

Submission to the Inquiry into the status, health and sustainability of Australia’s koala population

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Executive Summary

For the past 7 years I have been actively involved in a community group that has sought to protect a diverse and regionally significant ecosystem in the City of Redlands, Queensland, that contains a costal Koala population of 28¹ individuals.

A large quarry development application was facilitated by Queensland State Government, despite the land being core Koala habitat and within the protection of the Koala Coast Policy prior to its purchase by the Barro Group in 2003. Although the Development Application was strongly opposed by the community², rejected by Redlands Council, dismissed by the Planning and Environment Court and rejected by the Supreme Court of Queensland, a 2nd application was submitted 24 December 2010 with superficial changes. Two petitions were also presented to the Queensland Parliament with over 2317 signatures requesting a rejection of the proposed development overlay by the State (http://www.parliament.qld.gov.au/EPetitions_QLD/).

Our community group has well in excess of 2000 pages of documents acquired under Freedom of Information (FOI) from both State and Local Government. The evidence from these documents and from meetings/communication with State and Local Government including elected Members of Parliament, Ministers and both Premier

¹ Barro Group Development Application MCU009636 Sec 9.4 Koala Habitat Assessment

² Submissions received by Council – 1654 against, 16 for the development, Development Assessment Committee Meeting 20 November 2007.

Bligh and Premier Beattie have provided unique insight into fundamental flaws in how major developments proceed through the review and approval process. All too frequently there is scant regard to local/regionally significant biodiversity issues or community concerns unless there is potential of substantive political impact.

In particular in the case of the Mt Cotton development, there is overwhelming evidence of a deliberate attempt to “muzzle” the community and dress down their concerns. No attempt to critically assess community concerns over loss of Koala habitat and other environmental concerns were undertaken by State Government Departments charged with this responsibility for this development. Rather the emphasis has been on how to mitigate the impact of public concerns as opposed to being genuinely responsive to them.

The rapid decline in Koala numbers³ through habitat destruction and marginalisation despite legislation to protect them⁴ reflects the staggering limitations in the current planning and review process for development decisions. Policy is formed and development decisions are facilitated by Governments well before the public consultation process. The public consultation is then reduced to an administrative process as a position has already been taken by commercial interests, Departmental bureaucrats, Policy Advisors and their Ministers.

I submit:

1. Immediate listing of the koala under the EPBC Act;
2. Genuine public consultation to be enshrined under legislation and to be timely, rigorous and disciplined with a structured review and community closure. Remedies for lack of process to be available to the community in the Planning and Environment Court or Equivalent.
3. Local and regionally significant biodiversity to be given immediate protection in Federal Legislation;
4. Companies and Directors be treated with no less vigour than individuals for environmental destruction and damage;

³ The results of the 2008 Koala Coast koala survey (Qld DERM) estimate a population of 2279 animals. Based on the population estimate of 4611 koalas in 2005-2006, this represents a 51% decline in less than three years and a 64% decline in the 10 years since the original 1996-1999 estimate of 6246 koalas.

⁴[STATE PLANNING POLICY 1/97 Conservation of koalas in the Koala Coast](#)

Qld State Planning Policy for Extractive Industries 2/2007

SPP 2/07⁵ identifies extractive resources of commercial interest and aims to protect those resources from developments that might prevent or severely constrain current or future extraction when the need for the resource arises. The Policy identifies the location of such extractive resources as Key Resource Areas (KRAs), each of which contain three elements – a resource/processing area, a separation area and an associated transport route. The adjoining separation area identifies the area that may be affected by the residual impacts of extractive operations in the resource/processing area.

SPP 2/07 will influence land use planning and development decisions within KRAs. In particular, it will shape planning schemes of local governments with KRAs in their areas. However given the long timeframe for the plan (50 years plus) no consideration has been given to emerging or competing technologies, alternate extraction areas away from areas of conflict, use of overburden from transport tunnel boring or greater use of rail for extractive industries as recommended in various articles in the Queensland Mining Journal.

KRA 71 is located to the west of Mount Cotton Road at Mount Cotton and forms part of the north-northwest trending ridge known as the Mount Cotton “range” as well as an area of more subdued topography to the west of the ridge (see Appendix 1 & 2). The Key Resource Area is located within the Koala Conservation Area of *State Planning Policy 1/97 Conservation of Koalas in the Koala Coast*. A substantial portion of the KRA (197.7 ha) was purchased by the Barro Group in 2003 for \$3,568,000 from South Developments Pty Ltd. South Developments had purchased the land one year earlier for \$1,650,000 during the drafting of SPP 2/07. I am unsure of what arrangement existed between the Directors of South Developments, Directors and senior executives of Barro Group and senior executives and others in DNR. These transactions occurred during the drafting of SPP 2/07 while various stakeholders such as environmental groups and affected community such as neighbouring properties were unaware and not involved in any community consultation.

Qld Department of Mines and Resources (DMR)

██████████ was the Manager for Minerals and Extractive Planning (DMR) and was responsible for developing the State Planning Policy 2/07. At the time ██████ was a committee member of Institute of Quarrying Australia. To the best of my knowledge no disclosure of ██████ position on the committee was made to the community, Legislative or Executive Government.

1. Chairman of the Committee (Institute of Quarrying Australia), Mr. Rowan Cox, was a Barro Group Quarry Manager (owner of KRA 71);

⁵ Integrated Planning Act 1997, STATE PLANNING POLICY 2/07, Protection of Extractive Resources The Minister for Local Government, Planning and Sport adopted State Planning Policy 2/07 on 8 June 2007.

2. Institute of Quarrying Australia on their website have stated an objective is to lobby all levels of Government for the benefit of their members. How can a senior public servant be objective and represent the communities interest when they are a committee member of an industry lobby group?
3. Mt Cotton Key Resource Area (KRA 71) is on land owned by the Barro Group. The following lots (total 197.7 ha) are contained within the Koala Conservation Area of *State Planning Policy 1/97 Conservation of Koalas in the Koala Coast* and were zoned for protection under the Redlands Town Plan (Fig. 2, Appendix 1);
 - Lot 238 S31474;
 - Lot 370 S311071; and
 - Lot 162 S13962

The Queensland State Government however directed Redland Shire Council to exclude the Key Resource Areas from conservation zoning⁶. In effect the *State Planning Policy 1/97 Conservation of Koalas in the Koala Coast* was made subservient to the draft State Planning Policy for Extractive Industries (SPP 2/07). SSP 2/07 was promoted strongly by commercial interests under the veil of “regional and community need”.

4. The Barro Mt Cotton properties purchased in 2003 are also exceptional in that they were the only properties purchased during the drafting of the policy and with zoning overlays that reflected the intent of the Koala Coast Policy that would have precluded a quarry development. Again it is more than coincidental that the Departmental manager responsible for preparing the draft SPP 2/07 was on the very industry lobby committee intimately involved with their members in drafting the policy and chaired by a senior executive from the Barro Group.

I allege that the actions of this senior officer and [redacted] department were prejudicial against the community and their expectation of protection implicit in the Koala Coast Policy and that [redacted] overtly promoted the interests of the Barro Group. Information and briefing notes are patronising, have omissions, bias or are tainted in their conclusions in favour of the inclusion of the Barro Mt Cotton properties into the State Planning Policy. Concerns raised by the community are subject to dismissive comments in briefing notes and emails. There is no evidence of thoughtful consideration, but rather a culture developed around ways to deflect and/or belittle community concerns.

Avoidance of Public Notice – KRA 71

⁶ Redland City Council - Methodology for converting the Redland Shire Environmental Inventory Stage 4 into the Zones and Bushland Habitat including the inclusion of State Planning Policy 1/97 – Conservation of koalas in the Koala Coast into the Bushland and Habitat Overlay Map, P9.

There was a deliberate plan of avoiding and or limiting the flow of information to community stakeholders, especially in the Redlands. When the draft policy was released for public comment, no public notices were placed in the regional papers that served the Redlands community affected by the Barro Mt Cotton Quarry. By contrast other regions with quarries that were included in the draft State Planning Policy had public notices in their regional papers.

Advertisements were placed in Cairns post, Townsville Bulletin, Mackay Mercury, Rockhampton Morning Bulletin, Bundaberg News Mail, Fraser Coast Chronicle, Sunshine Coast Daily, Gold Coast post Bulletin, and Towamba Chronicle

Why was no public notice placed in the leading Redlands regional paper Bayside Bulletin or Redlands Times. It's unconscionable that the community was not informed and made all the worse given this was a substantial land purchase for a new quarry. The Community was deliberately "left in the dark" consistent with comments made by the Manager Minerals and Extractive Planning to not inform the community so as not to "unnecessary alarm them". This response was given when he was asked at a meeting initiated by the community December 2004, "Why had the community not been informed of KRA 71". The statement was subsequently repeated to me by phone on or around March 2005 when I asked the same question.

The failure to notify the community removed their right to mobilise and comment on the draft policy. The Draft SPP received 157 submissions while the subsequent Barro development Application to the Redlands Council received around 1,600 objections. It is clear that if the community had been notified in a timely manner when the policy was in draft, DMR may well have been a substantially higher number of submissions and KRA 71 may have been removed from the final policy.

Also of great concern is that the FOIs provide no evidence of any attempt by DMR to genuinely address/reflect on the issues raised in the community's submissions. Privately it is understood that both executives within the Department and industry were extremely reluctant to see any watering down of their resource entitlements for either environmental or community impact reasons for fear that it may set a precedent.

Examples of bias within Qld DMR

1. In August 2005 a 35 page petition was presented to Parliament. This was one of two petitions presented to the Queensland Parliament totalling 2317 signatures calling for the removal of KRA 71. [REDACTED] (Manager Minerals and Extractive Planning) in an email dated 16 August 2005⁷ to [REDACTED] noted the use of a "generic reply ...to deal with it".

The action taken by the Department in response to the petition is an insult to the community. Clearly there was no intention to give any consideration to the petition – it makes a mockery of the process.

⁷ FOI - [REDACTED] emails and petition response)

- By contrast from all the FOIs received covering the background to the inclusion of KRA 71, only one email was found in support. Curiously a hand written comment by [REDACTED] on the email from within State Government (Appendix 4) noted “N.B. this positive letter shouldn’t have the “standard” response. [REDACTED]”
2. In a Ministerial Briefing note (DMR) dated July 2005 on the Mt Cotton KRA 71, [REDACTED]ens (Manager Minerals and Extractive Planning) stated that “Redland Shire Council’s Submission on the SPP is largely supportive”. However this statement misleads the Minister. While the council supported the introduction of a State Planning Policy for extractive industries, they were very reluctant to have KRA 71 included. Council had to be directed to make the zoning changes required for KRA 71.
 3. In the Ministerial briefing containing the justification for the inclusion of the recently purchased Barro Mt Cotton properties, the only justification used for the resource need was a dated 1978 report on regional resources by Willmott et al. The briefing to the Minister omitted advising the Minister that subsequent to that report, one of Queensland largest hardrock quarries (KRA 72, Appendix 1) with a resource entitlement far larger than the proposed Barro Quarry was developed and operating also on Mt Cotton less than 10 kms away.

How can the process of State Government protect the environment, significant regional ecosystems and the fate of the Koalas when 2317 petitioners are responded to with a “Generic” reply, and a single positive email in support of the development is singled out for “non-standard response”? This is just a few of numerous examples of Departmental patronising behaviour, prejudice, misleading or incomplete Ministerial briefing notes, bullying and deliberate obstructing of both legislation to protect Koalas and the communities concerns.

“Wipe the slate clean”

An alleged offence was committed by Barro Group in the clearing and unlawful removal of quarry rock from the public roadway reserve that bisects Lot 17 on RP108970, and the level of environmental harm so caused (Appendix 3). The environmental harm consists of several elements and includes:

- The removal of vegetation, top soil and rock from the dominant ecosystem that existed on the roadway prior to quarrying. The vegetation, top soil and rock that were present were a physical characteristic of the ecological health of the dominant ecosystem (in this particular L2.71.5 and possibly I2.LI.23 (endangered)).
- It is alleged that it is the clearing and removal of topsoil and quarry material, without authorisation, under an environmental authority that created the harm (i.e.

the destruction of a physical characteristic of the environment that is conducive to ecological health).

- Additionally the particular vegetation removed was core Koala habitat within the designated Koala Coast and under a number of State Planning Policies related to the conservation of Koalas including SPP1/95, SPP 1,/97, and SPP 1/05. It is alleged that the clearing of core Koala habitat from the road reserve constitutes a level of environmental harm.

The quarry company had knowledge that the road reserve did not form part of their Quarry Development Plan submitted in December 1994 to Redland Shire Council. In 2004 the quarry was warned by the (then) Department of Natural Resources and Mines to stop vegetation clearing on the road reserve. Furthermore, in 2008 the DNR issued a further notice to the Barro Group to cease interfering with forest products on the road reserve. It is alleged that the quarry continued to willfully cause serious environmental harm by destroying the environmental values associated with vegetation clearing. This body of prima facie evidence points to willful serious environmental harm over an extended period of time.

At a meeting in the Office of Springwood State MP Ms Barbra Stone December 2, 2010 and attended by Departmental representatives from the Department of Environment and Resource management (DERM) the question was asked, “Why had the Barro Group not been charged given the systematic clearing, removal and sale of 350,000 cubic metres of soil without approval?” A Departmental representative responded that “it was agreed to wipe the slate clean if they paid the levy due”. The absurd analogy here is that one can steal a car, but provided the thief pays the registration, no charges will be laid and no recovery is required!

Environmental offences by large companies are not been treated with seriousness. The council had set aside the road reserve as an environmental reserve for habitat protection and the State Government responsible for the legislation covering the vegetation on the road and the 350,000 cubic metres of resource removed, failed to prosecute. Koala habitat and regionally significant ecosystems will continue to be decimated as State legislation has failed tragically to protect this species.

Recommendation

I submit:

5. Immediate listing of the koala under the EPBC Act;
6. Genuine public consultation to be enshrined under legislation and to be timely, rigorous and disciplined with a structured review and community closure. Remedies for lack of process to be available to the community in the Planning and Environment Court or Equivalent.
7. Local and regionally significant biodiversity to be given immediate protection in Federal Legislation;
8. Companies and Directors be treated with no less vigour than individuals for environmental destruction and damage;

APPENDIX 1- KRA 71 Map and overlays

Figure 1 SPP 2/07 KRA 71 and 72, Mt Cotton

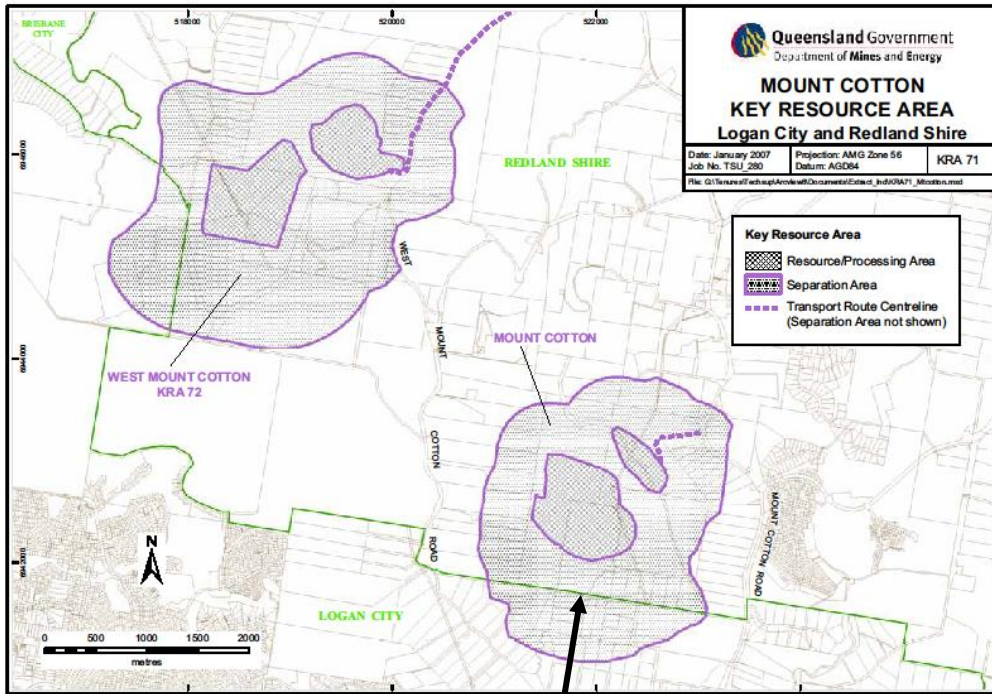
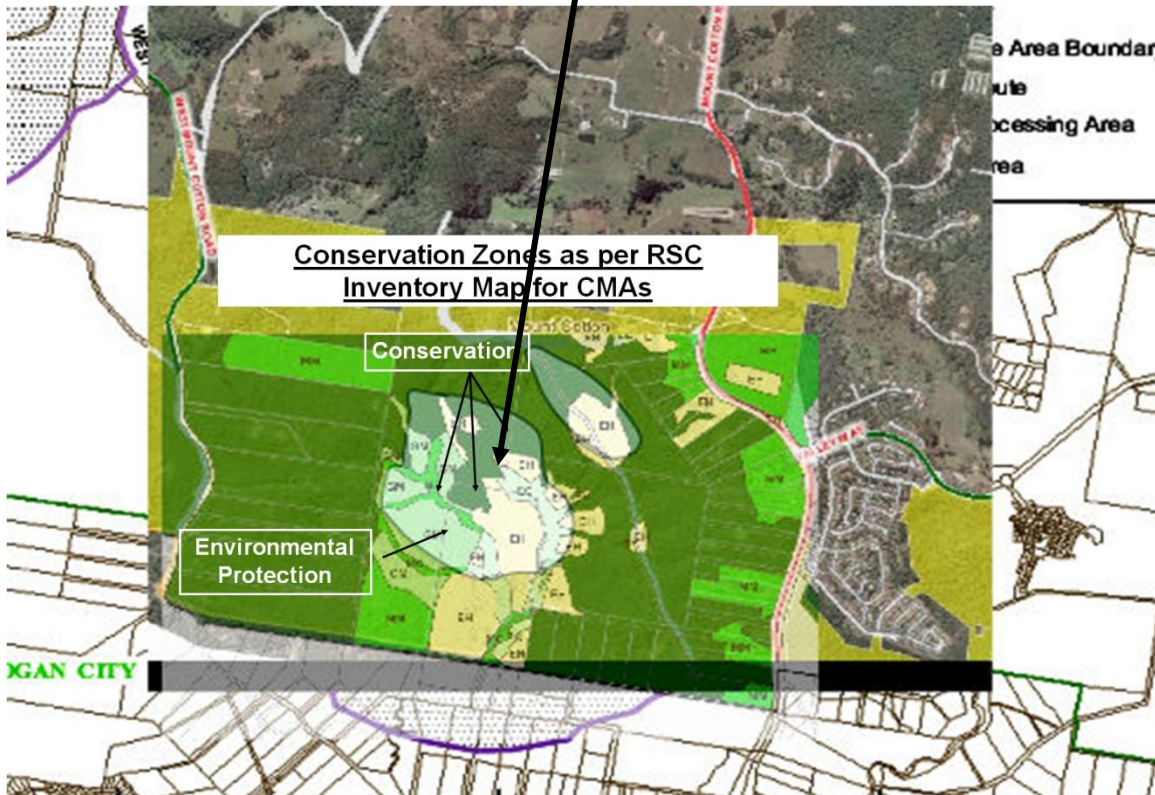


Figure 2 - KRA 71 Intended conservation zones by Redland City Council consistent with Koala Coast Policy



Appendix 2 – Aerial photo of KRA 71 and Koala habitat map

Figure 3 - Aerial photo taken from the NW

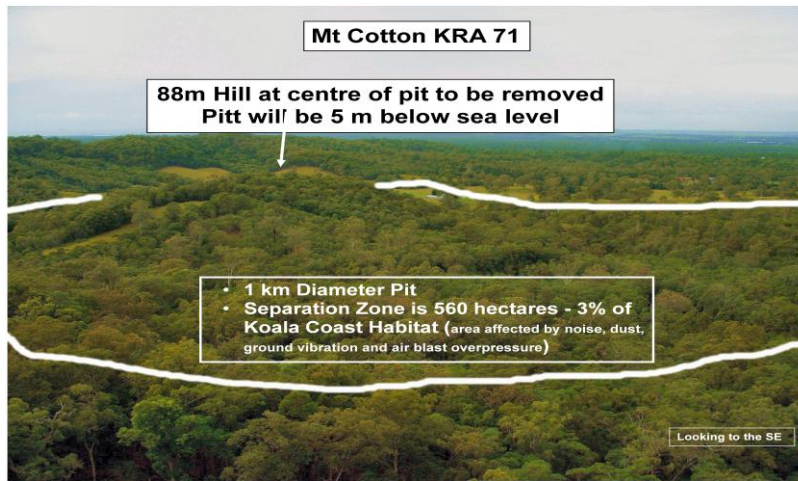
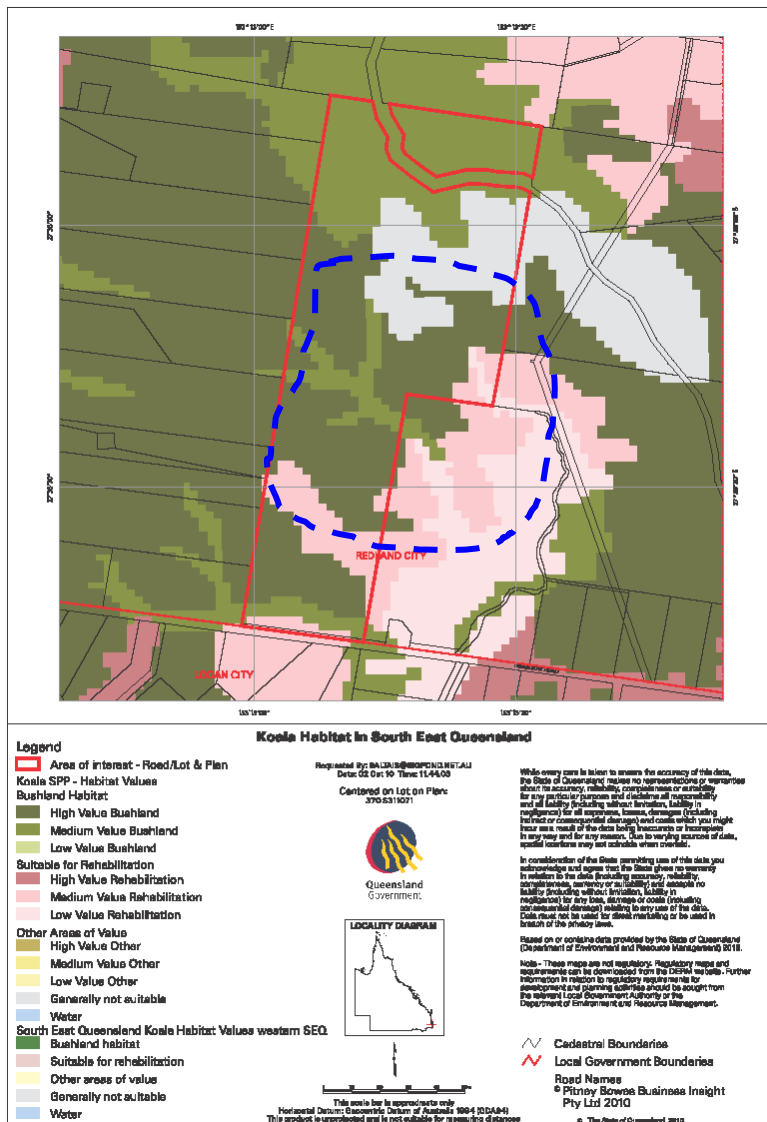


Figure 4- Proposed pit in blue dashes



Appendix 3 - Missing reserve

Figure 5 - Cleared and mined reserve running through quarry pit



Figure 6 - End of the road - missing reserve



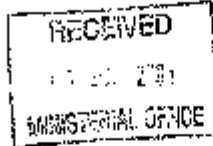
Appendix 4 FOI – Go for Gold Email!

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M/05/00541
18/7

Di Sweetman

From: [Redacted] (b)(7)(c)
Sent: Sunday, 10 July 2005 6:34 PM
To: Premons@qld.gov.au
Subject: Super Quarry



Hi,

I see illegal signs posted on trees and on main roads in protest to this super quarry. I personally don't have a problem with the quarry as only minutes up the road kamaman and boral have large quarries - if not bigger.

All I want to say is that yes its a kassa area - but we are growing at a pace in QLD that we need to get resources from somewhere. The quarry looks like it will be out of sight to most people (hey you wouldn't even know kamaman had a quarry unless you deliberately followed his trucks. The map foot print shows that the quarry will be out of the way - also when its finished (maybe a long time after were it gone) it can be transformed into anything. Qx - maybe not a landfill but it could be used to build a water treatment plant where used and recycled water can be pumped to store and then redistributed. The possibilities are endless.

Go for Gold!!

FOI Released

Ms. this positive letter shouldn't have the "standard" response.



18/7/05

<input type="checkbox"/> SEARCHED
<input type="checkbox"/> INDEXED
<input type="checkbox"/> SERIALIZED
<input type="checkbox"/> FILED
<input type="checkbox"/> INFORMATIONAL
<input type="checkbox"/> ACTION
<input type="checkbox"/> RUMS
<input type="checkbox"/> NO ACTION
<input type="checkbox"/> REFUSE
<input type="checkbox"/> INFORMATION
<input type="checkbox"/> ACTION
<i>18/7/05</i>

LEAHY