

WIDE BAY BURNETT CONSERVATION COUNCIL INC.

Applicant

BURNETT WATER PTY LTD (ACN 097 206 614)

Respondent

AFFIDAVIT OF REGINALD FRANKLIN THORNTON
(Form 20)
(Order 14 rule 2)

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On the 24th of November 2008, I, Reginald Franklin Thornton, Retired Research Scientist for the CSIRO, of 16 Jacqueline Drive, Howard, 4659 in the State of Queensland, affirm –

1. I am the President of the Wide Bay Burnett Conservation Council Inc ("WBCC") of 25 Ellena Street Maryborough in the State of Queensland, and have been since February 2006. I am authorised to prepare this affidavit on its behalf.

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Deponent

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Justice of the Peace / Legal Practitioner

Filed by the Applicant

Jo-Anne Bragg, Principal Solicitor
Environmental Defenders Office (Qld) Inc.
30 Hardgrave Road
West End Qld 4101

Tel: (07) 3211 4466
Fax: (07) 3211 4655
Email: edoqld@edo.org.au

2. WBBCC was incorporated in Australia on 24 September 1993 under the *Associations Incorporation Act 1981 (Qld)*. **Annexure RFT-1** to this affidavit is a true copy of the Certificate of Incorporation of WBBCC.
3. Since its incorporation the objects or purposes of WBBCC have included the protection or conservation of, or research into, the environment, particularly in Wide Bay Burnett region. The objects of WBBCC are set at its Constitution and Rules, as amended in 2003. **Annexure RFT-2** to this affidavit is a true copy of the current Constitution and Rules, as amended.
4. WBBCC has engaged through its executive and members in a series of activities in Australia for protection or conservation of, or research into, the environment since its incorporation in 1993. I understand that only the activities in the 2 years prior to the Paradise Dam commencing operation in or about November 2005 and the making of the application are relevant for the purposes of establishing WBBCC's standing under section 475 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* ("EPBC Act"); however, I note that prior to that period WBBCC campaigned for many years for protection of the Burnett River from water infrastructure development and the conservation of lungfish. These activities included:
 - (a) Making a submission in April 1995 on the Impact Assessment Statement for the proposed Walla Weir (also called Ned Churchward Weir) on the Burnett River.
 - (b) Making a submission in December 1995 on the supplementary Impact Assessment Statement for the proposed Walla Weir (also called the Ned Churchward Weir) on the Burnett River.
 - (c) Attending the Local Management Group Meetings from 1996-2004 concerning the environmental management of the construction and operational phases associated with the Wall Weir (also called Ned Churchward Weir).
 - (d) Submitting jointly with the Bundaberg Branch of the Wildlife Preservation Society of Queensland ("WPSQ") in 1997 a nomination to have Lungfish (*Neoceratodus forsteri*) listed under the *Endangered Species Protection Act 1992* but it was declined.
 - (e) Making a submission dated 3rd October 2002 on the Draft Environmental Impact Statement for the Burnett River Dam (also called the Paradise Dam), Walla Weir and Eidsvold Weir. **Annexure RFT-3** to this affidavit is a true copy of that document.
 - (f) Making supplementary comments dated the 8th October 2001 on the Draft Environmental Impact Statement for the Burnett River Dam (also called Paradise Dam), Walla Weir and Eidsvold Weir.

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5. I am able to provide copies of these documents to the Court if requested; however, for brevity here I have annexed only the fourth of these documents as it is directly relevant to the Paradise Dam.
6. During the 2 years prior to the Paradise Dam commencing operation in or about November 2005 and the making of the application, WBBCC engaged through its executive and members in a series of activities in Australia for protection or conservation of, or research into, the environment. These activities have included:
 - (a) Operating the Environment Centre at 99 Bazaar Street, Maryborough, and later in the Neighbourhood Centre at 25 Ellena Street, Maryborough, staffed by the WBBCC coordinator and members to campaign and provide information to the public on matters of environmental concern affecting the Wide Bay Burnett Region.
 - (b) Campaigning against the respondent's proposal to construct and operate the Paradise Dam.
 - (c) Writing a joint submission with other conservation groups to the Minister administering the EPBC Act, dated 17 April 2008, for compliance and enforcement action to be taken against the respondent for contravening condition 3 of the approval for the Paradise Dam under the Act. A copy of that letter was provided as annexure JAB-4 to the affidavit of Jo-Anne Bragg affirmed and filed on 6 November 2008.
 - (d) Campaigning against the Traveston Crossing Dam proposed to be built by Queensland Water Infrastructure Pty Ltd, a subsidiary of SunWater, on the Mary River due to its severe adverse impacts on lungfish and other parts of the environment in the region.
 - (e) Making a submission in February 2008 on the Draft Environmental Impacts Statement for the proposed Traveston Crossing Dam.
 - (f) Campaigning on sustainable water use, vegetation retention, protection of endangered, vulnerable and rare species, sympathetic land management and curbing destructive development.
 - (g) Publishing a quarterly magazine, *Wambaliman*, produced jointly with the Bundaberg and Fraser Coast branches of the Wildlife Preservation Society. This magazine has been published continuously for 40 years. Topics covered during this time have been diverse including both local, regional and national matters concerning the protection or conservation of, or research into, the environment. In December 2001 *Wambaliman* was published for the first time in an electronic format to compliment the traditional paper edition which is still sent out to all members. Issues since Autumn 2006 are now published on the WBBCC website at <http://wbbcc.wordpress.com/wambaliman/> and provide further details of the

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applicant's many activities during this period for the protection, conservation and research into the environment.

- (h) Holding Annual General Meetings for members of WBBCC to keep them informed and up to date with the current environmental issues occurring in our area and the work and lobbying carried out by the coordinator and project officers for the committee.
 - (i) Contacting the media to gain local media coverage of conservation issues and environmental threats in our region.
 - (j) Hosting free Environmental Law workshops, in conjunction with the Environmental Defenders Office, in Maryborough, in 2003 and 2008.
 - (k) Monitoring of wildlife through Nature Search, a volunteer sub-committee set up to research wildlife in the Wide Bay Burnett region, active between 2001 and 2003.
 - (l) Water quality monitoring in the Mary River Catchment area undertaken by members at regular intervals.
 - (m) Continuing representation on the Wide Bay Burnett Regional Planning Advisory Committee-Wide Bay 2020, from 2003 to date.
 - (n) Holding a public information day at Wongi Waterholes on 5th June 2005, in conjunction with local traditional owners to promote the environmental and cultural significance of the waterholes that were under threat due to a proposed increase in the nearby water storage facility.
 - (o) Making a submission on the Draft Great Sandy Marine Park Strategy during 2005.
 - (p) Environmental representation on the Wide Bay Burnett Coastal Management Planning process during 2005.
 - (q) Making a submission dated October 2006 on the Draft Mary Basin Water Resources Plan.
 - (r) Representation on the Wide Bay Burnett Regional Water Supply Strategy run by the Department of Natural Resources and Water in 2008.
7. I am able to provide to the Court copies of all the documents referred to in the preceding paragraph if requested.

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Deponent

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Justice of the Peace / Legal Practitioner

8. All the facts affirmed to in this affidavit are true and correct to my knowledge and belief except as stated otherwise. In preparing this affidavit I have relied on my own knowledge but also on information provided by current and past staff and members of WBBCC, which included our current staff checking WBBCC files.

Affirmed by)
Reginald Franklin Thornton)
at this)
24th day of November 2008)
before me:

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Deponent

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Justice of the Peace / Legal Practitioner

AFFIDAVIT – CERTIFICATE OF COMPLIANCE
(Form 20A)
(Order 14, rule 5A)

I, Jo-Anne Bragg, Principal Solicitor, certify to the Court that the affidavit of Dr. Reginald Franklin Thornton sworn/affirmed on 24 November 2008 on behalf of the applicant complies with Order 14, rule 2 of the Federal Court Rules.

Dated:
Jo-Anne Bragg (Principal Solicitor)