

Friends of Minnamurra River Incorporated¹

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NEWS RELEASE

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FEDERAL ENVIRONMENT DEPARTMENT APPEARS IN CHAOS AFTER CONFLICTING DECISIONS ON BEHALF OF MINISTER PLIBERSEK

The federal Department of the Environment appears to be in chaos having just approved a breach of its own environmental protection legislation to allow a national mining company to destroy a highly protected and critically endangered ecosystem which the company says does not exist and contrary to a Ministerial consultant who says the very same area must be completely protected in perpetuity by declaring it a Significant Aboriginal Area because of its very high landscape and cultural values.

The Department on Friday approved the destruction of part of one of Australia's rarest forest ecosystems, Southeast Littoral Rainforest – listed as critically endangered and protected under the department-enforced *Environment Protection and Biodiversity Conservation Act* (EPBC Act), to make way for a temporary sand mine for the publicly listed Boral Limited.

The proposed Boral Limited Stage 5B sand mining site is out of public view, less than 200 metres from the banks of the Minnamurra River, south of historic Dunmore House at Dunmore, just north of Kiama NSW.

The mine site, to be completely cut and cleared, will also involve the destruction of at least 7.5 hectares of rare and ancient Bangalay Sand Forest supposedly protected under the NSW *Biodiversity Conservation Act*.

The site is very close to two other critically endangered ecological plant communities – both of them also supposedly EPBC Act protected: Subtropical and Temperate Coastal Saltmarsh and Coastal Swamp Oak Forest of South-east Queensland and New South Wales. Both of these are threatened by likely changes to groundwater and other natural systems that will be disrupted or destroyed by the 26-metre deep sand mine dredge pit.

The mine, requiring the removal of the rare 100-year-old to 400-year-Bangalay trees, as well as the even rarer interrelated Littoral Rainforest, will provide about 1.15 million tonnes of sand for Sydney building sites and last for only about two years. The exhausted mine dredge pit will become a deep private lake.

¹ Friends of Minnamurra River (FOMR) is an active incorporated community-based association formed five years ago to conserve, protect and enhance the estuarine and catchment ecosystems of the Minnamurra River. It has qualified expertise available to it and within its membership in plant and animal ecology, botany, archaeology, hydrology and environmental science.


The Department of Environment announced on Friday (28/07) it had decided that the proposed Boral sand mine with dredge pit, pipelines pumps and access roads was ‘not a controlled action’, that is, ‘it will not have or is unlikely to have a significant impact on one or more protected matters (EPBC-listed ecosystems) and therefore does not require assessment and approval under the EPBC Act.’

However, four weeks ago, the department announced it *was*, in fact, assessing the proposed sand mine under the EPBC Act.

It was then that Friends of Minnamurra River twice warned both the Minister for the Environment, Tanya Plibersek, and the head of her department, David Fredericks, that on the basis of five years of on-ground investigations of the area by FOMR Inc. ecologists and botanists, and recent drone video footage, destruction and modification of the federally protected Littoral Rainforest and likely modification of the other endangered and federally-listed ecosystems at the site, was totally unavoidable.

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https://www.saveminnamurrariver.org/files/ugd/233a65_301bb3ceff504a7ebadce6323d074833.pdf

This FOMR News release issued last week included very recent drone footage ( [Minimurra Littoral Rainforest FOMR.mp4](#)) which showed, yet again, that vegetation clearing to make way for Boral’s sand mine would not only damage but actually remove substantial sections of federally protected Littoral Rainforest, stands of which are, according to the same federal Department of Environment, inextricably interwoven with the Bangalay Sand Forest.²

7.5ha of this Sand Forest and its interrelated Littoral Rainforest, together with discrete stands of Littoral Rainforest, is to be felled now that the Department of Environment has given its approval.

Boral and its environmental consultants, in a June 2023 report to the federal department to support its application for mining approval under the EPBC Act, says the Littoral Rainforest that the federal department has approved for destruction, *does not exist*.

However, long term on-ground investigations by FOMR Inc show those significant areas of protected Littoral Rainforest, in various stages of maturity, actually within the dredge pit site will most certainly be cleared, in direct contravention of the EPBC Act.

In addition, Boral’s environment consultant’s maps in the same June report, show that a very large area of the Littoral Rainforest said by Boral to be non-existent, is within Boral’s 100-metre-wide buffer zone around the dredge pit site. Mining impacts on it also cannot be avoided.

“We’ve had Robodebt, the illegal scheme from the federal Department of Human Services, more recently the debacle of apparent illegalities in the Department of Home Affairs and

²Identification Guidelines for Endangered Ecological Communities – Littoral Rainforest in the South East Corner, Sydney Basin and NSW North Coast bioregions, ISSN 1834-9935, published by the Department of Environment and Climate Change, with the Australian Government’s Natural Heritage Trust, Canberra, DECC2008/153, p. 2.

now, with last Friday's decision, we have Envirokill, the federal Department of Environment approving the destruction of rare and federally protected Australian biodiversity and multiple endangered bird and animal habitats, on the basis of desk studies in Sydney and Canberra and total reliance on the consultant's reports of the applicant mining company," Will Chyra, Chair of FOMR, says.

"But the situation is even more farcical than that", Mr Chyra says.

"While one branch of Tanya Plibersek's department is approving the destruction of an EPBC Act-protected critically endangered ecosystem, another branch of the same department is preparing to support the recommendations of the government's own expert consultant, Dr Brendan Corrigan, that the Minister moves to protect from any destruction or damage the very same vegetation and area that the same department approved for destruction last Friday.

https://www.saveminnamurrariver.org/_files/ugd/233a65_a5f29d04d5e644939a5f9a3f09c8bf10.pdf

One of Dr Corrigan's main recommendations is that Minister Plibersek declares Boral's 5B mine site at Dunmore a Significant Aboriginal Area under the federal *Aboriginal and Torres Strait Islander Heritage Protection Act* "To avoid the wholesale destruction of the Aboriginal heritage values in and at the specified area (Site 5B) the entire specified area should be protected from the proposed sand mining; and ii. Any such protection should extend to any similar large scale earth moving activities."

Dr Corrigan also told the Minister that there was evidence indicating the potential presence of Aboriginal burials in the 5B mine site with some of them potentially victims of the 1818 Minnamurra Massacre of Aboriginal families on or very near the site.

Boral Limited countered this by telling the Minister that the it had run a Ground Penetrating Radar survey over the area and that the survey showed no Aboriginal burials.

However, FOMR Inc. responded by informing the Minister that this was not surprising because extensive Ground Penetrating Radar practice and studies, both in Australia and overseas, had shown conclusively that it was practically impossible for the technology to detect human burials older than about 150 years, particularly burials made without the use of coffins with metal fittings.

"Now, here we have a federal government consultant recommending to a federal Minister and her department, the total protection of an area for which the same department, on behalf of the same Minister, has just approved the *destruction* of everything that the consultant says should be *protected*," Mr Chyra says.

"Now, you wouldn't believe that even in a script for 'Yes, Minister'," Mr Chyra says, "but it has just happened."

He says Minister Plibersek needs to get a grip on her department which appears to have been impaired by a decade of pro-industry and pro-business government.

"In those 10 years, the environment has not only taken a back seat, it's disappeared off the public policy agenda and the dreadful impacts on the animal, bird and human habitats, as

exemplified by this disastrous departmental decision at Dunmore, are tragically obvious,” Mr Chyra says.

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Above: All trees and vegetation on the left (east) and right (west) of the fence in this photograph, and extending hundreds of metres south, are some of the last stands of rare and ancient Bangalay Sand Forest and critically endangered Southeast Littoral Rainforest on Earth. Boral Limited will cut and clear all the vegetation on the left of the fence to make way for its 7.5 hectare, 26-metre deep sand mine dredge pond now that the federal Environment Department, on behalf of the Minister for Environment, has approved the destruction of these federally protected forests. As for the rest of the magnificent interrelated mix of Littoral Rainforest and Bangalay Sand Forest continuing on the right of the fence, Boral and its environmental consultants say it doesn't exist ! *FOMR Inc. photograph 22 July 2023.*
