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NSW GOVERNMENT ADMITS ITS BIODIVERSITY LEGISLATION WILL NOT OFFSET DESTRUCTION OF ‘PROTECTED’ ANIMALS AND ENVIRONMENTS AT BORAL’S PROPOSED MINNAMURRA RIVER SAND MINING SITE

The NSW Minister for Environment has admitted that the biodiversity offset scheme his government is relying on to minimise the impacts of Boral’s destruction of “protected” animals and environments at its proposed new sand mining site along the Minnamurra River at Dunmore, NSW, is broken and needs “root and branch reform”.

The Minister, Matt Kean, conceded this when addressing a NSW budget estimates hearing last week.

Referring to the NSW Biodiversity Offset Scheme (BOS), a government scheme that allows developers and miners to destroy native bushland and wildlife if they pay to protect and enhance habitat elsewhere, Mr Kean indicated that the scheme was so broken and ineffective that major reform was needed.

Asked if the government is going to reform the scheme so that critically endangered habitat, exactly like that along the Minnamurra River, could not be cleared by using the BOS – as is currently proposed – the Minister responded it was clear that “root and branch reform” of the scheme is necessary.

Friends of Minnamurra River (FOMR), the community-based river protection organisation, says the NSW government must permanently stop Boral’s proposed wholesale ecosystem destruction now that the government knows its biodiversity offsetting legislation is defective and ineffective.

Investigations by The Guardian newspaper earlier this year found a number of examples of the BOS being extensively rorted in various parts of NSW, matters which are now the subject of examination by the NSW Independent Commission Against Corruption (ICAC), by government agencies and by a special Legislative Council Inquiry into the integrity of the Biodiversity Offset Scheme.

The NSW Department of Planning, Industry and Environment (DPIE) last year supported and approved Boral’s proposed destruction of three supposedly State and Federal “protected”, ancient, rare and critically endangered ecosystems to make way for the company’s new mining site beside the Minnamurra River, on the basis that such destruction would be ‘offset’

by application of the Biodiversity Offset Scheme, including Boral's payment of moneys into a government trust fund.

“We have always said this situation is scandalous because it is simply impossible to replace 100 to 400-year-old - and older - ecosystems and the integral and equally ancient habitats they provide for rare and endangered animals and birds, by having companies pay money to play god and try to instantly re-create such unique ecosystems and habitats elsewhere,” the Chair of Friends of Minnamurra River (FOMR), Will Chyra says.

“The NSW government's Biodiversity Offsets Scheme was doomed from the beginning but because it has been promoted by the government to favour developers and miners, the people of NSW – and indeed, Australia – have lost, collectively, very large areas of irreplaceable and rare natural heritage and countless rare and endangered animals and birds during the relatively short time the scheme has been operating,” Mr Chyra says.

“Now that the Minister for Environment has admitted that the BOS is worse than a failure – that it's being rorted – we must appeal to the government and do everything else we can to stop Boral, with government support and approval, from yet again using this scheme to destroy even more of the State's rare and ancient natural heritage along the relatively untouched Minnamurra River estuary.”

Mr Chyra says FOMR has warned before that NSW government legislation and regulations are aiding and abetting the destruction of cultural and natural heritage by approving the proposed new Boral sand mining site along the Minnamurra River.

In July, FOMR said publicly that NSW government regulations are also permitting the destruction of ancient and unique State-significant archaeological and Aboriginal cultural heritage sites in the Minnamurra River catchment at Dunmore.

FOMR says current NSW government regulations on archaeological and cultural heritage assessment¹ allow the “salvage” of potential archaeological sites, such as those in the Minnamurra River catchment, using techniques that destroy those sites and prevent their scientific investigation for the recovery of their full records of Aboriginal cultural heritage.

The NSW government regulations also specifically exempt corporations and individuals from prosecution for damaging or destroying Aboriginal artefacts and potential archaeological sites in mining and development project areas.

The Local Illawarra Aboriginal Land Council has subsequently formally requested the Federal government to stop all work at the proposed new Boral mining area, particularly its proposed Site 5B beside the river.

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¹ *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, Department of Environment, Climate Change and Water NSW, September 2010, and *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, Department of Environment, Climate Change and Water, September 2010.