



Planning &  
Environment

# Compliance Report

August 2016





## The Department of Planning and Environment's Compliance Team works with communities across NSW to ensure projects such as mines, industrial sites, major developments and infrastructure meet the strict conditions included in their approvals.

Our Compliance Team works closely with the community, local councils and other state and federal government agencies to educate proponents, investigate potential breaches and carry out enforcement where necessary.

Information from community members is an important avenue for the Compliance Team to learn about issues to investigate. Enforcement can range from negotiating fixes, issuing penalty notices and, in serious cases, criminal prosecutions. As well as conducting monitoring and enforcement activities, the Compliance Team plays an important role in educating proponents, community members and other stakeholders about the Department's compliance functions.

Education sessions allow the Department to reinforce expectations, better understand industry specific issues, the systems used to ensure compliance, listen to community concerns, provide feedback on sector or company performance, and promote best practice across all industry sectors.



### Activity

Below is a snapshot of the Compliance Team's activity in August 2016:

COMPLIANCE MONITORING ACTIVITIES	August 2016	2016/2017 Total
Inspections and surveillance carried out	81	177
New investigations commenced this month	36	63
Review of compliance documentation	42	77
Subtotal compliance monitoring	<b>159</b>	<b>317</b>

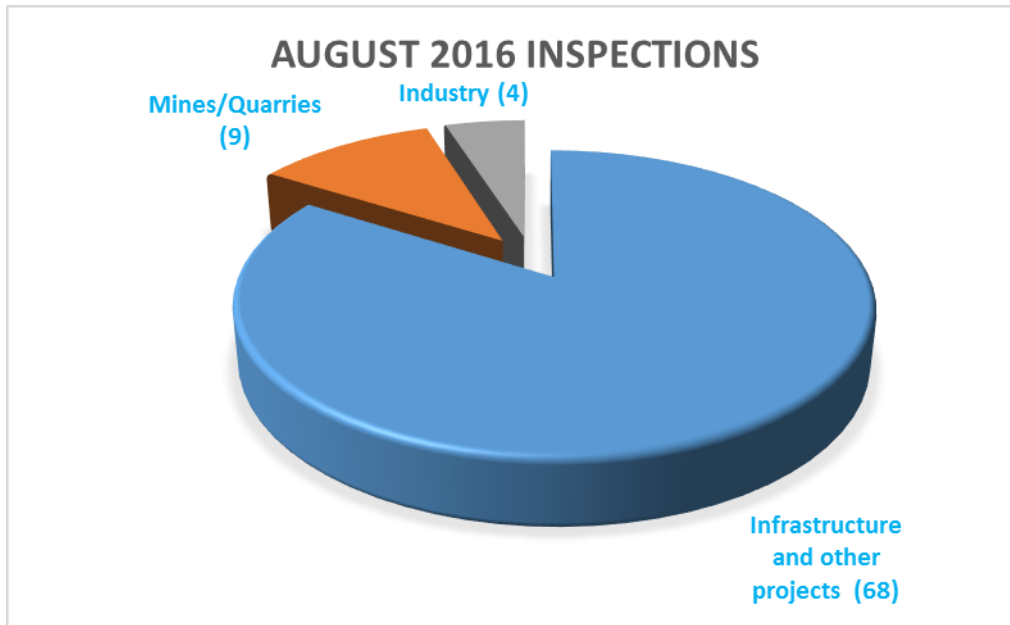
  

ENFORCEMENT ACTIVITIES	August 2016	2016/2017 Total
Official Cautions issued	2	12
Orders imposed	1	5
Penalty notices and fines imposed	4	6
Prosecutions	0	0
Subtotal enforcement	<b>7</b>	<b>23</b>



## Monitoring

The Department's Compliance Team conducted 81 inspections to monitor compliance against conditions of approval, with some projects inspected multiple times during the period.



### Infrastructure and other projects

- Barangaroo Ferry Hub (City of Sydney LGA)
- Barangaroo South Development (City of Sydney LGA) \* 2
- Canberra Avenue South Durras - 5 lot sub –division (Eurobodalla LGA)
- Calderwood Residential Development (Shellharbour LGA)
- 83 Banyandah Street South Durras - sub division (Eurobodalla LGA)
- Former Rachel Foster Redevelopment (City of Sydney LGA)
- Fraser Drive, South Tweed; Fraser Drive, South Tweed (Tweed LGA)
- George Bass Road - Bevia Road Rosedale - sub division (Eurobodalla LGA)
- George Bass and Roseby Drive Rosedale - sub division (Eurobodalla LGA)
- Global Switch Site data centre (City of Sydney LGA)
- Grandfathers Gully Road - Subdivision (Eurobodalla LGA)
- Grandfathers Gully Road - Smugglers Cove - Sub division (Eurobodalla LGA)
- Gumnut Grove Childcare Centre - 6 Ayres Grove, Mt Druitt (Blacktown LGA) \* 2
- Gwandalan Residential Development – (Central Coast LGA)
- Gwandalan Residential Subdivision (Central Coast LGA)
- Highview Drive Dolphin Point – sub division (Shoalhaven LGA)
- Illawarra International Health Precinct (Wollongong LGA) \* 3
- Koolewong Marina – (Central Coast LGA)
- Luna Park (North Sydney LGA)
- Moruya East Village South Head Road Moruya - Sub division - retirement village (Eurobodalla LGA)
- 98 Beach Road Batemans Bay – Subdivision (Eurobodalla LGA)
- Northern Beaches Hospital (Northern Beaches LGA)
- North West-Tway (Blacktown LGA)

- Oakdale Development (Fairfield City LGA)
- Opera Bar forecourt of the Sydney Opera House – (City of Sydney Council)
- Royal North Shore Hospital (Willoughby City LGA)
- RTA Pedestrian Footbridge at Old Windsor Road (The Hills Shire LGA)
- St Vincent’s Hospital (City of Sydney LGA) \* 3
- Scottish Hospital Paddington – (Woollahra Municipal LGA) \* 4
- South East Light Rail Project (City of Sydney LGA, Inner-West LGA & Randwick City LGA)
- South Head Road Moruya - 80 Lot sub division (Eurobodalla LGA)
- South Durras Telecommunication Tower (Eurobodalla LGA)
- 3 Burrabri Lane South Durras - sub-division (Eurobodalla LGA)
- 3 Clyde Street Batemans Bay - Tourism Development (Eurobodalla LGA)
- 25 Martin Road, Badgerys Creek –(non DPE) site (Liverpool City LGA)
- Wentworth Avenue Sunshine Bay - Sub division (Eurobodalla LGA)

\* Denotes multiple site visits.

- WestConnex (Inner West LGA; Cumberland LGA; Municipality of Strathfield LGA, Bayside LGA, Canterbury-Bankstown City LGA, , City of Sydney LGA and Burwood LGA) \* 21
- Windsor Bridge Replacement Project (Hawkesbury LGA)
- Woolli Tourist Facility (Clarence Valley LGA)

### Mines/Quarries

- Bulga Coal Mine (Singleton LGA)
- Duralie Mine (Mid Coast Council LGA) \* 2
- Metropolitan Colliery (Wollongong LGA)
- Mount Thorley Warkworth Coal Mine (Singleton LGA) \* 3
- Russell Vale Colliery (Wollongong LGA)
- Stratford Mine (Mid Coast Council LGA)

### Industry

- 30 - 50 Yarrowa Street, Prestons (Mainfreight Distribution Centre) (Liverpool LGA) \* 2
- Prestons Industrial Estate (Liverpool LGA)
- Wollongong Recycling and Building Supplies (Wollongong LGA)

For more information on projects, please access via the Department’s major project register:

<http://majorprojects.planning.nsw.gov.au/>



## Enforcement

### Official Caution issued to Vopak Terminals Australia Pty Ltd

On 3 August 2016, Vopak Terminals Australia Pty Ltd (Vopak) were issued an Official Caution for failing to comply with conditions of approval at the Port Botany Site-B project. Vopak failed to:

- a) demonstrate the existence of contractual arrangements that require drivers transporting hazardous materials to use defined routes;
- b) operate the Vapour Recovery Unit (VRU) to the required efficiency criteria, and implementing the shutdown procedure when the VRU was operating at less than the required efficiency criteria; and
- c) report the non-compliance with the VRU efficiency criteria within the required timeframes.

The breaches have not resulted in damage to property or had a significant impact on the environment or public. Vopak lodged a modification to the consent to update VRU reporting requirements to align with the Environment Protection Licence. Vopak will continue on working to improve the efficiency of the VRU through the VRU Working Group which is currently exploring a number of alternative solutions to address the efficiency issue.

### Official Caution issued to Wollongong Coal (Russell Vale Colliery)

On 25 August 2016, an Official Caution was issued to Wollongong Coal, Russell Vale Colliery for three exceedances of the self-imposed 50 km/hr speed limit on Bellambi Lane. The mine is currently removing 174,000 tonnes of coal from the site in accordance with an Order issued by the Department. A total of 2162 truck movements have been recorded over the period in which the three exceedances were recorded. The site has management systems in place to limit the risk of reoccurrence.

### Order issued to Fraser Drive Investments No 2 Pty Ltd

On 31 May 2016, the Department issued a Penalty Notice for \$15,000\* to the proponent of the Fraser Drive Development Stages 8-15 at South Tweed Heads for failing to construct a semi-permanent fence around an identified aboriginal midden site prior to works occurring onsite. To remedy the breach, the Department requested the proponent construct the fence by 31 June 2016.

On 20 July 2016, the Department undertook surveillance of the Fraser Drive Development Stages 8-15 and identified the proponent had failed to remedy the breach, with the semi-permanent fence not yet constructed. Following this inspection, on 31 August 2016 the Department issued an Order to Fraser Drive Investments No 2 Pty Ltd requiring the fence to be installed by no later than close of business 9 September 2016.

Media release link (Penalty Notice): <http://www.planning.nsw.gov.au/News/2016/Tweed-developer-fined-for-Aboriginal-heritage-non-compliance>

\* the Department has since revoked this penalty notice and reissued another to the proponent due to error with company name.

Media release link (Order): <http://www.planning.nsw.gov.au/News/2016/Department-issues-Order-to-protect-Aboriginal-Heritage-site-at-Fraser-Drive>



### Penalty Notice issued to The Stables Perisher (The Stables Perisher Management Pty Ltd)

On 29 August 2016, the Department issued a \$6000 Penalty Notice to The Stables Perisher for a breach of consent conditions relating to the occupation of the basement prior to obtaining an Occupation Certificate. This enforcement action follows Orders issued to The Stables in July 2016 to immediately cease use of the basement until appropriate approvals were obtained. Regular monitoring by Compliance Officers has confirmed that these orders are being complied with. The Department is the relevant consent authority for all development in the alpine region.

### Penalty Notice issued to Rosedale Farm [NSW] Pty Limited

On 29 August 2016, the Department issued a \$6000 Penalty Notice to Rosedale Farm Pty Ltd for clearing vegetation in breach of approval conditions at its George Bass Drive residential subdivision in Rosedale. The Department was made aware of the clearing by Eurobodalla Council. The Department's investigation revealed that Rosedale Farm had cleared vegetation on two lots at the George Bass Drive site without first obtaining development consent from the Council, which is requirement of the Department's approval of the coastal subdivision. The Department will continue to liaise with Council and conduct inspections of the site.

### Penalty Notice issued to Ramtech Pty Ltd (Dunloe Sand Quarry)

On 12 August 2016, the Department issued a \$15,000 Penalty Notice to Ramtech Pty Ltd for failing to implement its approved dust monitoring program at the Dunloe Sand Quarry in Pottsville (Tweed Heads region). The Department became aware of the breach during a review of the company's Independent Environmental Audit report which is required to be submitted for approval every five years. The company cooperated with the Department's investigation and has committed to implementing the approved dust monitoring program. The Department will follow up to ensure the dust monitoring program is satisfactorily implemented.

Media Release Link: <http://www.planning.nsw.gov.au/News/2016/Department-fines-Dunloe-Sands-Quarry-in-Mooball>

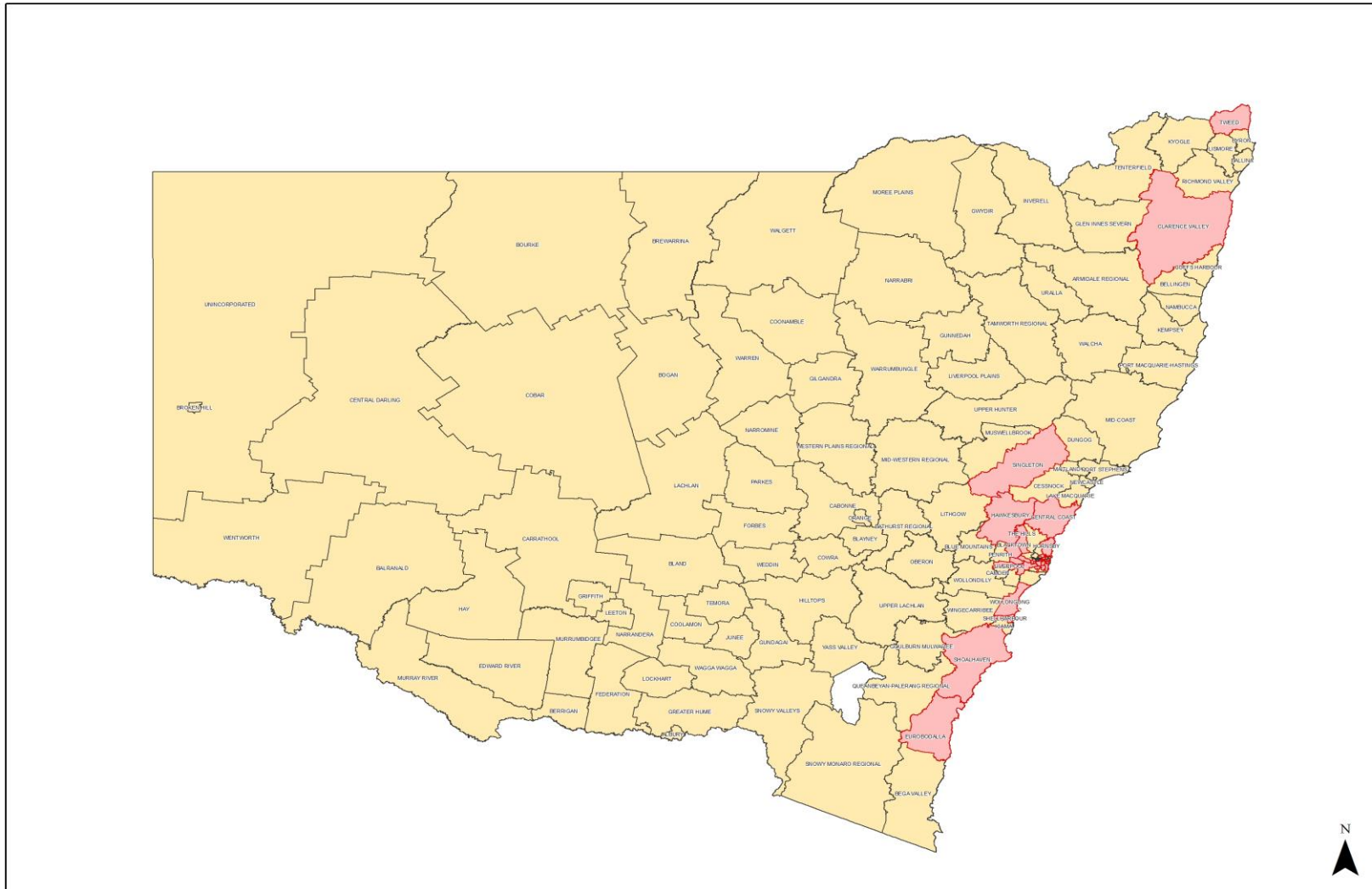
## Court Judgments

### Charbon Coal

On 18 August 2016, the NSW Land and Environment Court fined Charbon Coal Pty Ltd \$175,000 for failure to comply with the project approval. Charbon Coal pleaded guilty to constructing a haul road in a different location than was approved under their project approval. The construction of the haul road resulted in the clearing of an area of native vegetation and disturbed an Indigenous heritage site.

Media Release Link: <http://www.planning.nsw.gov.au/~media/Files/DPE/Media-Releases/2016/August/19082016-Charbon-Coal-fined-in-court-for-compliance-breach.ashx>

Location of NSW site visits



Sydney metropolitan region site visits

