

Friends of Minnamurra River Incorporated¹

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For Immediate Publication

NEWS RELEASE

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NSW GOVERNMENT’S ENVIRONMENTAL AND BIODIVERSITY PROTECTIONS OVER BORAL’S PROPOSED SAND MINE AT DUNMORE “INEFFECTIVE, FUNDAMENTALLY BROKEN” PARLIAMENTARY INQUIRY FINDS

The total destruction of rare and State-protected environment and biodiversity to make way for Boral Limited’s proposed new Stage 5B sand mine at Dunmore will go ahead with the government’s own biodiversity offset laws applying to the site ‘ineffective and fundamentally broken’ and also apparently without the Flora and Fauna Management Plan required by the government’s Independent Planning Commission as a prior condition of the mine’s approval.

The Friends of Minnamurra River organisation is requesting the NSW Minister for Planning to immediately state clearly or not the government will allow Boral Limited to develop the new mine without meeting the pre-conditions set down by the government’s own Independent Planning Commission.

A report on the integrity of the NSW Biodiversity Offsets Scheme², tabled in the NSW Legislative Council on 1 December says the Scheme is fundamentally broken, ineffective and open to manipulation and corruption. The report contains 19 lengthy recommendations for a complete review and rewrite of the Scheme.

To make way for a sand mine with a life of only about two years, the NSW Government, through its Department of Planning and Environment and its Independent Planning Commission (IPC), has approved the complete clearing of:

- One of the rare stands, 4.5 hectares, of the fast disappearing 100-year-old to 400-year-old State-protected Endangered Ecological Community, Bangalay Sand Forest, and the multitude of animal and bird habitats it provides;
- Regrowth stands of Commonwealth-protected Southeast Littoral Rainforest, listed under the Australian EPBC Act as an Endangered Ecological Community (EEC), and
- An additional 3.0 ha of high value native vegetation.

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.

² Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council: *Integrity of the NSW Biodiversity Offsets Scheme, Report 16, November 2022.*

Boral Limited will be allowed to destroy all this rare and endangered biodiversity by simply paying the government money to buy so-called 'offset credits' under the same Biodiversity Offsets Scheme just discredited by the NSW Parliamentary committee.

The proposed new Stage 5B sand mine is out of public sight and access behind (south of) historic Dunmore House at Dunmore and only 160 metres from a pristine reach of the Minnamurra River.

Chair of Friends of Minnamurra River (FOMR Inc.), Will Chyra, says the area to be destroyed for the Boral mine is so rare and biodiverse in this area that it should not be able to be 'offset' at all.

“An issue that arose in the Parliamentary inquiry was whether sites that contain exceptionally high value biodiversity should be able to be offset at all. The IUCN (International Union for the Conservation of Nature) principles state that biodiversity offsets must not be used in certain circumstances, such as: 'when a project may result in the extinction of species ... or the values that will be lost are specific to a particular place, and therefore cannot be found elsewhere.' Such is largely the case at Dunmore”, Mr Chyra said.

Mr Chyra also said it also appears that the NSW government will allow the sand mining to proceed at the Stage 5B site without the project meeting the conditions of approval set down in November 2020 by the government's Independent Planning Commission (IPC).

He said FOMR had written in October this year to the NSW head of the Department of Planning and Environment seeking copies of the plans and reports required by the IPC before the mining project can commence. (A copy of FOMR's letter is attached.)

Mr Chyra said the Department had provided neither an acknowledgement nor a reply and therefore it appeared that both Boral Limited and the government were not complying with the conditions set down by the IPC for the approval of the sand mine.

He called on the NSW Minister for Environment to come clean on whether or not the government would permit Boral Limited to proceed with Stage 5B without completion of all the documentation and conditions required by the IPC.

Media contact: Will Chyra, Ph: 0419 633 191

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11 October 2022

Mr Michael Cassel
Secretary
Department of Planning
Locked Bag 5022
PARRAMATTA NSW 2124

cc. Councillors, Kiama Municipal Council; Councillors, Shellharbour City Council; Anna Watson MP, Member for Shellharbour; Gareth Ward MP, Member for Kiama

Dear Mr Cassel

In framing the following questions to you, I refer to the NSW Independent Planning Commission's (IPC's) 16 November 2020 Notice of Modification (Conditions) for Stage 5 of the Dunmore Lakes Sand Extraction Project in the Minnamurra River Catchment, located in the local government areas of Kiama and Shellharbour City.

1. Has the Applicant, a wholly owned subsidiary of Boral Limited, provided you with the detailed design of the Stage 5B flood mitigation bund which demonstrates that the bunds can prevent inundation of the Stage 5B pond and car parking area by floodwaters associated with a probable maximum flood event? (Conditions, *Stage 5 Flood Mitigation, 29B*)
 - 1a. If so, may we please have a copy of the design and specifications?
 - 1b. If not, when do you expect to receive the Stage 5B flood bund design as required by the IPC's Conditions.
2. Has Boral Limited and/or its subsidiary updated the Flora and Fauna Management Plan for the proposed sand mining development, particularly Stage 5B, to be prepared by a suitably qualified experienced ecologist approved by you and involving Kiama and Shellharbour Councils and Fisheries NSW, in accordance with the IPC's *Flora and Fauna Management Plan conditions 38 (a) to (i)*?
 - 2a. If so, may we please have a copy of the updated Flora and Fauna Management Plan?

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2b. If you or your Department has not yet received the updated Plan, when do you or your Department expect to receive it?

3. As you are possibly aware, salvage archaeology and the testimony of living descendants of the victims of an early colonial massacre of First Nations' people at Site 5B has proven that Stage 5 of the mining site, particularly Stage 5B, has unique Aboriginal heritage, cultural, archaeological and social values which are priceless/inestimable and irreplaceable. Have you yet received a Heritage Management Plan for Stage 5 of the mining site, including the proposed Stage 5B, as required by the IPC's *Conditions 41 (a) to (g)*.

3b. If you have received the Heritage Management Plan, may we please have a copy?

3c. If you have not yet received the Plan, when do you expect to receive it?

Given that mining at Stage 5A has been well under way now for at least a couple of months and the issue is very much in the public interest in this area in particular, we would appreciate receiving the plans and information sought above and/or your answers to our questions **by Friday 21 October 2022**.

If you require any further information or have any questions, please contact me immediately.

Yours sincerely,

Will Chyra
Chair

Ph: 0419 633 191