committed to the ongoing health of the Hunter River. The role of the EPA in maintaining water quality focuses on point source pollution and diffuse water pollution from activities regulated by the EPA such as under the *Protection of the Environment Act 1997*.

The Hunter River Salinity Trading Scheme is the principal mechanism used by the EPA to manage point source discharges of saline water into the Hunter River and its tributaries.

This Scheme has been highly successful in reducing salt loads on the Hunter River and has been held up internationally as an outstanding example of a successful economic instrument and emissions trading scheme.

Since the Scheme was introduced, salinity targets have only been exceeded on a few occasions for very short periods. This is even though the amount of coal mining in the Hunter catchment has significantly increased.

The Scheme has recently been [reviewed](#) and the success of the scheme has been confirmed. The review examined opportunities for improvements and a report on the outcomes will be released shortly.

Analysis suggests that the Scheme rules, designed to manage salinity, also mitigate the impact of other pollutants found in mine water, such as metals. The EPA is considering further scientific research and analysis of this issue.

The EPA is also carrying out a water quality study of the Lower Hunter River using funding from the Environmental Services Order arising from the prosecution of Orica Australia Pty Ltd for incidents in 2010/11. The objective of this project is to design and implement a Lower Hunter River Health Monitoring Program in the vicinity of the heavy industry precincts in the Newcastle Port area to determine if the industries could be having a significant cumulative impact on the health of the Hunter River.

There is currently no flaring from coal seam gas facilities in the Hunter region.

## COAL SEAM GAS STAFFING

### QUESTION 14

**The Hon. LUKE FOLEY:** Can you give us a ball park figure on how many of the EPA's staff are currently involved in compliance and enforcement of coal seam gas activity in New South Wales? (Page 22 of the Transcript)

**Mr BUFFIER:** Could I say one thing, please? On the number of staff in relation to coal seam gas, I think there is a lack of clarity there. Could we supply that on notice, please, to clarify that? (Page 24 of the Transcript).

### ANSWER

There are currently 12 FTE operational staff involved in the regulation of coal seal gas activities in NSW including two hydrogeologists and a spatial mapping specialist.

The EPA also relies on assistance from scientific experts and legal officers from the Office of Environment and Heritage, in regulating CSG activities.

### QUESTION 15

**The Hon. LUKE FOLEY:** The forestry section has 27 people. Where do you think we will end up with a gas team? How many employees roughly do you expect would be in a gas team involved in compliance and enforcement of coal seam gas activity in this State?

**Mr GIFFORD:** Again I would have to take the question on notice to be absolutely accurate, but it will involve at least a dozen operational officers. It will require policy officers, legal officers, scientific officers as well as hydro geologist specialists, for instance, and access to the services that are currently provided to us by the Office of Environment and Heritage around litigation and in particular scientific services.

### ANSWER

The exact scope of the EPA's responsibilities for the regulation of coal seam gas is still being finalised. Based on funding projections (\$4.9 million), the upper limit for staffing is likely to be 30 FTE.