



Planning &
Environment

Compliance Report

September 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 September 2016:

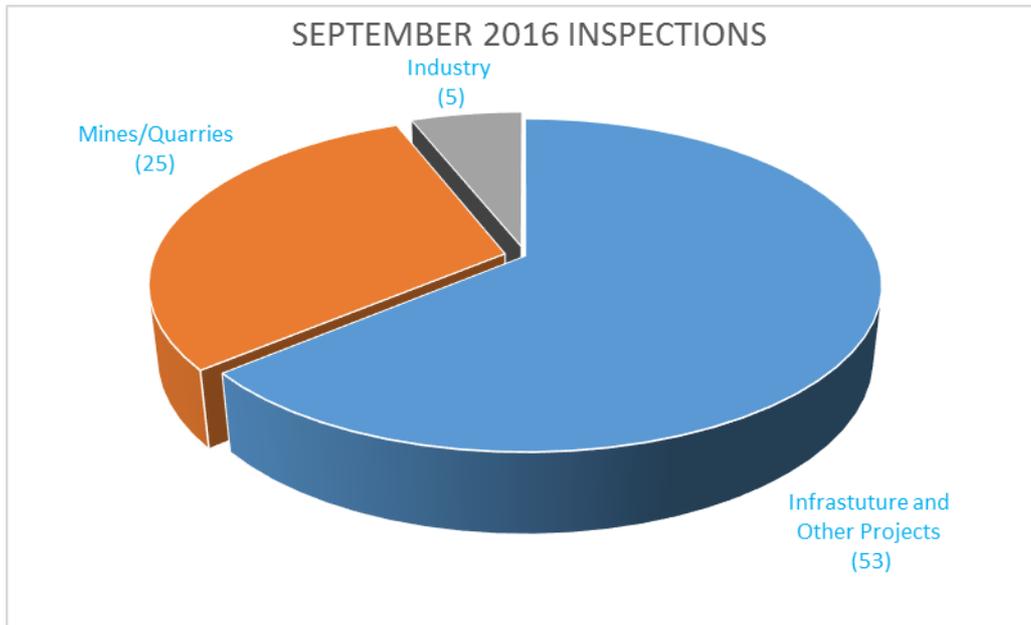
COMPLIANCE MONITORING ACTIVITIES	September 2016	2016/2017 Total
Inspections and surveillance carried out	83	260
New investigations commenced this month	23	86
Review of compliance documentation	30	107
Subtotal compliance monitoring	136	453

ENFORCEMENT ACTIVITIES	September 2016	2016/2017 Total
Official Cautions issued	5	17
Orders imposed	3	8
Penalty notices and fines imposed	14	20
Prosecutions	0	1
Subtotal enforcement	22	46



Monitoring

The Department's Compliance Team conducted 83 inspections to monitor compliance against conditions of approval, with some projects inspected multiple times during the period.



Infrastructure and other projects

- Altitude Aspire Residential Subdivision (Tweed City LGA)
- Belle O'Connor St Residential Subdivision (Kempsey LGA)
- Central Park 26, Chippendale (City of Sydney LGA)
- Cobaki Residential Development (Tweed City LGA)
- Former Rachel Forster Hospital (City of Sydney LGA)
- Fraser Drive Subdivision *3 (Tweed City LGA)
- Huntlee Residential Development *2 (Cessnock LGA)
- Illawarra International Health Precinct (Wollongong LGA)
- Lane Cove Tunnel (Lane Cove LGA, City of Ryde LGA, North Sydney LGA and Willoughby LGA)
- NorthConnex M1-M2 (Hornsby Shire LGA, Ku-ring-gai LGA and The Hills Shire LGA) *3
- Northern Beaches Hospital (Northern Beaches LGA)
- Sydney CBD and South East Light Rail (City of Sydney LGA, Randwick LGA and Inner West LGA)

- Sydney International Convention, Exhibition and Entertainment Precinct (City of Sydney LGA)
- Young to Wagga Wagga Looping Pipeline *3 (Cootamundra LGA)
- WestConnex (Inner West LGA; Cumberland LGA; Municipality of Strathfield LGA, Bayside LGA, Canterbury-Bankstown City LGA, City of Sydney LGA and Burwood LGA) * 31

Mines/Quarries

- Albion Park Quarry (Shellharbour City Council LGA)
- Ardmore Park Quarry * 2 (Goulburn Mulwaree LGA)
- Barina Hard Rock Quarry (Goulburn Mulwaree LGA)
- Bass Point Quarry (Shellharbour LGA)
- Boggabri Mine (Narrabri LGA)
- Calga Quarry (Central Coast LGA)
- Charbon Mine (Mid-Western Regional LGA)
- Cudgen Lakes Sands Project (Tweed City LGA)
- Dunloe Sands (Tweed City LGA)
- Hanson Central Coast Quarry (Central Coast LGA) *2
- Mangoola Mine (Muswellbrook LGA)



- Maules Creek Mine (Narrabri LGA)
- Moolarben Mine (Mid-Western Regional LGA)
- Narrabri Mine (Narrabri LGA)
- Newstan Colliery (Lake Macquarie LGA)
- Rocglen Mine (Gunnedah LGA)
- Sunnyside Mine (Gunnedah LGA)
- Tarrawonga Mine (Narrabri LGA)
- Ulan Mine (Mid-Western Regional LGA)
- United Colliery (Singleton LGA)
- Vickery Coal Mine Gunnedah (LGA)
- Whitehaven Coal Mine Gunnedah (LGA)
- Whitehaven Coal Handling and Preparation Plant Gunnedah (LGA)

Industry

- Baileys Marine Refuelling and Supply Facility (Inner West LGA)
- Dongwha Timbers (Snowy Monaro Regional LGA)
- Kings Park Resource Recovery Facility (Blacktown LGA)
- Oakdale Central Horsley Park (Fairfield LGA)
- Widemere Resource Recovery Facility (Fairfield LGA) * 2

* Denotes multiple site visits.

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

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



Enforcement

Penalty Notice and Official Caution issued to Hanson Construction Materials Pty Ltd (Bass Point Quarry)

On 6 September 2016, the Department issued a \$3000 Penalty Notice to Hanson Construction Materials Pty Ltd for failing to comply with conditions of approval at the Bass Point Quarry. The Department's investigation revealed that the company had failed to undertake monthly noise monitoring. As a result of the Department's investigation the company has since implemented monthly noise monitoring in accordance with the conditions of approval.

In addition to the Penalty Notice, an Official Caution was also issued to Hanson Construction Materials Pty Ltd for exceeding the allowable daily truck dispatch limits in the conditions of the approval at the Bass Point Quarry. The proponent has since implemented measures to ensure compliance with the conditions of approval.

Penalty Notices and an Order issued to Allied Mills Pty Ltd (Allied Mills and Maize Mill, Picton)

On 12 September 2016, the Department issued two \$3,000 Penalty Notices to Allied Mills Pty Ltd (Allied Mills) for failing to comply with conditions of consent at the Allied Mills and Maize Mill project in Wollondilly. The Department's investigation found that Allied Mills:

- i. Failed to comply with the predicted total heavy goods vehicle traffic predictions contained in the Environmental Impact Statement (EIS). The EIS predicted 16 heavy goods vehicle movements to and from the site per day however, the Department's investigation revealed that approximately 30 heavy goods vehicle movements per day to and from the site were occurring. The Department will continue to monitor compliance with the conditions of consent.
- ii. Failed to comply with the approved Water Monitoring and Management Plan. During the 2014/15 Annual Environmental Management Report reporting period, waste water monitoring of the effluent irrigation area was not undertaken. The Department's review of effluent water quality testing results from May 2015 revealed that the sewage treatment plant effluent did not meet the criteria for irrigation nominated in the EIS.

In addition to the Penalty Notice, the Department issued an Order to remedy the breach. Allied Mills is required to cease all use of the irrigation area until the Department is satisfied that treated effluent from the sewage treatment plant is compliant with the targets for effluent quality described in the EIS and the Water Monitoring and Management Plan. The Department will monitor compliance with the terms of the Order.

Penalty Notice issued to Lendlease Building Pty Ltd (Darling Harbour Precinct)

On 12 September 2016, the Department issued a \$15,000 Penalty Notice to Lendlease Building Pty Limited for undertaking designated development without prior consent at the Darling Harbour Precinct development. The Department's investigation revealed that the works had commenced prior to determination of the development application. Lendlease Building Pty Limited cooperated with the investigation by promptly removing the structures.

Penalty Notice and an Order issued to Kaymet Corporation Pty Limited (The Former Rachel Foster redevelopment, Redfern)

On 13 September 2016, the Department issued a \$15,000 Penalty Notice to Kaymet Corporation Pty Limited (Kaymet) for failing to comply with a condition of approval for the former Rachel Foster re-development in Redfern. The Department's investigation



revealed that hoarding (a form of safety fencing) associated with the development did not comply with City of Sydney's policy for hoarding and temporary structures on a public way. Kaymet was also found to be non-compliant with a condition of the approval which required graffiti to be removed from the hoarding within 24 hours.

In addition to the Penalty Notice, the Department issued an Order to remedy the breach requiring Kaymet to ensure all hoarding at the site complies with Councils policies for hoardings and temporary structures on the public way, and to remove all graffiti from the hoarding within 24 hours. The Department will continue to monitor compliance with the terms of the Order.

Two Penalty Notices issued to Fraser Drive Investments No 2 Pty Ltd (Fraser Drive Development)

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 construct the semi-permanent fence. 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 9 September 2016.

On 13 September 2016, following unannounced surveillance by Tweed Shire Council on the Department's behalf, the Department issued a \$6,000 penalty notice for failing to comply with the terms of the Order. The Department granted the proponent a further 9 days (until 18 September 2016) from the original Order completion date to erect the fence.

On 23 September 2016, following unannounced surveillance, the Department again issued a further \$6,000 penalty notice for failing to comply with the terms of the Order and following representations from the proponent, granted a further extension until 7 October 2016 to erect the fence. The Department will continue to monitor the Fraser Drive development to ensure compliance with the Order is achieved.

Penalty Notice and Official Caution issued to Karimbla Constructions Services (NSW) Pty Ltd (330 Church St, Parramatta)

On 15 September 2016, the Department issued a \$15,000 Penalty Notice to Karimbla Constructions Services (NSW) Pty Ltd (Karimbla) for failing to comply with conditions of approval at 330 Church Street, Parramatta. The Department's investigation revealed that the company had failed to obtain out-of-hours approval for works on Sunday 24 July 2016 in accordance with the approved hours of operation and the Construction Management Plan (CMP).

In addition to the Penalty Notice, the Department issued an Official Caution to Karimbla, for failing to notify any affected neighbours located within 200m of the development in writing of the works on Sunday 24 July 2016, in accordance with the approved CMP. The proponent has since instigated measures to minimise the risk of a reoccurrence.

Penalty Notice issued to Moolarben Coal Operations Pty Ltd (Moolarben Mine)

On 21 September 2016, the Department issued a \$3000 Penalty Notice was issued to Moolarben Coal Operations Pty Ltd for exceeding coal production limits in the 2014 calendar year by 3.5%. The Department's investigation revealed that no further exceedances have occurred in the following reporting periods. The Department will continue to monitor the operation to ensure compliance with conditions of approval.



Penalty Notice issued to Lismore City Council (Blakebrook Quarry)

On 22 September 2016, the Department issued Lismore City Council a \$15,000 penalty notice for failing to lodge a rehabilitation bond for the Blakebrook Quarry project. The Department became aware of the breach through a review of project related documentation in early 2016. Lismore City Council cooperated with the Department's investigation and has since submitted the required rehabilitation bond for Blakebrook Quarry.

Rehabilitation bonds ensure that the state does not incur financial liabilities in the event that a company defaults on its rehabilitation obligations and are similar to rehabilitation bonds held by the government for coal and other mining projects.

Penalty Notice issued Mudgee Stone Company Pty Ltd (Oberon White Granite)

On 27 September 2016, the Department issued a \$15,000 Penalty Notice to Mudgee Stone Company Pty Ltd (Mudgee Stone) for continued non-compliance with conditions of the approval at Oberon White Granite Quarry. Mudgee Stone failed to comply with a request issued by the Department in December 2015, to obtain approval for a number of environmental management plans by 30 June 2016.

In addition to the Penalty Notice, two Official Cautions were issued to the company for failing to submit annual reviews and to commission an independent environmental audit, as required by the conditions of approval. Mudgee Stone is now finalising the relevant environmental management plans.

Penalty Notice and Official Caution issued to Emirates Hotels (Australia) Pty Ltd (One & Only Resort Wolgan Valley)

On 28 September 2016, the Department issued a \$15,000 Penalty Notice to Emirates Hotels (Australia) Pty Ltd (Emirates) for exceeding the permitted number of helicopter movements at One&Only Resort Wolgan Valley. The Department's investigation found that Emirates exceeded the limit of four helicopter movements per week. Emirates is currently revising processes to ensure helicopter movements comply with the conditions of approval.

The Department will continue to monitor helicopter movements to the resort to ensure compliance. In addition to the Penalty Notice, the Department issued an Official Caution to Emirates for failing to undertake Independent Environmental Audits as required by the approval. Emirates are currently undertaking the required audit.

Penalty Notice issued to Lendlease (Millers Point) Pty Limited (Barangaroo South)

On 30 September 2016, the Department issued a \$15,000 Penalty Notice to Lendlease (Millers Point) Pty Limited (Lendlease) for undertaking development at the Barangaroo South development not in accordance with the conditions of approval. The Department's investigation revealed that Lendlease constructed diesel fuel filling points adjacent to the Hickson Road exit ramp at ground level of the Stage 1A basement of Barangaroo South, which was not in accordance with the approval. The Department has since granted a modification to the approval which includes the diesel fuel filling points.

Two Penalty Notices issued to Elf Farm Supplies Pty Ltd (Elf Substrate Plant and Elf Mushroom Farm Project)

On 30 September 2016, the Department issued two \$3,000 Penalty Notices to Elf Farm Supplies Pty Ltd (Elf Farms) for failing to comply with conditions of approval at the Elf Substrate Plant and Elf Mushroom Farm project in Mulgrave. The Department's investigation revealed that Elf Farms had conducted filling in two areas of the site (known as the bio filter and tree corridor) which



were not in accordance with the Environmental Impact Statement. The Department has now approved the filing associated with the bio filter through a project modification on 14 March 2016. The Department is currently considering potential remedy solutions in relation to the unauthorised earth bund.

Order issued to Austrak AFS Pty Ltd (Austrak Business Park)

On 23 September 2016, the Department issued an Order to Austrak AFS Pty Ltd (Austrak) to remove a soil stockpile from their warehouse and distribution centre project site on Pembroke Rd, Minto. Austrak left the soil stockpile on the site following construction of the development, with no practical measures to prevent or minimise harm to the environment.

During the Department's investigation, a number of community members raised concerns about the potential impacts of the stockpile on their health and the environment. The Department will continue to monitor compliance with the terms of the Order.

Official Caution issued to Whitehaven Coal Pty Ltd (Rocglen Coal Mine)

On 21 September 2016, the Department issued an Official Caution to Whitehaven Coal Pty Ltd (Whitehaven) for failing to notify the Department in writing, of the terms of a written agreement with a private landowner as required by the conditions of approval. The Department became aware of the breach during an investigation into a potential blast overpressure exceedance.

Due to the presence of a written agreement between Whitehaven and the private landowner to exceed blast criteria, the Department determined that no breach of the blasting limits had occurred. However, the conditions of approval required Whitehaven to advise the Department of the terms of the private agreement. Whitehaven have since officially notified the Department of agreements with private landowners as required by the conditions of approval, and have committed to relocate the blast monitor to a location more representative of privately owned residences.

Official Caution issued to Sibelco Australia Limited (Sibelco) (Tanilba Quarry)

On 22 September 2016, the Department issued an Official Caution to the Sibelco Australia Limited (Sibelco), for commencing quarry operations at Tanilba Quarry prior to submitting the rehabilitation bond as required by the conditions of approval. Sibelco has now submitted the required rehabilitation bond. No significant environmental harm or impact occurred as a result of the non-compliance.

Location of NSW site visits

