



**THE WILDERNESS SOCIETY**

The Wilderness Society Newcastle Branch Inc.  
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By facsimile  
02 9331550

14 May, 2003

Dear Sir

**RE. DUNCAN HARDIE**

We refer to your letter date 5 May 2003.

The article you refer to was posted on The Wilderness Society web site by The Wilderness Society Newcastle Branch Inc.. While The Wilderness Society Inc., to whom you directed your letter, hosts the web site, it is appropriate that The Wilderness Society Newcastle Branch Inc responds to your concerns and we ask that all future correspondence be forwarded the above address as a matter of courtesy.

We regret your perception that the contents of our web page, dated 1 April 2003, imputes your client with reckless disregard for the environment. In no way was the article you refer us to intended to be malicious or defamatory to your client. The Wilderness Society merely sought to raise issues of environmental concern in the public interest based on the information we had, including photographs of the works described.

We are somewhat confused as to the content of the complaint your client makes. In the first page of your letter you say that the statement "the proposed ecotourism facility at Paxton which has already been responsible for bulldozing wetlands" is incorrect and defamatory. However, the terms of the apology you seek accept that wetlands have been bulldozed. We take this to be an admission that by your client that some wetlands were bulldozed in the course of the project (even if others were created). This being the case, we do not understand how the statement on the web site could be false or unreasonable and we seek further particulars or guidance on this.

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Your client further complains of the statement that the development was responsible for "... fencing creeks, stopping the movement of fish and turtles". Again, your letter admits that creeks have been fenced. There seems to be disagreement as to whether this fencing in fact blocked the movement of fish (assuming that that later statement referred only to the fencing and not the bulldozing [an assumption which is not conceded]).

The evidence we have at the moment suggests that the fences have trapped considerable litter and blocked fish movement, but we ask for further particulars as to the rates of water flow on the creek, the results of any monitoring of fish movement along the creek lines, the level of monitoring of natural and human litter build-up on the fences and the regime for clearing any blockages.

Until we receive further particulars from you, we are not in a position to finalise our position on this matter, but at this stage we do not believe the words complained of are defamatory, misleading or injurious. To the best of our knowledge the claims made are true in substance and fact, except in so far as they are statements of opinion. We say that all opinions stated are honestly held views and are reasonable.

You will be aware of the strong defences available to defendants in these matters, and we believe that the words complained of fall squarely within the ambit of free speech protected under the constitution as per *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, and more recently in *Roberts v Bass* [2002] HCA 57.

The Wilderness Society does not admit liability in relation to the words published, but as a conciliatory gesture and to ensure that your client's concerns are recorded and fairly represented, we would be happy to post all correspondence (including your letter and response to this letter), photographs of the works, as well as a more descriptive article on our web page should you wish.

We await your reply.

Yours sincerely



Paul Winn  
Public Officer  
The Wilderness Society Newcastle Branch