

Friends of Minnamurra River Incorporated¹

www.saveminnamurrariver.org

9 Samuels Lane
KIAMA DOWNS
NSW 2533

Email: FOMR2533@gmail.com



NEWS RELEASE

EMBARGOED until News Conference on site at 10am on Wednesday 21 June 2023

COMMONWEALTH AND NSW ENVIRONMENT MINISTERS SET TO ALLOW BULLDOZING OF RICH ABORIGINAL HERITAGE, RARE AND PROTECTED STATE AND FEDERALLY-LISTED ECOSYSTEMS, AND ANIMAL AND SEA EAGLE HABITATS NEAR KIAMA, NSW

The Commonwealth Environment Minister, Tanya Plibersek, and the NSW Environment Minister, Penny Sharpe, appear by inaction about to override their own existing environmental and cultural protection legislation to allow the destruction of a rare 400-years-old forest, associated endangered ecological communities, protected animal and bird habitats and ancient prehistoric sites – all to make way for a temporary sand mine with a maximum life of only about two years.

The small, highly biodiverse area out of public sight just south of historic Dunmore House at Dunmore, NSW, only 8km north of Kiama, will be cut, cleared and mined to a depth of 27 metres by national building materials' supplier, Boral Limited.

Boral's sand dredge has recently been moved to its Stage 5B mine site, leased from a local private landholder, and the site's 400-year-old Bangalay trees with their irreplaceable 'protected' animal habitats are marked as ready for felling and removal.

Boral has very recently applied to the Federal Government for approval under the Commonwealth's *Environment Protection and Biodiversity Conservation Act* to start the Stage 5B sand mining on 20 July 2023. ([Open for comments · EPBC Act Public Portal \(awe.gov.au\)](#))

The company's 5 June 2023 approval application has identified many more federal and State listed plant and animal species than ever listed before at the Stage 5B site, plant species threatened with destruction and animals now facing loss of their habitats, population numbers and sudden death, directly from the cutting, clearing and establishment of the sand mine pit.

(<https://www.saveminnamurrariver.org/slaughter-of-native-animals>)

The Ministers may also ignore a recent Federal Government expert consultant's recommendation that the natural landscapes and Aboriginal cultural heritage of the same site are so valuable that the Federal Minister should immediately move to totally protect the area from destruction by declaring it a Significant Aboriginal Area under existing Federal heritage protection legislation.

(https://www.saveminnamurrariver.org/files/ugd/233a65_a5f29d04d5e644939a5f9a3f09c8bf10.pdf)

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, archaeology, hydrology and environmental science.

“The high biodiversity and environmental values that the Ministers are about to allow to be destroyed in this disproportionately small 7.5 hectares near Kiama, are representative in every way of the continuing and uncontrolled loss and degradation of other vital and irreplaceable Australian environments - like the riverine ecosystems of the Murray-Darling Basin and the country’s native forests – all of which the Federal Minister has lamented in the worst-ever Australian State of the Environment report that she released late last year”, FOMR’s Chair, Will Chyra, said at a news conference overlooking the site today.

“The NSW Conservation Council says that more than a thousand plants and animals in the State are currently at risk of extinction. Yet here, in a remaining small haven for a number of these same species, the NSW and Federal Environment Ministers are about to contribute to this dreadful environmental decline by not only not using – but by allowing the overriding - of the very legislation they could immediately apply to stop it, Mr Chyra says.

“For nearly five years, we’ve been pointing out to the NSW government and more recently the Federal government, the insanity of destroying this remaining small gem of a dwindling natural Australia as well as the Aboriginal cultural heritage of the site – a cultural heritage site that everyone, including the Federal Government’s own consultant and even the mining company agree, is unique and priceless.

“FOMR, with its various specialists in relevant fields, has been warning for years – with evidence - that successive NSW governments have been misled by their planning department about allowing Boral’s new sand mine to proceed.

“But they just haven’t listened. In fact, earlier this year we briefed and made a detailed submission (https://www.saveminnamurrariver.org/files/ugd/233a65_0c947bebe6b74532961322f9ae4037bb.pdf) to the new NSW Minister, Penny Sharpe, about the inadvisability of the destruction of the mine site. **But we haven’t even received the courtesy of an acknowledgement of that letter let alone a considered response**”, Mr Chyra says.

“They just don’t seem to care. It makes you wonder why we vote for any of them when it’s very clear that they ignore what the majority of voters want – in this case the protection from destruction of a small, unique and rare area of centuries old natural environment and priceless Aboriginal cultural heritage, all for a very temporary sand mine to reap a short term economic gain for a large company.”

The imminent sand mine is opposed by practically everyone but Boral itself and the NSW Department of Planning and Environment which has been pushing for the new mine for at least five years since it supported Boral obtaining a licence for it under a section of State legislation repealed a decade earlier.

As the NSW and Federal Environment Ministers have also been fully informed in the past five years, in addition to the destruction of the ancient and ‘protected’ Bangalay Sand Forest, the new Boral Stage 5B mine:

- Poses real risks to the Critically Endangered SE Littoral Rainforest, protected under NSW legislation and listed as an Endangered Ecological Community (EEC) under the federal *Environment Protection and Biodiversity Conservation Act* (EPBC Act). This listed SE Littoral rainforest, in various stages of maturity and regeneration from historic farming in the area, is part of the Bangalay Sand Forest ecosystem. Dense Littoral Rainforest also overhangs a boundary fence into the mine site itself and will no doubt have to be cut back.
- Because the mine site is only 162 metres from the Minnamurra River wetlands, there is also a very real risk to yet another EEC, Coastal Saltmarsh, protected in NSW and again listed as vulnerable under the EPBC Act and for which the NSW government has developed a “Save Our Species” recovery program to try to reverse the continuing loss of this high value EEC, and

- The cutting and clearing of an additional 3.0 ha of high value native vegetation, unique to the Minnamurra River catchment area.
- The NSW Department of Planning also says that six fauna species listed as threatened under the NSW *Biodiversity Conservation Act* have been recorded in the mining site to be cut and cleared. ***FOMR also has photographic evidence of a protected Sea Eagle inhabiting the Bangalay Sand Forest trees to be cut and cleared.***
(https://www.saveminnamurrariver.org/files/ugd/233a65_92a8fe5799db479f8028654852bb4f3f.pdf)

From the moment of the approval by the NSW government-appointed Independent Planning Commission (IPC) in November 2020, there has been near total opposition to the mine proposal from the Shellharbour and Kiama local government councils, the Kiama and Shellharbour communities concerned, their representative community organisations, the local communities' Federal and State MPs and local and regional Aboriginal communities and representative bodies.

(https://www.saveminnamurrariver.org/files/ugd/233a65_a5f32dd23d944e2c8df8e0d815d84490.docx?dn=KIAMA%20COUNCIL%20OPPOSES%20PROPOSED%20BORAL%20LIMITED%20SAND%20MINES%20AT%20DUNMORE%20-%20UNANIMOUS%20COUNCIL%20RES) and
https://www.saveminnamurrariver.org/files/ugd/233a65_410d9e2082d94a2daa9de5e7da18f87f.pdf

There is also substantial evidence that the two IPC commissioners who made the decision in 2020 to allow the mine to proceed, were misled and inadequately advised by the NSW Department of Planning and that if they had been properly advised and certain evidence not omitted, the proposed mining would likely not have been approved.

(https://www.saveminnamurrariver.org/files/ugd/233a65_61e1ba2a9f1d48c78b9b7479b84f8240.pdf)

The only compensation Boral Limited will have to pay for totally destroying the area – for a mine with a life of only about two years - is money in the form of “ecosystem credits” into a government “biodiversity” Trust Fund, a system totally discredited as not working by the former government’s own Environment Minister and last year by a NSW Parliamentary inquiry.

The approved mine sites include rare and biodiverse vegetation types, as well as vulnerable bird habitats, but the former NSW Government’s Department of Planning, Industry and Environment (DPIE) says 7.5 hectares (ha) of this native vegetation will have to be completely cut and cleared to make way for the largest mine pit.

Of the 7.5ha to be destroyed, 4.5ha is Bangalay Sand Forest, of 100 to 400- year-old trees, currently protected as an Endangered Ecological Community (EEC) under the NSW Government’s own Biodiversity Conservation Act 2016.

The Bangalay Sand Forest to be destroyed is protected because it is a significant remnant of the very much larger Bangalay Sand Forests of the Sydney Basin and South East Corner bioregion until up to 60 per cent of their area was lost to urban and industrial development since European settlement.

The NSW Government is ignoring the advice of its own Threatened Species Scientific Committee by approving the destruction of the diminishing Forest.

This clearing of native vegetation is listed as a Key Threatening Process under the NSW Threatened Species Conservation Act (1995) and the government’s Threatened Species Scientific Committee says Bangalay Sand Forests are “likely to become extinct in nature in New South Wales unless the circumstances and factors threatening their survival (ie. clearing, for example) cease to operate.”

JUST SOME OF THE BUREACRATIC AND CORPORATE ACTIONS, OMISSIONS AND MISINFORMATION THAT BROUGHT US TO THE IMMINENT DESTRUCTION OF THIS UNIQUE AND IRREPLACABLE ENVIRONMENTAL GEM IN THE NATIONAL ESTATE

- The then NSW Department of Planning, Industry and Environment (DPIE) fostered Boral's mining application as an extension, on a new site, of Boral's old and previously approved sand mines 1.5km away, using a provision of NSW legislation (Section 75W of the NSW Planning and Assessment Act 1979) repealed a decade earlier. Departmental documents are also not clear on whether or not Boral met the deadline for submitting the new mining application before Section 75W expired.
- Failure by the NSW DPIE to conduct *any* on-site visit to the proposed mining area in the preparation of its environmental assessment for the Independent Planning Commission; (https://www.saveminnamurrariver.org/files/ugd/233a65_61e1ba2a9f1d48c78b9b7479b84f8240.pdf). There has not so far been any scientifically-based environmental assessment, detailed or accurate, of the impacts of Boral's proposed new sand mining pits in the Minnamurra River catchment;
- The Assessment report on the proposed new sand mining pits prepared for the IPC by the NSW Department of Planning, Industry and Environment (DPIE) – and on which the IPC said it relied almost entirely as the basis for its approval of the new mines - was a theoretical exercise conducted from the department's head office in Sydney without the benefit of much needed peer reviewed fieldwork or scientific studies;
- The DPIE's 'Assessment' on which the IPC relied, was not formulated from original research, studies or fieldwork but from reports produced by Boral's consultants.
- The two IPC commissioners considering Boral's new mining application did not have complete, balanced or scientifically rigorous information available to them on which to base their decision to approve Boral's two new mine pits.
- The inclusion in the NSW Department of Planning, Industry and Environment's assessment of mining impacts of **only three of the probable 41 listed endangered fauna species in the mining area.**
- **The Federal Department of the Environment may have breached its own legislation in considering issues related to Boral's proposed mining at its Stage 5B site.** (https://www.saveminnamurrariver.org/files/ugd/233a65_88af64a8e3e045eb99cfe0df2f28c12c.pdf)
- Boral told the Federal Environment Minister last year that its Ground Penetrating Radar survey of its proposed Stage 5B mine site showed that there were no Aboriginal burials at the site so the victims of the 1818 Minnamurra River Massacre at or very close to the mine site could not possibly be buried there. However, in January this year, FOMR pointed out to the Minister that Australian and overseas research shows that **Ground Penetrating Radar *can not* detected human burials more than about 120 years old and particularly those interred *without a coffin or metal such as belt buckles (like the Massacre victims).*** (https://www.saveminnamurrariver.org/files/ugd/233a65_a0214d81045b4461bba28d09771fa17c.pdf)