

## **MEDIA RELEASE: CONVICTION QUASHED Seán Burke 02.10.09**

In a landmark decision this week, Chief Judge of the NSW District Court His Honour Justice RO Blanch overturned the criminal conviction of environmental activist Seán Burke for intimidation of a logging contract worker.

Mr Burke was arrested at an anti-logging protest north-east of Gulaga in September 2007 and charged with intimidating logging contract worker John Aish by stopping him from going to work. After nearly 2 years of court hearings, he was convicted of the charge in Moruya Local Court in April this year.

In his criminal appeal judgement, Hon Justice Blanch questioned the interpretation of "intimidation" in Mr Burke's conviction, reiterating that there is no intimidation until another person has been intimidated, in the sense that fear has been induced in that person. He ruled that there was no evidence of Mr Burke intimidating Mr Aish, particularly given that a number of police officers were present in the convoy that Mr Burke blockaded.

"I was there to peacefully protest about the logging of Compartment 3046" Mr Burke said, "not to intimidate anyone."

According to Environmental Defender's Office Acting Principal solicitor Sue Higginson, "This is a great win for Mr Burke and environmental protestors across the State" "The attempt to convict Mr Burke with intimidation under s 545B(1)(i) of the *Crimes Act 1900* was inappropriate and also inconsistent with the history of the section, which was traditionally used against trade unionists picketing workplaces" she said.

Mr Burke expressed his serious concerns that NSW Police appear to be working with Forests NSW staff and logging contractors to secure criminal convictions against forest protestors in an effort to discourage them from protesting.

"I'm appalled at the waste of time and money that this charge has generated" Mr Burke said. "We had 5 full days in court plus a number of appearances over the past 2 years, wasting the time of the Courts, NSW Police, Forests NSW staff, logging contractors and other witnesses not to mention my time and legal costs" he added. "Surely taxpayers' money could have been better spent than pursuing this spurious prosecution."

Mr Burke was fined \$110.00 for Pedestrian Obstruct Driver's Path for blocking the path of Mr Aish's vehicle.

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