

Friends of Minnamurra River Incorporated¹

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NEWS RELEASE No. 1 of 2

For Immediate Release

Tuesday 2 January 2024

The Friends of Minnamurra River (FOMR Inc) organisation has strongly challenged a letter from national sand miner and building materials' supplier, Boral Limited, to the editor of the local Kiama newspaper about the company's dredging operations in an Aboriginal sacred site at Minnamurra recommended for federal government permanent protection as a significant Aboriginal heritage site.

In its 22 December 2023 letter to the online version of The Bugle, Boral tried to defend itself against starting and continuing the destruction by sand dredging of a sacred Aboriginal burial and heritage site at Minnamurra, pre-empting a federal government decision on a government consultant's strong recommendations to save and permanently protect the site as a Significant Aboriginal Area.

The sacred site is out of public sight on leased land on the Minnamurra River floodplain nearly immediately south of historic Dunmore House, about 8km north of Kiama, NSW.

The site and its surrounds that Boral started sand dredging on 30 October 2023, is the same area that local Wodi Wodi First Nations' people are adamant contains not only the burials from at least 30,000 years of their archaeologically-proven continuous occupation of the same land but also the victims of the officially recognised 1818 Minnamurra Massacre of Aboriginal people by early European settlers on or very near the site.

FOMR Inc Chair, Will Chyra, today rejected the Boral letter's assertions about the company's cultural heritage management plan and the company's dredging of the site.

He said that the Boral mine on the site would very likely not have been approved at all – and the sacred site's continuing destruction averted – if the NSW approving body, the two-member Independent Planning Commission (IPC), had been fully and properly informed before it gave its approval for the mine three years ago, in November 2020.

In addition, Mr Chyra said, the approval and environmental assessment process was based on State legislation then already a decade old and due to be replaced by new legislation and policy only half a day after Boral submitted its application for approval.

Mr Chyra said it was highly unlikely that the new mine would have been approved if it had been environmentally assessed under the more recent, replacement legislation.

¹ Friends of Minnamurra River (FOMR) is an active incorporated community-based association formed six 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.

In its letter to the local newspaper, Boral Limited says its cultural heritage management plan for the site includes protocols for “unexpected finds” – Aboriginal burials.

However, Mr Chyra, says such a statement is, in practical terms, meaningless, not only because Boral’s NSW government-required heritage management plan is now at least three years out of date, but because Boral’s sand dredge has no device or mechanism for detecting human burials – or for detecting any of the wealth of Aboriginal cultural artefacts proven to be heavily deposited throughout the site.

“The dredge operator has no way whatsoever of detecting human remains or any of the huge wealth of cultural material from 1,500 generations or more of continuous Aboriginal occupation of the area. His machine’s powerful dredge pump simply devours and destroys all of it by sucking it up in its surrounding sand and sending it all through a slurry pipeline to Boral’s sand processing and dispatch site at Dunmore, two or three kilometres away”, Mr Chyra says.

It is this Aboriginal heritage and the burials of the ancestors of the many Wodi Wodi people still living in the Illawarra that the federal government’s expert consultant, Dr Brendan Corrigan, has recommended must be saved and permanently protected as a Significant Aboriginal Area.

“However, Boral has ignored all this – it does not even mention Dr Corrigan’s report and recommendations - and every working day, the company is very actively destroying what Dr Corrigan and the local Aboriginal people so desperately want saved and protected”, Mr Chyra says.

“And on top of this, Boral’s sand mine on this sacred site is only temporary. The site will be all destroyed - dug into a 27-metre deep hole – and filled with water to form a private artificial lake later this year or early next”, he says.

Mr Chyra says that Boral’s letter to the local newspaper is also notable on three other counts:

- (i) it was written by Boral’s national property manager, not by the company’s Aboriginal Affairs employee which, he says, is indicative of Boral attempting to play down the significance of the proven Aboriginal heritage it is destroying and the opposition of the First Nations’ community and its representative groups;
- (ii) it glossed over or covered up the details of how the NSW government planning system and pro-development legislation fostered the approval of the new sand mines over strong First Nations’, community and local government opposition to what the mines would do, both to the rich Aboriginal heritage and to the environment and critically endangered ecology of the mine sites, particularly Site 5B, the area currently being destroyed, and
- (iii) the letter is misleading by indicating that the NSW Independent Planning Commission’s process for approving the new mines – not as new mines but as an extension of Boral’s existing mines several kilometres away across the Princes Motorway – was “a detailed assessment that included consideration of Aboriginal heritage”.

Mr Chyra notes that the IPC, supposedly independent but whose two members were appointed by the pro-development NSW government of the time, refused to hold hearings into Boral’s application for its mining extension.

The two IPC members also never inspected the sites of the new mines whose approval they were considering.

And of the 159 public submissions received by the NSW Department of Planning on behalf of the IPC, “almost all of the community submissions were in objection”.² Practically all objecting submissions raised concerns about the Aboriginal cultural heritage impacts of the proposed mines.

Both local government councils in the area objected to Boral’s proposal for its two new mines as did the representative Illawarra Local Aboriginal Land Council and both the federal and State local parliamentary members, the State member opposing his own government on the proposal.

FOMR has evidence³ that the two IPC commissioners 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 and it is reasonable to propose that their decision would have been different if they had been fully, properly and scientifically informed by DoPIE or an independent environmental assessor.

There is also clear evidence that the NSW government and Boral Limited ignored multiple strong and clear requests by the NSW Office of Environment and Heritage (OEH) to prevent any sand mining at Minnamurra ‘totally and directly harming’ high value Aboriginal cultural and archaeological sites.

The multiple requests, including asking Boral to limit the size of its proposed mining sites, are contained in a NSW Office of Environment and Heritage (OEH) May 2019 letter to the NSW Department of Planning, recently uncovered by FOMR Inc. within a public website.⁴

All available evidence shows that the Department of Planning did not pass on the OEH’s warnings and requests to modify Boral’s mining application and plans and that the NSW Independent Planning Commission never saw the information before it went ahead and approved the Boral sand mining on Sites 5A and 5B at Minnamurra a year later.

The information provided by the OEH but never seen by the IPC - and not mentioned at all in Boral’s recent letter to the editor - included:

- The three recorded Aboriginal cultural heritage sites in the new mining area “would be totally and directly harmed” by Boral’s proposed mining and sand extraction sites and two of those Aboriginal sites “*are of high cultural and moderate to high archaeological significance*”.
- The NSW government’s conclusion that there will be no “significant impacts” from Boral’s proposed new mines “does not consider the loss of Aboriginal heritage through this (mining) expansion”.
- *No (Aboriginal heritage) conservation measures were being proposed by Boral or the NSW Department of Planning.*
- If mining proceeded, “Partial conservation may be achieved “by not mining the south east corner of Stage 5A and the eastern side of Stage 5B” (by limiting the area to be mined on the eastern side of 5B). ***Again, both recommendations were ignored: Boral mined all of 5A in 2022-2023 and has made no changes to the area of 5B, the site that it has just started to mine.***
- Boral’s archaeological investigations and testing of the proposed mine sites were inadequate in scope and area and “it can be very difficult to predict or identify (human) burial locations through archaeological investigations”.

² *Dunmore Lakes Project Modification Stage 2 - Development of Stage 5 Extraction Areas State Significant Development Modification Assessment Report (DA195-8-2004 Mod 2)*, NSW Dept of Planning, Industry and Environment (DoPIE), September 2020, page vii.

³ (https://www.saveminnamurrariver.org/files/ugd/233a65_61e1ba2a9f1d48c78b9b7479b84f8240.pdf)

⁴ (<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=DA195-8-2004-MOD-2%2120201126T033711.408%20GMT>) (pp. 1 and 2 and pp. 4,5,6 and 7.)

- “Aboriginal burials are known to occur in sand deposits such as those at Dunmore and across the NSW South Coast” and “...the exact location of burials from the (1818 Aboriginal) massacre (at or near the proposed 5B mine site) is not known.”
 - OEH notes that Aboriginal leader (and possibly a survivor of the 1818 massacre), William Walker, is near the Minnamurra River and that there are historical records of Aboriginal burials in the area at or near the 5B mining site.
 - The Local Illawarra Land Council has reported that the “almost 3000 Aboriginal people (who died as a result of a (disease epidemic) in the Shellharbour area at the end of the 18th Century” are believed “buried around the Minnamurra River.”
 - The locations of Boral’s archaeological test pits, which revealed high concentrations of Aboriginal artefacts, should be extended “to more accurately define the boundary of the (recorded) archaeological deposits. However, it is likely that the archaeological deposit extends throughout the entire (mining) expansion areas.”
 - Cumulative impact: The Boral and Department of Planning *Aboriginal Cultural Heritage Assessment Report* covering the proposed new mines sites “should include an assessment of cumulative impact.” The assessment “should consider lands adjoining the proposed extraction area, whether archaeological deposits of a similar nature are present in those lands, and if there are potential heritage conservation options on that land.” *There is no evidence that such an assessment was ever done.*
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