

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

**Organisation:** Central Coast Greens

**Date received:** 31/08/2014

---



*Social and economic justice; ecological sustainability;  
peace and non violence; grassroots democracy*

**29/8/2014**

**SUBMISSION TO THE PERFORMANCE OF THE NSW ENVIRONMENT PROTECTION AUTHORITY (INQUIRY) OF THE GENERAL PURPOSE STANDING COMMITTEE NO. 5**

**The Central Coast Greens request that the committee consider the actions and inaction by the EPA in relation to the Landfill project, EPA License 11395, at Hallards Rd, Mangrove Mountain.**

The Central Coast Greens believe that the actions, or lack thereof, of the EPA in this matter mean that the Authority has not been fulfilling its objectives as set out in the Act. In particular, we believe the following have not been met:

*PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT 1991 - SECT 6*

*Objectives of the Authority*

*(1b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:*

- regulating the transportation, collection, treatment, storage and disposal of waste,*
- promoting community involvement in decisions about environmental matters,*
- ensuring the community has access to relevant information about hazardous substances arising from, or stored, used or sold by, any industry or public authority,*

*(2ai) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

*(2di) polluter pays-that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*

**SPECIFIC POINTS**

*(1b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:*

- regulating the transportation, collection, treatment, storage and disposal of waste,*

**1. Reacting to complaints:**

We understand that on several occasions local residents contacted the EPA to complain that non-permissible waste had been dumped at the site. Their information came from anonymous calls from truck drivers, who, fearing for their jobs, were not prepared to speak

publicly. In a phone conversation on August 27 2014 (5.30-6pm) , Regional Waste Compliance EPA Hunter, told me that the EPA could not act on these complaints as they were not specific enough.

We believe that this is a circumstance in which it would not be possible for local residents to obtain more information – in a context where alleged breaches of consent or license conditions are taking place, it should be expected that whistle-blowers would make anonymous tip-offs, and that these tip-offs would not be written to satisfy bureaucratic guidelines.

Similarly, if the truck drivers in question do not know what exactly is in their load, but have grave concerns, the local residents making complaints to the EPA are unlikely to be in a position to identify the suspicious materials either. Furthermore, no whistle-blower is going to want their cover blown by allowing local residents to specify the exact date and time the load was delivered – this would make it too easy for the operators to identify the source of the information leak.

, of the Mangrove Mountain & Districts Community Group, has confirmed that she rang the EPA on several occasions over several years with information obtained anonymously from truck drivers. Although she has not recorded every one of these calls, several were logged in the EPA system.

also made allegations that there was an alternative route around the weighbridge at the landfill site, but the EPA, as far as she knows, never inspected the area to find out if trucks could by-pass the weighbridge.

**The EPA must be able to recognize that when a series of similar complaints are made, particularly when clearly related to whistle-blowers, this should be sufficient to consider acting on the complaints even if they are not in an explicit form.**

## 2. Making monitoring results easily obtainable

Whenever results of monitoring tests are not made publicly, and easily, available in a timely manner, our community is now at the point where those tests are no longer trusted. This is particularly the case when the operator pays for, and selects, the consultants who undertake the tests. In the case of the Mangrove Mountain landfill, Verde Terra has submitted annual returns, usually in the January following the 12-month period for which the returns apply. Although these returns are listed, they are not available through the website.

, in the phone call mentioned above (27/8/2014, 5.30pm) undertook to forward all the annual returns containing the monitoring results, and we confirmed this request the following day by email. No acknowledgement of receipt of that email has yet been received.

A local environmental group, Community Environment Network, requested data from the EPA in early 2014 relating to the tonnages received at the land fill over the years of the license. They have received no response to date.

**Without this information, the community is in no position to determine the volume of material being deposited, hence compliance with the license condition, nor whether the material in the landfill is hazardous or not.**

### 3. Providing full information

Using the EPA website as a source of publicly available evidence, we have attempted to research any non-compliance events which are noted. A single example indicates the poor level of information available for the community:

In the annual return for Nov 2012/13, the following non-compliance was noted: "Groundwater could not be sampled during quarterly monitoring event for 2012/13 licence period, due to insufficient water present in the well at that time of monitoring." This occurred 5 times.

The response is "Appropriate Action taken by licensee".

There is no information to determine what an appropriate action might be, nor to indicate which well or wells were involved, whether sufficient water was present in wells at other times during the period and why monitoring was not done then. This is clearly inadequate.

(<http://www.epa.nsw.gov.au/prpoeoapp/Detail.aspx?id=11395&periodid=41358&searchrange=licence&option=noncompliance&range=POEO%20licenceP>)

**The community does not have access to relevant information about hazardous substances arising from, or stored by, the operators of the landfill, and this breaches that objective under the Act.**

*(2ai) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment,*

The EPA's failure to respond to complaints by local residents, and the barriers to access information on the testing under objective 1b, means that the EPA is unable, as per objective 2a, to undertake careful evaluation in order to avoid serious or irreversible damage to the environment.

*(2di) polluter pays-that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*

We understand that the financial assurance required was approximately \$300,000. This bears so little relationship to the potential cost of environmental clean-up, in the event that conditions are breached, that it is suspicious. What incentive does this give an operator to fulfil all the conditions of consent or license, if they risk losing such a relatively small sum of money. If there is a polluter-pays principle, it should extend to the size of the financial assurance, and if the operation changes, the level of the assurance should also change.

## **Conclusion**

In general terms, the EPA's response to the general community has been inadequate. Local residents, and the Central Coast Greens are concerned that, if breaches of the consent or license conditions have occurred, Hallard's Creek, part of the Central Coast's drinking water catchment, may have been polluted. The EPA's frequent response to complainants is that there cannot be hazardous materials at the site because the licence does not allow it. This reliance on consent and license conditions as a barrier to the dumping of illegal material is at best naïve.

Shortly after taking up his position as GM (now CEO) of Gosford Council, Mr Paul Anderson was so alarmed at what he uncovered in Council documentation relating to this landfill that he referred staff to ICAC. We suggest that the EPA consider that this is a clear indicator that other conditions, for which they are responsible, might well have been breached.

**Because of these concerns, we request that the Standing Committee add this case study to those they are considering as part of this Inquiry into the EPA**

Submission drafted by

Dr Kate da Costa

Convenor, Water/Energy/Environment Working Group  
Central Coast Greens  
PO Box 4370, LAKE HAVEN 2263

Endorsed by CC Greens Campaign Committee.