

APPENDIX E.

DLWC CORRESPONDENCE

The General Manager
Griffith City Council
PO Box 485
GRIFFITH NSW 2680

Attention: Mr. Martin Ruggeri

DOC No.: 295.02		
GRIFFITH CITY COUNCIL		
"Progress with Pride"		
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17 JAN 2002		
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LAND & WATER
CONSERVATION

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Our Ref: 0006424
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14 January 2002

Dear Mr. Ruggeri

Re: Tharbogang Quarry and Landfill Expansion

Thank you providing the Department of Land and Water Conservation (DLWC) with information regarding the proposed expansion of Council's quarry and landfill facility at Tharbogang. The Department's officers have reviewed the proposal based on the DLWC requirements, legislative requirements, documents listed as references and the following documents related to the proposed work:

1. Coffey Geosciences Pty Ltd. September 2000. Griffith City Council Tharbogang Landfill Environmental Impact Statement.
2. Coffey Geosciences Pty Ltd. August 2001. Griffith City Council Tharbogang Landfill - Quarry Development, Supplementary Information for the EIS.
3. SMEC Australia Pty Ltd. August 2001. Griffith City Council Tharbogang Landfill, Design Variations to the EIS.

The Department of Urban Affairs and Planning has advised DLWC that section 90(1)(b) of the *Environmental Planning and Assessment Regulation* 2000 applies to the amended design for this development. The section requires that the consent authority be satisfied that the amendment differs only in minor respects from the original application.

DLWC considers the amendment to the site layout and rehabilitation design is not minor in terms of potential impacts on remnant native vegetation and consequences for habitat conservation. DLWC recognises that the remnant native vegetation at the site has conservation, aesthetic and habitat value.

1. Native Vegetation Conservation.

The vegetation communities of McPherson's range have been recognised as being locally and regionally significant for conservation being one of the largest area of remnant vegetation retained within the Mirrool Irrigation Area (Grose and Holics 1995). Regionally and for the purpose of identifying conservation value, McPherson's Range is located along the boundary between the Cobar Peneplain bioregion and the Riverina bioregion (Morgan and Terrey, 1992). The conservation significance of native vegetation in boundary areas is increased with remnant vegetation forming a link between bioregions.

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The Riverina bioregion contains Callitris mixed woodlands as a most threatened vegetation type and bumble box woodlands are a most threatened vegetation community of the Cobar Peneplain bioregion (Benson, 1999). Clearing has been identified as a major threatening process for bumble box woodlands and Callitris mixed woodlands (Benson, 1999).

The flora and fauna assessment carried out by Grabham and Bester, 2000 has identified four discrete vegetation communities at the site of proposed development. The species contained in three of those vegetation communities adequately illustrates the importance of the site for conservation in the area (table 1).

Table 1. Conservation significance of native vegetation at the proposed development site.

Vegetation community (Grabham & Bester 2000)	Vegetation species present (Grabham & Bester 2000)	Conservation significance (Benson 1999)
Woodland type 1	Callitris glaucophylla (white cypress pine) Eucalyptus populnea (bumble box).	Threatened vegetation types.
Woodland type 2	Callitris glaucophylla (white cypress pine) Eucalyptus dwyeri (Dwyers Mallee Gum) Eucalyptus populnea (Bumble Box).	Threatened vegetation types.
Open forest	Callitris glaucophylla (white cypress pine) Eucalyptus dwyeri (Dwyers Mallee Gum) Eucalyptus populnea (Bumble Box)	Threatened vegetation types

The development site represents a north west extension of the McPherson's Range and will result in the further clearing of remnant vegetation from the remaining 97 ha of the range on the land parcel associated with the development.

2. Landscape aesthetic values.

The landfill visual assessment report identifies the high visual quality that McPherson's Range provides as a vegetated backdrop to the city. The report also highlights the role that the vegetated ridge provides as a significant landscape feature that is integral to Walter Burley-Griffin's design vision for the city.

Council will be more than aware that development of the city north of McPherson's range is continuing at a rapid rate. The expansion of urban development on the northern side of the range increases the value of the range as a vegetated visual backdrop for the city environment. Extensive removal of vegetation and alteration to the geological features of the range make the proposed development an extensive threat to the visual amenity that the range provides.

It is a significant factor that the majority of McPherson's Range to the east of the Council's landfill and quarry property is zoned 7(v) for Environmental Protection. The Environmental protection zone among other things aims to preserve prominent landforms and ensure protection of environmentally sensitive land from potentially detrimental development. The land that is subject to the proposed development exhibits the same landscape and environmental characteristics as the remainder of the range that is under an environmentally sensitive listing. There is no reason why the landfill site should not be treated with recognition of its environmental sensitivity.

3. Threatened species habitat.

The threatened species assessment of significance has been completed for seven fauna species that have been either recorded in McPherson's range or have suitable habitat at the proposed development site. No threatened species assessment of significance was undertaken for flora species. Fauna species assessed were;

1. Greater Long-eared Bat, *Nyctophilus timoriensis*
2. Grey Falcon, *Falco hypoleucos*
3. Major Mitchell Cockatoo, *Cacatua leadbeateri*
4. Glossy Black Cockatoo, *Calyptorhynchus lathami*
5. Turquoise Parrot, *Neophema pulchella*
6. Barking Owl, *Ninox connivers*
7. Painted Honeyeater, *Grantiella picta*

The assessment that the proposal is unlikely to impact on any of the potential threatened species is based on the proposed measures that will ensure that potential habitat is protected within the site. The protection measures include proposed reserve areas, proposed wildlife corridors and proposed landscape buffer zones along with progressive rehabilitation of the site as outlined in the threatened species assessment report and concept plans for the site in the EIS.

The design amendment to the proposed development encroaches on the reserved areas, eliminates landscape buffer zones and minimises the wildlife corridors available to maintain connectivity along the McPherson's Range. These variations are considered significant and raise concerns about the validity of the threatened species assessment to the amended proposal.

4. Land clearing

Land clearing has been listed by the NSW Scientific Committee as a Key Threatening Process (KTP) under the *Threatened Species Conservation Act 1995*.

Furthermore, the proposed change to the development may lead to a significant impact on nationally endangered species. Approval may be required from Environment Australia under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. Council should contact Environment Australia to determine if approval is required under that Act.

5. Conclusion.

The report findings of no significant impact on flora and fauna of the area is based on the original design and staging of development shown at Appendix 6 of the threatened species assessment report and Appendix G of the Environmental Impact Statement. The layout and staging of the proposal shown in those figures did provide an opportunity for conservation of remnant vegetation areas and to provide vegetated corridors through the site. The reserved areas, landscape buffer zones and wildlife corridors of the previous design are fundamental to the conservation of vegetation and habitat.

The amended proposal described in the SMEC design variations report changes the layout of the site that significantly impact upon remnant vegetation communities and disrupt the connectivity and habitat values of the site. The design variations represent a disregard for the values and ecosystem services provided by the remnant vegetation to the Griffith community and its environment. The variations show a lack of commitment to the conservation of native vegetation continuity along McPherson Range and its associated habitat benefits.

Amendments to the design represent a major change to the potential for impact on flora and fauna of the site and surrounding region. The impact of the design changes cannot be adequately assessed by

the threatened species assessment and EIS prepared for the previous proposal. DLWC suggests that the amendment to site design invalidate the findings of the threatened species assessment and EIS.

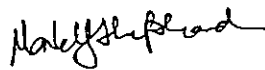
The extensive removal of vegetation and alteration to geological features at the site will significantly impact on the visual amenity value that the range provides to the environment of Griffith City. DLWC agrees with the conclusion by DSB Landscape Architects that the proposed quarry and landfill expansion could be located away from the current landfill and quarry site and the area be re-zoned for environmental protection. The zoning change could provide increased protection consistent with sections of the range to the south east of the site.

With the extent of habitat removal and alteration to the environment proposed by the amended development on a part of the landscape that exhibits environmentally sensitive features, DLWC recommends that the application for development consent be rejected. The basis of this conclusion is that the amendment significantly differs from the design proposed in the original application.

If Council wishes to consider trade-offs to achieve vegetation and habitat conservation at the site, DLWC recommends that the woodlands and mixed open forest identified in the flora and fauna and threatened species assessment report be retained in the design for the proposed development. Adequate vegetation corridors should also be incorporated into the design along the eastern and western boundary and through the centre of proposed disturbed areas. Incorporation of these features into the design for the site would allow DLWC to reconsider its position regarding concerns of potential impact of the amended site design.

For more information, please contact Mark Shephard, telephone (02) 6953 0778, fax (02) 6953 4468, e-mail mshephard@dlwc.nsw.gov.au.

Yours sincerely



Mark Shephard
Natural Resource Project Officer, Compliance
For Warwick Ford
Regional Director, Murrumbidgee

References.

- Benson, J. 1999. *Setting the scene: The native vegetation of New South Wales*. Native Vegetation Advisory Council, Royal Botanic Gardens, Sydney.
- Grose, J. and Holics, M. 1995. *Natural Resources of the Murrumbidgee Irrigation Area, Tabbita and Benerembah Irrigation Districts*. Ecological Services Unit, Department of Land and Water Conservation, Technical Services Report No. TS95.134.
- Morgan, G. and Terrey, J. 1992. *Nature Conservation in New South Wales*, National Parks Association of NSW Inc, Sydney.

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The General Manager
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Attention: Mr. John Massey

DOC No.: 1606-02		
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"Progress with Pride"		
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BENG. Higgins	✓	
DLWC	✓	



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4 April 2002

Dear Mr. Massey

Re: Tharbogang Quarry and Landfill Expansion

The Department of Land and Water Conservation (DLWC) has provided comment on the Griffith City Council proposal to expand the Tharbogang quarry and landfill facility. The Departments letter of 14 January 2002 highlights concerns regarding the assessment of impact on flora and fauna from the site footprint amendment made following the EIS. In summary the issues raised by DLWC were:

- An amendment to the design following the EIS removed buffer zones through the site. The buffer zones were used in the EIS to demonstrate no significant impact on threatened species and their habitat.
- That the proposal results in the clearing of approximately 97 ha of remnant vegetation from McPherson's Range. DLWC considers that the remnant vegetation has conservation and habitat value.

Council has responded to the DLWC concerns in a letter from Civil Infrastructure and Waste Manager, Mr. Peter Higgins dated 13 February 2002 and with a plan showing the amended footprint for the proposal via E-mail on 26 February 2002. The Council response has not removed the Departments concern, but it is encouraging to see that Council seeks to negotiate the footprint boundary and native vegetation reserve areas. The following comments are the DLWC response to the comments made by Council in Civil Infrastructure and Waste Manager's letter of 13 February 2002.

1. Disturbance of the site.

Council insists that the site was extensively disturbed for surface ridge gravel harvesting. Observation of the site confirms that surface ridge gravel harvesting has disturbed the vegetation cover at part of the site. The disturbance seems mostly to have occurred on parts of the site characterised by cypress pine forest regrowth with scattered mature cypress pine and bimbale box. There are parts of the site that have not been extensively disturbed, if at all by surface gravel harvesting. These areas contain mature vegetation communities with a mix of species, referred to as woodland and mixed open forest areas in the EIS.

2. Native Vegetation Conservation

The studies quoted by DLWC in the letter of 14 January 2002 were referenced because they identify the conservation value of remnant vegetation stands in the broader Riverina region. The studies

emphasise the conservation value of McPherson's Range or particular vegetation communities and habitat values within the broader ecosystem context.

DLWC staff observed that the site does include mature vegetation communities in the woodland and mixed open forest areas. It is important that these areas are maintained for the habitat conservation values they provide to the broader region. The cypress pine regrowth vegetation over part of the site provides the habitat and mature vegetation community of the future. The conservation value of regrowth needs to be balanced against how well that regrowth community is represented in the broader area. The studies referenced suggest that cypress pine regrowth is adequately conserved.

The proposed reserve areas north and south of the amended footprint will conserve areas of woodland identified in the EIS but these areas need to be connected by expansion of the buffers on the east and western sides of the proposal. The Department would recommend inclusion of mixed open forest areas identified in the EIS as part of the reserved vegetation areas.

The letter from Council's Civil Infrastructure and Waste Manager indicates that the development will not impact on nationally endangered species. It is not clear from the letter if this is the opinion of Council or the result of a qualified assessment. Council has an obligation as proponent for the landfill development to obtain any necessary approvals under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. To determine if an approval is required under that Act, Council should contact Environment Australia.

3. Crown Land

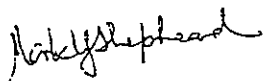
The Council response has provided some evidence of status of the land at the site. DLWC remains concerned about the impact of the proposal on a Crown road that borders the eastern edge of the proposed site. Council should be made aware of the assessment and approval requirements for proposals involving Crown roads.

4. Conclusion

DLWC welcomes the opportunity to discuss trade-offs for native vegetation and habitat conservation at the site. It is positive to see that Council is prepared to consider alterations to the amended footprint, but there remains the requirement to ensure that the amendment receives the adequate assessment of environmental impact. The Department of Land and Water Conservation requests that the threatened species assessment be carried out for the amendment to the site design and that the conservation value of woodland and mixed open forest areas on the site be recognised and reserved.

For more information, please contact Mark Shephard, telephone (02) 6953 0778, fax (02) 6953 4468.
E-mail mshephard@dlwc.nsw.gov.au.

Yours sincerely



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The General Manager
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Attention: Mr Peter Higgins

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P. HIGGINS	✓



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9 July 2002

Dear Mr Higgins

Re: Tharbogang Quarry and Landfill Expansion

Thank you for meeting on site with staff from the Department of Land and Water Conservation (DLWC) to discuss native vegetation and threatened species habitat conservation issues in relation to the Griffith Landfill Expansion proposal. Following the meeting, DLWC staff have sought further advice on threatened species issues from the NSW National Parks and Wildlife Service (NPWS). The advice from NPWS and the inspection has reinforced the Department's concern that assessment of the proposal has not adequately considered the conservation of valuable native vegetation communities and the habitat that they provide for threatened species. To this end, the Department is strongly opposed to the Griffith Landfill expansion proposal in its current form for the following reasons.

The flora and fauna survey contained in the Coffey and Partners ?Ltd Environmental Impact Statement (EIS) identified the Grey-crowned babbler (*Pomatostomus temporalis*) and Brown Treecreeper (*Climacteris picumnus*) as being present on the site. The NPWS has confirmed that these two species along with nine other threatened bird species are found within five kilometres of the development site. Six of the species found within a five-kilometre radius are not likely to utilise the site, as they are wetland birds. DLWC strongly recommends that the Council undertake a Species Impact Statement for the five threatened bird species identified that may find habitat at the site (see Table 1).

Table 1. Habitat compatible threatened species within a 5-km radius of the Griffith landfill site

(Source NPWS threatened species unit, Dubbo).

Common name	Scientific name
Brown Treecreeper	<i>Climacteris picumnus</i>
Diamond Firetail	<i>Stagonopleura guttata</i>
Grey-crowned Babbler	<i>Pomatostomus temporalis</i>
Pink Cockatoo	<i>Cacatua leadbeateri</i>
Superb Parrot	<i>Polytelis swainsonii</i>

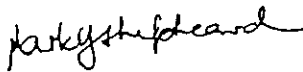
It is likely that the modified footprint for the proposal, outlined in the SMEC amended design document, shows that the modified proposal is likely to impact on the habitat of threatened species and will also involve the carrying out of a key threatening process (clearing).

DLWC strongly urges Council to consider its obligations as a consent authority under section 78A(8)(b) of the *Environmental Planning and Assessment Act 1979*, to require a Species Impact Statement when the proposal "is on land that is, or is part of, critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats". To obtain the requirements for the SIS, Council should write to the Director General of the NPWS.

DLWC recommends that Council instruct the consultants preparing the SIS to discuss issues such as nominated reserved areas and buffer zones that are appropriate for habitat and native vegetation conservation at the site prior to and on completion of their studies. Pending the outcome of an SIS it is possible that the reserved areas be expanded to incorporate mixed forest and open woodland areas and buffer zones along the east and west boundaries increased to 100 metres.

The Department has previously raised the possibility that the proposed development may lead to a significant impact on nationally endangered species. It is not clear if Council has confirmed whether any approval is required from Environment Australia. I further advise that approval may be required from Environment Australia under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. Council should contact Environment Australia to determine if approval is required under that Act. For more information, please contact Mark Shephard, telephone (02) 6953 0778, fax (02) 6953 4468, e-mail mshephard@dlwc.nsw.gov.au.

Yours sincerely



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