

18 October 2018

Ms Sanya Silver
Manager, Projects & Major Investigations for the NSW Ombudsman

Attention Ms Silver,

Re: Your reference: C/2018/3882

My complaint re the lack of fair procedural justice in public feedback processes conducted by the Environment Protection Authority (EPA) and the Department of Primary Industries (DPI).

I refer to your letter of 8 October 2018 which gives your final determination on my complaint regarding the failings of the public feedback process on the Report of the Regional Forest Agreements, their future and changes to the logging rules, the IFOAs.

With respect, there are many anomalies in your letter which indicate that this complaint has not been afforded serious consideration. Since 8 February 2018, when I lodged the complaint, your office has not made one communication to me regarding questions which the complaint raised. So, I draw the conclusion that my complaint was so clear it didn't need explanation or, that only a cursory examination of the facts was made.

The following are examples of these anomalies with your statements italicised and my responses indented.

*I refer to your complaint of **14 May 2018** about the EPA and DPI, the additional information you later provided to Ms Karen Gleeson of this office and our telephone conversation on 4 October 2018.*

I submitted my complaint to the Ombudsman's Office on **8 February 2018** and it was replied to by Ms K Gleeson on **13 February 2018**, over three months before you said I lodged the complaint.

The delay was partly due to the complexity of the subject matter in your complaint...

Is the Ombudsman's Office only able to handle simple complaints? This complaint was made by a one 73-year-old retiree who dealt with the complexity of the situation without any legal experience.

...and partly due to competing priorities and high workloads within our public administration division, which made it necessary to reallocate your complaint twice.

For a complainant, inadequate office management is irrelevant. I had no resources or funding to produce the documents or conduct the process of the complaint. If an office cannot function properly, then why does it exist?

I have decided to take no action on your complaint ...

A decision from the Ombudsman's **Office** would have more weight than one from an individual staff member.

I do not believe any practical outcome could be achieved by scrutinizing a process that has concluded.

In my initial online complaint, I requested that the Ombudsman's Office seek to **halt** the Report Review of the EPA's and the DPI's submission process until an examination and evaluation of process had been concluded.

It would have been impractical to have scrutinized a process 'on the spot' given your instructions to give the DPI and the EPA at least **6 weeks** to respond to my letters them advising them of my complaint to the Ombudsman's Office.

I note the EPA acknowledged some of your concerns about the process and hopefully what they have learnt will be incorporated into the design of future public consultations.

The final outcome of their process will mean that there will be no future public consultations as the Agreements will automatically renew in perpetuity.

We can only investigate and make recommendations in cases where there is clear evidence of wrong administration.

This complaint is all about wrong administration. From your factsheet regarding 'maladministration'¹, the complaint is *Contrary to law* as it *breaches of natural justice/procedural fairness* as outlined in my paper. Please refer back to my paper *Questioning application of procedural justice principles within the NSW Government's Regional Forest Agreement public submission process*.

It is not the Ombudsman's role to intervene in matters of public policy...

My complaint does not relate directly to public policy. It relates to the way two government departments conducted a public feedback process.

... or particular policy positions such as no logging of native forests

The impact of a decision on the logging of native forests is irrelevant to this complaint about a lack of procedural justice in a public feedback process.

The Office has failed to deal with my personal complaint in a timely and professional way.

Yours sincerely,



Dr Bronte Somerset.

¹ https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0015/3705/FS_PSA_13_Maladministration.pdf