

Major Projects Assessments  
Department of Planning and Environment  
SYDNEY

19 September 2016

SUBMISSION:

New Grafton Correctional Centre – Environmental Impact Statement

To whom it may concern,

Please consider this letter and its attachment, as a submission on the Environmental Impact Statement and associated working papers (EIS) prepared by Infrastructure NSW for the New Grafton Correctional Centre.

This letter, and its attachments, have been prepared by Barry and Sarah Fletcher, affected landholders and long term residents of 247 Wants Lane, Lavadia who own three properties, one of which has a frontage on to Avenue Road opposite the Project Site.

Our property includes a tea tree plantation for tea tree oil production, an Endangered Ecological Community of some 18 hectares which includes a wetland that receives some of its rainfall input from surface runoff from the Project Site and a stand of the threatened species *Melaleuca irbyana*. The EEC is protected by a Property Vegetation Plan in perpetuity. We are concerned about the possible contamination of our property from residual herbicide that may exist on the Project Site with soil disturbance associated with earthworks and construction on the Project Site. There are other issues that concern us as well and some of them are mentioned in the attached submission.

We are also very concerned that we have not been properly consulted as affected landholders during the preparation of the EIS despite it being a requirement under the terms of the SEARS.

It is our view that further efforts need to be made to assess the likely impacts on all affected landholders and the Clarence River floodplain associated with the Coldstream River. The floodplain begins within 500 metres downslope of the Project Site and is already being adversely impacted by the Pacific Highway. It is, in our view wrong to say, as the EIS does, that the Project will have no effect on the floodplain without further investigation and evidence.

It is also our view that further efforts need to be made to avoid and mitigate the likely impacts of the proposal, particularly those on threatened species, communities and their habitat within the Project boundaries. The project area supports an ecologically diverse and rich environment that cannot be replaced or effectively offset. While it is acknowledged that the EIS is a substantial document, supported by what appears to be some good quality field research and analysis we believe that substantial gaps still remain. Given the scale and long-term impacts of the project beyond its own boundary, we do not believe that the baseline surveys provide enough evidence to predict the likely scale of impacts or provide an appropriate base for ongoing meaningful monitoring programs. In addition, the planning that has been conducted for mitigation and offsetting is considered by us to be unacceptable if an informed decision on the environmental costs of this project is to be made.

If the project proceeds, we hope that this is only on the condition that a significant number of improvements are made to ensure that the long term and permanent environmental costs are further minimised and the ecological integrity of the region is not compromised. The current proposal and assessment does not give us confidence that the likely impacts have been accurately predicted or that they can be appropriately managed.

We hope that the comments in this letter, together with the detailed comments attached to this letter, are considered in a meaningful way by both NSW Infrastructure (and its consultants) and government regulators including NSW Department of Planning and Environment.

Yours sincerely,

Barry R Fletcher      and Sarah A Fletcher

Attachment:

Submission New Grafton Correctional Centre Environmental Impact Statement

Submission  
New Grafton Correctional  
Centre Environmental Impact Statement  
Barry & Sarah Fletcher

We, Barry and Sarah Fletcher, the authors of this submission are owners and occupiers of property described as Lots 10 & 11, DP1205749 with a frontage along Avenue Road commencing at Wants Lane and continuing north for 480 metres directly opposite the Project Site at 313 Avenue Road, Lavadia.

We consider ourselves to be "affected landowners" in the terms of the Secretary's Environmental Assessment Requirements.

According to those requirements the applicant must consult with affected landowners during the preparation of the EIS which must describe the consultation process and the issues raised by the affected landowners and identify where the design of the development has been amended in response to these issues and where amendments have not been made to address an issue, provide a short explanation.

We submit that consultation implies face to face discussion and where appropriate a joint inspection of the property or landscape that might be affected if issues are raised.

We further submit that the applicant has not complied with these requirements to date by not entering into any arrangement to meet with us or listen to our concerns despite requests from us to do so, or by making an adequate assessment of the land or total environment outside the boundary of the project site including the adjacent property aforementioned of which we are the owners and occupiers.

We believe and submit that any approval of the application should be deferred until these requirements are complied with.

We submit further that some of the issues we raise are of enough importance to warrant not only a deferral of the decision to approve or not but to warrant an outright rejection of the project.

## **ISSUE 1**

### **PROTECTION OF THE ENVIRONMENT & PROTECTION AND ENHANCEMENT OF PRODUCTIVE FARMLAND.**

Please refer within the EIS Report to 2.3.3 Draft North Coast Regional Plan - (page 9)

Direction 1.1 Protect the environment - and

Direction 1.2 - Protect and enhance productive farmland.

#### **Protection of the Environment.**

'The Plan and the Proposal seeks to avoid and minimise environmental impacts on areas of high environmental value.'

Despite the above statement the EIS effectively confines its investigation to the project site and does not in any serious way investigate or adequately address environmental issues outside the boundaries of the project except by desktop assessments of areas within an 'inner assessment circle' and a much broader 'outer assessment circle' cf. Figure 3.1, Figure 3.2 and Figure 3.3 On page 14 and following - of Appendix C Biodiversity Assessment Report.

## One Specific Example

Threatened species survey results. (5.3 and following on page 55, Biodiversity Assessment Report Appendix C)

### 5.3.1 Flora

Weeping Paperbark (*Melaleuca irbyana* endangered. TSC Act)

'The species was observed on an adjacent property to the east of the Project Site along Avenue Road. No threatened species were recorded on the Project Site.'

Note that the preceding is a quote from the Biodiversity Assessment Report on page 55 beginning at 5.3.1 Flora. It does not say which of the 3 or 4 sites identified earlier in Figure 5-2 on page 46 are being referred to. We assume it is the second.

Nothing is said about this occurrence of an endangered species beyond the fact that it was observed.

Figure 5-2 on page 46 identifies 3 or perhaps 4 sites for *M. Irbyana* all within the inner assessment circle.

One is a little north of the project site adjacent to Avenue Road to the east. It is ignored.

The second which is of particular interest and it is assumed, the one to which page 55 refers, is some 450 meters south of the northern boundary and a little to the east of the Project Site adjacent to a drain outlet directing surface water from the Project Site under Avenue Road.

It is of particular interest because some of the identified threatened species (*Melaleuca irbyana*) as well as other native species in the small area adjacent to the drain delivering storm water from the Project Site under Avenue Road are dead and appear to have died recently.

**Photo 1 appears here** - Dead *M. irbyana* and other trees.

**Then photo 2 -** Ponding and dead tree at drain exit.

**Photo 3 -** Avenue Road looking south. Dead trees left, project property right.

**Photo 4 -** Entry to under-road drain. Project property & catchment area.

It is noted that 15 test pits measuring up to 4 metres in length, between 400 mm and 600 mm wide and 2 1/2 metres deep were excavated on the Project Site in February 2016. These excavations were made to collect data for the Geotechnical Survey. 10 of these pits are in the vicinity of the aforementioned drain.

The contour plan (Figure 3-2, page 16, Appendix G) suggests that surface water moving downslope in Lot 26 where the excavations are located would travel along the ephemeral watercourse that finds its way to the drain passing under Avenue Road.

There is the possibility that any contaminants that may have been present in the soil have been mobilised and moved into the adjoining property after rainfall events between the time of the excavations and the present, resulting in the death of these trees

We believe that an examination of the history of the Project Site will reveal that specific herbicides were used on the site for spot spraying of regrowth over many years. I (Barry Fletcher) am familiar with the varied agricultural chemicals used to control regrowth of native species, particularly

eucalyptus and other myrtaceae having in the past held valid Chemcert accreditation and am aware that such herbicides have been used on the site over many years.

Enquirers with the previous owner of the property (Ben Jones) will reveal details of chemicals that may have been used on the Project Site and the duration and frequency of their application over past decades.

It is noted in Appendix E - Contaminated Land - Stage 1 Preliminary Site Investigation Report at page 9 - Discussion - that 'the likely source of any contamination on site would stem from the use of pesticides and herbicides.'

A survey of the Project Site itself will tend to confirm that control of regrowth of tree species was begun at the northern end of the property then moved towards the southern end of the property in more recent years. This is evidenced by the fact that there are many small stumps of saplings no larger than 30 or 40 mm in diameter still extant in the area extending from about Wants Lane northwards for about 100 metres while further north no regrowth has emerged. In the area closest to Old Six Mile Lane vigorous regrowth of saplings up to 12 months of age are prominent.

All the above suggests that there may well be chemical residues including pre-emergent herbicide still present and active in the soil from a little north of the area opposite Wants Lane towards the north and up to the northern boundary and that any further soil disturbance may mobilise these chemicals further, if indeed they are present, enabling them to move with the surface water or leach out and beyond the boundary of the Project Site.

This brings us to the third identified site for *Melaleuca irbyana* (Weeping Paperbark) and this is of grave concern to us as affected landholders.

This third (and presumed fourth) site is located on lot 10 DP 1250749. It is situated approximately 400 metres east of Avenue Road on the north west corner of a clearly defined area of 18 hectares of melaleuca/swamp oak forest that is recognised as an Endangered Ecological Community and is protected by an In Perpetuity Property Vegetation Plan.

It should be noted that there is an ephemeral watercourse located slightly to the south of the stockyards on the Project Site opposite Lot 10 DP 1250749. It is similar to the ephemeral watercourse mentioned earlier insofar as it drains a catchment large enough to require three 900 mm concrete pipes to deliver the runoff under Avenue Road and into Lot 10 DP 1250749. Here it forms a rivulet which persists for perhaps 30 metres retaining water up to a depth of 300 mm or more, before it disperses across the landscape flowing in an easterly direction until it meets with the stand of weeping paperbark and enters the melaleuca swamp oak forest.

Clearly there is a threat to both the stand of weeping paperbark and 18 hectares of EEC if residual herbicide is released from the Project Site by disturbance and an even moderate rain event washes residues under the road and into Lot 10 DP 1250749. The EIS fails to mention or address any of this.

It should be noted also that the significant ephemeral watercourse mentioned above receives no mention nor is it recorded in any map or figure identifying watercourses or other relevant features on the Project Site. See Appendix B Figure 5 Concept Drawings. This concept drawing fails to identify what must be considered a major natural drain for that part of Lot 1 that grades to the east.

This is considered by us to be one of a number of major failings of the EIS with major implications for affected landholders.

## **Protection and Enhancement of Productive Farmland.**

We refer to the two paragraphs under the heading:

Direction 1.2 - Protect and enhance productive farmland.

It cannot reasonably be denied that Lot 1 DP 1190399 and Lot 26 DP 751376 were productive farmland while under the ownership of Mr Ben Jones.

The EIS wants us to believe that while the land in the past was used for the purpose of grazing livestock this farming practice was not productive. The only evidence provided is that the land 'is not identified as regionally significant farmland.' Clearly there is an important distinction between what is productive farmland and what may or may not be considered to be regionally significant farmland.

It cannot reasonably be stated that Lot 1 DP 1190399 and Lot 26 DP 751376 were vacant while Mr Ben Jones owned and farmed the land between 1970 (Lot 1) and 1981 (Lot 26) up until ownership passed to the state.

It is a gross misrepresentation to imply that land that was productively farmed for over 35 years became in an instant unproductive farmland when ownership passed to the state and the land became vacant because Mr Ben Jones was unable to move into his new house.

The project therefore is seriously inconsistent with the direction to protect and enhance productive farmland when it wrests ownership of land that has been managed as productive farmland for over 35 years and declares it no longer farmland and replaces it with concrete and buildings which will ensure that it will never be used for farmland in the future.

## **Further inconsistency with the Direction.**

The project is again seriously inconsistent with the Direction if it poses a threat to productive farmland outside the Project boundary.

On the eastern side of the Project Site less than 200 metres downslope from Avenue Road in Lot 10 DP 1205749 and Lot 11 DP 120549 a tea tree plantation has been established. When planting is completed within the next two years it will occupy over five hectares. Any contamination moving downslope from the Project Site, as detailed above in relation to the threatened species of weeping paperbark will be a serious threat to the viability of the plantation.

**Photo 5 appears here** - Existing Tea Tree Plantation

## **Altered hydrology**

Quite apart from the threat posed by herbicide contamination there is concern about the altered hydrology that will be occasioned by the cutting and filling, building construction, harvesting of rainfall and disposal of treated sewage and other waste water on the Project Site.

Tea tree, *Melaleuca alternifolia*, has special requirements in relation to water availability and there is serious concern regarding the effect of a changed hydrology that may reduce water availability to the plantation and substantially reduce its productivity.

To date we have not been consulted or had the opportunity to discuss these issues with the applicant despite our requests.

## **ISSUE 2**

### **Other failings in the EIS Report**

#### **Wrong photographs and misleading descriptions.**

The EIS provides a series of photographs with views of the Project Site from and along Avenue Road. They appear in various sections of the EIS.

The photograph that appears on page 46 of the EIS Report, Figure 7 - 1 and is repeated in Appendix H, Visual Amenity and Landscape Working Paper, Figure 3, page 13, purports to be a view looking south along Avenue Road with the Project Site on the right.

It is not.

While it may well be a view looking south along Avenue Road it is not anywhere near the Project Site. The photograph shows a dense stand of saplings on the road verge between the bitumen and the fence. The Project boundary along Avenue Road covers a distance of 2 km. Nowhere along that 2 km is there a stand of saplings.

Appendix D presents a photograph at Figure 3-6 on page 12 captioned 'Old Six Mile Lane at Avenue Road (looking west)'

It is in fact a photograph of Wants Lane at Avenue Road looking east.

The EIS Report also gives a written description of the Avenue Road as the primary access road to the Project on page 19 and repeats the same description at 7.2, Existing Landscape on page 45. It is repeated again in Appendix H on page 13.

It reads:

'Established native trees and grasses line the road between the bitumen and the timber and barbed wire fence that defines the boundary of the Project Site.'

There are 25 established trees along the 2 km Avenue Road boundary. Some of them are in clumps of three and four, growing close together. Average spacing is around 100 metres. Some of them are of course distanced more than 100 metres from others. How can Avenue Road then be reasonably described as being tree lined along the length of the boundary?

If the EIS can't get it right with photographs and descriptions of the landscape how can the Secretary, the government, the affected landholders and the general public have confidence that it has got it right with more substantive issues?

In relation to the above issues this question might be asked.

If an inspection of the eastern boundary of the Project Site along Avenue Road reveals that there is virtually no regrowth of native trees between the road and the boundary in contrast to the road verges north and south of the site, where there is generally vigorous regrowth ( see the first photograph on page 46 of the EIS) why has the EIS not looked for an explanation?

## ISSUE 3

### Strategic Context and Need for the Project

This is dealt with summarily but conclusively (from the applicant's viewpoint) by the Applicant in one page of the EIS. (page 7)

It presents in a very few words the rationale and justification for the Project estimated to cost \$30million and by inference the expansion of the prison system to a total of \$3.8billion. Both considerable sums.

The rationale and justification in its simplest expression is here:

'The number of people in corrective custody in NSW is rising and additional permanent capacity is required'

'..... increases and forecast growth in inmate population justifies the need for the Project'

'Therefore, the Project is required to address the current shortage ..... and the projected prison population forecasts over the next 20 years and beyond.'

One question that the applicant has failed to address before positing its conclusion and justification is:

Why is the prison population increasing?

In March 2015 the premier said that crime (in NSW) is at its lowest level in 25 years. So that is not an explanation for the increase in prison population.

Perhaps 'law and order' legislation related to bail and mandatory prison sentencing leads to an explanation.

A second and third question follow:

Why does this increase in prison population require and justify building more gaols?

We believe that it doesn't and that the increase can be reduced by other means that are less expensive and more humane.

The applicant seems not to have considered other alternatives and there are many. For example, justice reinvestment, adequate funding for probation and parole, home detention, community service.

There will be better outcomes when efforts are made to provide and fund programs and endeavours that aim to stop people going to prison, getting them out as soon as possible and help them not to return once they are released rather than building more and more prisons with the belief that this is keeping pace with 'best correctional practice'.

We submit that the application should be rejected and suggest that the applicant should make further enquiries and perhaps seek alternatives before embarking on a \$3.8 billion project.



**Photo 1 Dead Melaleuca Irbyana and other trees**



**Photo 2 Ponding & dead tree at drain exit.**





**Photo 3 Avenue Road looking south. Dead trees left, Project property right.**



**Photo 4 Entry to under-road drain. Project property & catchment area.**



**Photo 5 Existing Tea tree plantation**

