

# Native Forestry Operations - Stop Work Orders

The NSW Environment Protection Authority (EPA) has the power to investigate and enforce forestry legislation.

Licensing, education, audit, investigation and enforcement action are some of the options open to the EPA to drive compliance.

When there is a serious breach of forestry legislation, the EPA can issue a Stop Work Order.

A Stop Work Order can prevent work from being carried out for up to 40 days.

## What is a Stop Work Order?

A Stop Work Order is a legal order used by the EPA to direct a person to **stop** a specific action.

A Stop Work Order can also direct a person to **take** specific actions required by the EPA.

Stop Work Orders are most commonly used by the EPA when a contravention is likely to have a significant environmental impact.

A Stop Work Order can be made verbally by the EPA. The order must be confirmed in writing within 72 hours.

The EPA needs sufficient evidence of a potential contravention before making a Stop Work Order.

## What does a Stop Work Order do?

The Stop Work Order lists the steps that must be taken to bring the forestry operation back into compliance with the relevant forestry legislation.

If a specific action is **not** being carried out (and should be), the EPA can direct the action be carried out at a specific location within a specified timeframe.

When a Stop Work Order is made the EPA will immediately consult with the person to whom the

order applies to decide if modifying the action is enough to stop a contravention.

The EPA may also request further information about the impact of modifying the action.

The person against whom a Stop Work Order is made can appeal the order to the NSW Land and Environment Court.

## What steps are taken before making a Stop Work Order?

Prior to the making of a Stop Work Order the EPA may (if practical) provide written advice outlining the EPA's concerns about an operation and of the chance of a Stop Work Order being made.

In this situation the EPA may request that steps are taken to stop work and address the identified problems.

Where issues can be quickly addressed voluntarily, a formal Stop Work Order may not be required.

The EPA's [Compliance Policy](#) is considered when deciding if a Stop Work Order should be made.

## How does the EPA choose the most appropriate compliance action?

Factors such as if the non-compliance was intentional, opportunistic or unintentional and the level of risk of environmental harm are considered.

The sanction applied reflects the seriousness of the incident and acts as a deterrent to re-offending.

Among the factors considered by the EPA are:

- the seriousness of the activity or incident based on its actual or potential impacts on the environment and the community
- the potential or actual risk of environmental harm caused by the activity or incident
- the enforcement measures needed to ensure compliance and bring about the best environmental outcome
- voluntary action by the offender to mitigate any harm to the environment from the activity and any mechanisms put in place to prevent a recurrence

- failure by the offender to notify or delay required notification of the activity or incident
- failure by the offender to comply with EPA requests, lawful directions or statutory notices
- cooperation with the EPA by the offender and their willingness to commit to appropriate remedial actions
- if effective measures or procedures to address impacts are already in place
- the offender's history of compliance with EPA legislation and the frequency of offences committed by them
- if the offender has made false or misleading statements about the incident
- the culpability of the offender, including any mitigating or aggravating circumstances
- public interest and community expectation about the action taken to provide specific or general deterrence
- any precedent which may be set by not taking action
- statutory time limits for taking action
- the legislative procedures and policy requirements, including potential rights of appeal.

## Under what legislation is a Stop Work Order made?

The EPA's powers are set out in the *Biodiversity Conservation Act 2016 (BC Act)*.

Part 11 of the Act lists ways the EPA can ensure compliance with the Integrated Forestry Operations Approvals, Private Native Forestry Codes of Practice and Private Native Forestry Plans.

Forestry legislation relevant to Stop Work Orders includes:

Part 5B of the Forestry Act 2012 for forestry operations on Crown lands, including the requirements of the Integrated Forestry Operations Approvals.

Part 5B of the Local Land Services Act 2013 for forestry operations on private lands, including the requirements of a Private Native Forestry plan or the Private Native Forestry Codes of Practice.

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