

**INQUIRY INTO PERFORMANCE OF THE NSW  
ENVIRONMENT PROTECTION AUTHORITY**

**Organisation:** North Coast Environment Council

**Date received:** 27/08/2014

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North Coast Environment Council Inc.

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Honorary Secretary  
John Jeayes

### Submission to the Performance of the NSW Environment Protection Authority (Inquiry)

The North Coast Environment Council (NCEC) is the peak regional conservation organisation for northern NSW. Formed in 1976, the NCEC membership consists of more than 30 groups and individuals based in the area from the Hunter to the Tweed and west to the New England Tablelands.

For the 37 years of our existence we have educated, lobbied, campaigned and advocated for the environment of the north coast region and the communities which depend on it.

The North Coast Environment Council has been appalled by the lack of effective action by the NSW Environment Protection Authority (EPA).

This government body seems to be either understaffed and inadequately resourced, staffed by incompetent assessors or encouraged by a culture to facilitate industry through not inspecting vigorously for possible breaches, ignoring breaches or redefining those breaches when dragged to observe them by activists.

When breaches are painfully obvious invariably weak penalties are applied which in no way discourage bodies like FNSW from repeating them again and again. Often the fine does not even amount to the value of the wood from a single tree.

The EPA's performance has been publicly criticized in issues involving potentially dangerous pollution leaks in cases involving Orica and others and there have been accusations of political influences.

[http://newsstore.fairfax.com.au/apps/viewDocument.ac;jsessionid=9780A311FBF2D02F72A8B1B8745AE897?sy=afr&pb=all\\_ffx&dt=selectRange&dr=1month&so=relevance&sf=text&sf=headline&rc=10&rm=200&sp=brs&cls=1604&clsPage=1&docID=SHD140302CO56U1D5C8V](http://newsstore.fairfax.com.au/apps/viewDocument.ac;jsessionid=9780A311FBF2D02F72A8B1B8745AE897?sy=afr&pb=all_ffx&dt=selectRange&dr=1month&so=relevance&sf=text&sf=headline&rc=10&rm=200&sp=brs&cls=1604&clsPage=1&docID=SHD140302CO56U1D5C8V)

Issues identified by the NSW EDO include

- **land contamination issues at Botany and Hillsdale**
- **EPA investigations and public statements about the effects of coal dust pollution in the Hunter**
- **EPA investigation into ground water contamination in the Pilliga by Santos' coal seam gas exploration**
- **the prosecution of Du Pont (Australia) Ltd for the alleged offence of land pollution in the western Sydney suburb of Girraween;**

- **pollution in the western Sydney suburb of Girraween**

### **the regulation of cruise passenger ships at the White Bay Cruise Terminal at Balmain**

The NCEC has been involved with the identification of many breaches by Forest Corp on the north coast of NSW as have activists all over NSW including on the south coast. These incidents have often led to claims that the EPA is ineffective and probably in some cases complicit through lack of will to prosecute or even to look for or to find breaches. It is as if the EPA is just another arm of the Forest Corp.

From the Smokey Mouse decision 2011

*103 Given the number of offences the Forestry Commission has been convicted of and in light of the additional enforcement notices issued against it, I find that the Forestry Commission's conduct does manifest a reckless attitude towards compliance with its environmental obligations. I, therefore, find the prior criminality of the Forestry Commission to be a relevant aggravating factor to be taken into account in the determination of the appropriate penalty to be imposed in these proceedings.*

NCEC further recommends the Inquiry's perusal of the findings by the NSW EDO in its recent paper "When A Tree Falls"

[http://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/284/attachments/original/1380667654/110728when\\_a\\_tree\\_falls.pdf?1380667654](http://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/284/attachments/original/1380667654/110728when_a_tree_falls.pdf?1380667654)

which begins with the quote:

*[I]n my view, the number of convictions suggests either a pattern of continuing disobedience in respect of environmental laws generally or, at the very least, a cavalier attitude to compliance with such laws.*

*Justice R A Pepper, NSW Land and Environment Court, 8 June 2011*

*Department of Environment, Climate Change and Water v Forestry Commission of NSW*

The North Coast Environment Council has a view much in common with that of the Clarence Environment Centre and the North East Forest Alliance.

We support:

1. A transparent and repeatable process and criteria for identifying and protecting core and potential Koala habitat across all tenures;
2. An independent process for assessing forests well in advance of logging to identify Koala habitat, with an aim to complete the delineation of Koala habitat on public lands within 3 years;
3. A requirement that habitat trees required to be retained for fauna habitat have their GPS localities recorded when marking to better facilitate implementation, auditing and ongoing protection;
4. The mapping of areas affected by, and vulnerable to, Bell Miner Associated Dieback in harvest plans and the exclusion of logging from affected and vulnerable stands; (Given that the NSW Scientific Committee has identified canopy loss greater than 35% as a trigger for BMAD, harvest plans should reflect that by reducing logging rates accordingly or, better still, suspend all logging in BMAD prone forests).
5. Penalties that reflect the seriousness of the offence and that are progressively increased for repeat offences; (As any fines are levied on the Forests Corp, the only ones that suffer from increased fines are the NSW taxpayers. I believe penalties should be aimed at those who actively break the regulations, perhaps dismissal with loss of benefits such as long service. Until that happens, nothing will change).
6. Removal of a cap on the issuing of Penalty Notices, and their issuing for all significant offences and

repeat offences, according to explicit criteria;

7. Requirements for rehabilitation of illegally logged sites and the provision of compensatory habitat;

8. A requirement for the EPA to prepare professional and comprehensive reports documenting their investigations and justifying their conclusions from significant investigations, rather than just sending letters to complainants;

9. A requirement for EPA auditors to have appropriate training and environmental expertise in what they investigate;

10. A requirement that all investigation reports be completed within 3 months and made publicly available on the web;

11. An independent mechanism which embodies scientific expertise and not ex-foresters.

Yours sincerely,

John Jeayes Hon. Sec. NCEC