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O/N H-1289453

**INDEPENDENT PLANNING COMMISSION**

**PUBLIC MEETING**

**RE: DUNMORE LAKES SAND PROJECT MODIFICATION 2**

**PANEL:** **MS DIANNE LEESON (Chairperson)**  
**MR PETER COCHRANE**

**ASSISTING PANEL:** **BRAD JAMES**

**LOCATION:** **VIA VIDEO CONFERENCE**

**DATE:** **WEDNESDAY, 28 OCTOBER 2020**

MS LEESON: Okay. Good afternoon, and welcome to the Independent Planning Commission's electronic public meeting on the Dunmore Lakes Modification 2 Project. I am Dianne Leeson and I am the chair of this IPC Panel. Joining me is my fellow commissioner, Mr Peter Cochrane. Before we begin, I would like to

5 acknowledge the traditional custodians of the lands on which we meet and pay my respects to elders past, present and emerging. The Dunmore Lakes Sand Project is an established dredge stand operation at Dunmore in the Illawarra region of New South Wales. It is owned by Dunmore Sand and Soil Proprietary Limited, which is a wholly owned subsidiary of Boal Resources (New South Wales) Proprietary Limited.

10 Dunmore Sand and Soil, the applicant, is seeking approval to extract sand from two new extraction areas known as stages 5A to the north and 5B to the south within the existing approved life of the operations. The project is located within Shellharbour Local Government Area. Commissioners make an annual declaration of interest identifying potential conflicts with their appointer role. For the record, no conflicts of interest have been identified in relation to our determination of this development application. You can find additional information on the way we manage potential conflicts on our websites.

20 In line with regulations introduced in response to the ongoing COVID-19 pandemic, the Commission has moved this public meeting online with registered speakers provided the opportunity to the present the panel via telephone or video conference. In the interests of openness and transparency, we're streaming this meeting live on our website. As always, a full transcript of these proceedings will also be made

25 available on our website in the next few days. The Commission was established by the New South Wales government on 1 March 2018 as a standalone statutory body operating independently of the Department of Planning, Industry and Environment and other agencies. The Commission plays an important role in strengthening transparency and independence in the decision making process or major development and land use planning in New South Wales.

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The key functions of the Commission include determining state-significant development applications, conducting public hearings for development applications and other matters and providing independent expert advice on other planning and development matters when requested by the Minister for Planning or the planning secretary. The Commission is the consent authority for state-significant development applications in circumstances where there are 50 or more unique objections, the applicant has made reportable political donation and/or the local council has objected to the application. It's important to note that the Commission is not involved in the Department's assessment of modifications or SSD applications nor in the preparation of its assessment reports. This public meeting forms one part of the Commission's process. We have met with the Department, the applicant, Shellharbour City Council and Kiama Municipal Council.

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45 We have also undertaken a site visit in the company of the applicant and three community group representatives. Transcripts of all these meetings are published on

our website. After the public meeting, we may convene with relevant stakeholders if clarification or additional information is required on matters raised. Following the public meeting, we will endeavour to determine the modification as soon as possible, noting that there may be a delay if we find that additional information is needed.

5 Written submissions on this matter will be accepted by the Commission up to 5 pm on Wednesday 4 November 2020.

And you can make a submission using the have your say portal on our website or my email or post. We invite interested individuals and groups to make any submission they consider appropriate during this meeting. However, the Commission is particularly assisted by submissions that are responsive to the Department of Planning, Industry and Environment's assessment report and recommended conditions of consent. All submissions made to the Department during exhibition of the environmental impact statement have been made available to the Commission.

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15 As such, today's speakers are encouraged to avoid repeating or restating submission they've previously made on this application.

The Commission must emphasise that there are certain matters that by law it is not permitted to take into account when making its determination and, therefore, submissions on such matters cannot be considered. These factors include the reputation of the applicant and any past planning law breaches by the applicant. Before we get underway, I would like to outline how today's public meeting will run. We will first hear from the applicant. We will then proceed to hear from our registered speakers. While we will endeavour to stick to our published schedule, this will be dependent on registered speakers being ready to present at their allocated time. I will introduce each speaker when it's their turn to present to the panel.

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Everyone has been advised in advance how long they have to speak. A bell will sound when a speaker has one minute remaining. A second bell will sound when a speaker's time has expired. To ensure everyone receives their fair share of time, I will enforce timekeeping rules. I do reserve the right to allow additional time as required to hear new information. If you have a copy of your speaking notes or any additional material to support your presentation, it would be appreciated if you would provide a copy to the Commission. Please note, any information given us may be made public. The Commission's privacy statement governs our approach to managing your information. Our privacy statement is available on our website. Thank you. It is now time to call our first speaker and I will call Adnan Voloder and James Collings from the applicant. Thank you, Adnan.

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40 MR VOLODER: Good afternoon, commissioners. Thank you for the opportunity to present to the panel today. My name is Adnan Voloder and I'm the planning and development manager within the lands and property group in Boral assisting with the management of this particular project. I'd like to begin by acknowledging the traditional owners of the land on which we are presenting from today, the Wadamadigal Clan, the Dharawal Nation, and pay my respects to elders past, present and emerging. We have prepared a presentation in today in which we propose to reflect on the findings of the assessment report and outline some of the key elements

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which we believe best illustrates the nature of our project and the manner in which we develop the application which you find before you. I'm not sure if the presentation has been uploaded yet.

5 MS LEESON: Yes, it's just being loaded now. Thanks, Adnan.

MR VOLODER: Thank you.

MS LEESON: Thank you, we have that. If you'd like to continue.

10

MR VOLODER: Fantastic. Just to confirm that we're on the second slide.

MS LEESON: Right.

15 MR VOLODER: As the panel will be aware, this application was submitted in February 2019 and publicly exhibited in April 2019. Since that time, we have been actively engaging with the Department of Planning and numerous agencies to resolve any outstanding concerns which were raised. The Department's recommendation that the proposal is approval subject to conditions is the combination of those efforts  
20 and a thorough assessment periods that's spanned over 14 months. We believe that one of the biggest factors – sorry, one of the biggest benefits of our proposal stems from the fact that we are utilising existing infrastructure and established processes to release this resource.

25 Next slide, please. This project avoids the necessity for any substantial changes to our existing operations by utilising our existing production facilities at Tabitta Road. As was explained in the report, the hours of operation, consent period, production and transport limits and methods will remain unaltered as a result of our proposal, meaning that the substantive nature of our operations will continue to operate as they  
30 ..... what this does is allows us to avoid dismantling and ceasing operations at a site that has a long history of being able to operate within the community appropriately and manage any of its impacts effectively and avoid the need of establishing any of our processing equipment at an alternative location.

35 Next slide, please. The proposal seeks to release an additional 1.3m tonnes of resource for utilisation in the building and construction industries of New South Wales. Overall, the modification would see an 18 per cent increase to the site's disturbance footprint, increasing our current footprint from 63 hectares to just over 74 hectares in total. Our existing processing pit, excuse me, will remain in place to  
40 accommodate the processing of the new resource with distribution activities occurring from the same location as found today. Next slide, please. In developing the stage of our extraction pit there were quite a few factors that we considered and took into account in order to mitigate, minimise any impacts on the region more generally which may not appear evident from the reports themselves.

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Next slide, please. A key exercise we undertook during the formulation of our proposal was trying to find an appropriate balance between risks and opportunities.

What we do know is that the size of the sand deposit in this region is significant and extends all the way to the banks of the Minnamurra River. As you can see, with orange shading, most of the region, in fact, contains sand resource which could be suitable for construction materials. However, as is also evident, much of the natural resource is encumbered by areas of vegetation or has been sterilised by residential and recreational development in the region, which you can see further to the east.

Next slide, please. We also had to consider which areas are most sensitive and avoid those areas as best as possible. Our initial pit area was reduced to avoid the underserved Bangalay Forest to the west and south of stage 5B and the wetland areas to the east, notwithstanding the fact there are vast volumes of accessible resource there. As you can see in this illustration, we were very particular about how we shaped the stage 5B and we specifically sought to avoid areas which provide buffers to sensitive environments, such as the salt marshes, swamp oak plains and other related ecosystems. This area also illustrates the density and connectedness of the surrounding environment and provides a good contrast as to the density of the surrounding vegetation and the sparseness of the vegetation in the area in which we propose to extract, given the decades of agricultural activities that have been occurring.

What you will also be able to observe is that all of the undisturbed areas of the Bangalay Sand Forest will remain unaffected and undisturbed as a result of the project. Next slide, please. When we zoom in further to each particular stage, the cleared and disturbed nature of the sites becomes more evident. As the panel would have observed on the site tour, stage 5A is fairly isolated, due to the fact of the location of the railway line and Riverside Drive, which was the former Princes Highway, which separates that particular area from the river and the wetlands located to the other side of it, thereby any natural interactions which could occur between ecological communities and stage 5A have long been eliminated and separated due to the establishment of a highway some decades ago, which we submit that the section which traverses into the proximity set area cannot be considered in the same way the proximity buffer can for stage 5B.

Stage 5A also abuts one of the previous extraction areas, which form part of stage 1 being the old consent, which is now shown as the pond located directly across Fig Hill Lane abutting stage 5A. When observing stage 5B, we tried our best to avoid the coastal proximity set and thereby the wetlands set areas close to the stage to ensure our operations have no tangible impact to surrounding wetland ecosystems. These are some of the key reasons why you find our pond's being shaped the way that they are. Next slide, please. Vegetation impacts were another key factor we considered when we looked at the shaping of stage 5B.

Next slide, please. Stage 5B is currently used for agricultural purposes with all the understorey effectively cleared and many trees cleared over decades as a result of farming activity. It is not an undisturbed forest. This image illustrates how distinct the land where our operations would occur is from the undisturbed lands located to the west, south and east of stage 5B. This has - - -

MS LEESON: I'm sorry to interrupt. I'm sorry to interrupt, Adnan. Our images are not keeping pace with your presentation. We now have 03 Planning Considerations and Vegetation. Thank you. There was just a time lag. I'm sorry.

5 MR VOLODER: Not a problem. I'm up to slide 10, which should show stage 5B.

MS LEESON: We are now looking at Planning Considerations, Vegetation.

MR VOLODER: Yes.

10

MS LEESON: The slides that I'm looking at don't appear to be numbered and it's the one with the icons across the top of the slide.

MR VOLODER: You are one slide ahead of me, unfortunately.

15

MS LEESON: So if we go back and at each change of slide you could ask for the next one, which I think you have been doing but if I could ask you to do that – to continue doing that we'll see if we can keep up with you.

20 MR VOLODER: Certainly. Apologies. So now that we're looking at the aerial of stage 5B, this image illustrates how distinct the land where our operations would occur is from the undisturbed lands located to the west, south and east of stage 5B and I think this is where I was up to. This has been perhaps the most significant concern raised by the community stemming to the perceived potential impacts the  
25 proposal may have on the Bangalay Sand Forest. These perceptions, however, have no basis. Boral has been very up front on the facts surrounding the potential impact on this ecological community. We will be removing approximately 50 trees as part of the development, which includes 38 hollow-bearing trees and 4 sag-bearing trees. To reiterate, the trees to be removed are not part of any undisturbed vegetation  
30 structure. Rather, the area to be cleared for the dredge ponds has already been impacted by grazing activities. Next slide, please, and this will be the one with the icons.

MS LEESON: That's right. Thank you.

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MR VOLODER: Prior to commencing any removal of vegetation, the draft conditions provided by the Department ..... place numerous ..... with our activities, including taking into account any impacts our works would have toward the edges of our operations to ensure any indirect impact .....

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MS LEESON: I'm sorry. We'll just take a short break. We'll be back as soon as we can. Thank you.

MR VOLODER: And we will be extending to stage 5 to take into account the  
45 Lantana, Cape Ivy and asparagus ferns which currently grow in those areas. Ecosystem credits will be purchased from a biodiversity conservation fund to offset the impacts, which will account for the Bangalay Sand Forest area and associated

fauna species offsets also. This is an accepted offset mechanism which we understand is also the preferred approach by the biodiversity conservation trust as it will allow the fund to continue its efforts in obtaining and appropriately retiring credits in line with this mandate. Specifically for stage 5B, we will be installing at least 100 nest boxes to the south of stage 5B, which will be equal to the amount of hollows to be impacted as part of the project in accordance with our management plans.

Our ecologists have made this recommendation and confirm that this is an effective and beneficial mitigation measure for the site. This strategy has been successfully implemented at Boral's Dunmore and Peppertree quarries, where animals such as bats and other fauna have both nested and raised their young in these boxes. Lastly, we are committed to implementing beneficial and meaningful rehabilitation outcomes for DSS as we have shown in the past. Next slide, please. This one just says Planning Consideration. In the course of the assessment of the application, flooding was a matter which was raised as a concern by counsel and the Department of Fisheries.

This is a matter which we looked at very closely as flooding has the potential to not only cause resource loss but also makes it more difficult to manage water quality within our ponds as there is the risk of flood waters – as the risk of flood waters can – sorry, as there is a risk flood waters can contaminate the ponds. Next slide, please, and this is an aerial of the two stages. As part of the consultations, we were able to confirm the validity of the modelling we already completed by crosschecking this with other models completed by Kiama Council, which considered a much larger catchment as part of the development of a nearby boardwalk project, which is actually along the Minnamurra River.

Management of our ponds will involve the establishment of ..... around the ponds to 3.7m AHD for stage 5A and 4.1m AHD for stage 5B to limit the potential for our pond waters to interact with flood waters up to a one in 100 year flood event. This will ensure the clean and ..... in the ponds does not interact with the contaminated water which would interact the region as a result of a major flood event. And when we say “clean water” in this context, our ponds will actually have better water quality than that which currently occurs naturally within the river as a result of the reduction of nutrients which commonly seep into the groundwater system from agricultural activities.

Next slide, please. This is the flood modelling slide. What you see here is the extensive flooding in the broader area in the one in 100 year flood event. It shows that Riverside Drive will be inundated by flood waters to the point of closure irrespective of our operations being there. While our ponds will result in a reduction of flood water storage, this reduction will have – sorry, the impact this reduction will have is minimal, with the greatest impact for the area arising in a one in five year event creating an increase of flood waters by 16 millimetres at the northern section of stage 5A. This impact, however, we submit is negligible due to the fact that the

flood waters in this area would already be 420 millimetres in height, rendering Riverside Drive inaccessible.

5 The next slide, please. Once the bunds are formed at both stages, we will be vegetating the bunds with grass to soften their appearance and assist with dust mitigation and erosion until such time the bunds are removed. Here you will see an illustration of what we believe stage 5A will look like, facing north with Riverside Drive abutting the stage located to the right, just behind the trees. Next slide, please.  
10 Here, we have illustrated what stage 5B will look like, looking towards the southwest from the top of the hill located to the north. The bunds established around the eastern boundary of stage 5A creates a perimeter between our pond water and the waters associated with flooding events.

15 Next slide, please. Just one just says Planning Considerations. Concerning groundwater, the operations at DSS and ..... more generally need to have a strong understanding of how groundwater systems and catchments function in order to effectively monitor, report on and manage any impacts the activities may have. Next slide, please. A key factor which needs to be recognised is the size of the catchments in which we operate. As you will see here, the Minnamurra River catchment is  
20 approximately 120 kilometres squared. Of this area, you will find that 48.5 per cent is cleared for agricultural lands, 2.3 is urban development, 1.2 per cent is industrial and 47.9 per cent is vegetation and wetlands.

25 Our entire project area will represent less than one per cent of a total catchment area and given the nature of our operations the possibilities of our activities having any substantial impact on the river or the groundwater network are minimal. Agricultural impacts are the largest factor influencing water quality in the catchment and, thereby, the river. Our processes are effectively a closed loop system, which means we do not need to discharge water as excess water is recirculated into the processing system  
30 and back into our ponds. As part of our operational extraction process, the surface water testing methods – as part of our surface water testing methods, we are able to accurately measure and manage groundwater and surface water quality associated with our operations.

35 Next slide, please, and this one has Bore Locations on it. It's also important to recognise that the groundwater network here is extensively monitored. We've plotted onto this aerial the locations of various bore and monitoring wells that can be found in the area, including those established for our operations and land holdings and those associated with Kiama council and Shellharbour Council depots  
40 respectively. Our consultants have a wealth of data gathered on the region, going as far back as 1994, covering for some of the previous DSS extraction areas as well as the Shellharbour depot and thereby have a comprehensive understanding of how this specific area's groundwater networks function.

45 It is this level of technical expertise, knowledge of the region and understanding of our processes that we rely on to come to the conclusions as found in our technical studies that our project will not have any impacts to the groundwater network, the

Minnamurra River or the toxic plume being managed by Kiama Council. Next slide, please. This one also just says Planning Considerations. Cultural heritage is another which we explored through the assessment process in consultation with the Department of Planning and the Office of Environment and Heritage. Both agencies  
5 have provided their support for the appraisal and approve of the work and findings collected to date.

Next slide, please. By following the code of practice, our research centred on the impacts we were likely to have within our disturbance footprint. Put more simply,  
10 we initially only conducted investigations which involved test pit excavations within our disturbance footprint as is required by the code. As part of this assessment process, 19 Aboriginal groups and individuals registered an interest in the site, with any members of the Aboriginal community provided an opportunity to participate in both the site excavations and the preparation of the cultural heritage assessment  
15 report itself. While, the aboriginal groups identified that the local and general area has ..... heritage value, cultural values linked specifically to the project area were not identified.

Intangible cultural values are wide ranging within the Minnamurra River landscape.  
20 However, these values are not solely tied to the objects, nor any specific tangible or intangible features within the project area. Notwithstanding these points and as a result of our finds and through discussions with DPIE and OEH, we embarked on the larger test pit program, which involved test pits being undertaken beyond the extent of our proposed extraction areas. What you see here is the investigation area  
25 previously considered. Next slide, please. Here you see the full extent of the potential archaeological deposits identified in our archaeological studies. For reference, a potential archaeological deposit or PAD is an area where the potential for subsurface archaeological material is considered to be moderate or high relative to the surrounding study area landscape.

30 We undertook this uncommon practice of conducting initial test pit excavations beyond our disturbance footprint under the direction of the Office of Environment and Heritage to definitively establish that the stage 5B footprint, being the original PAD is not the only area, in which artefacts could be found. Our preference was to  
35 avoid any unnecessary impacts that could occur from additional test pit excavations and, hence, our initial smaller pad area. This exercise confirmed our experts' original findings that the 5B area was not the only specific area in the region which is likely to contain artefacts. The archaeologists confirmed that the pad extends much further than our proposed operations and followed the beach ridge landform adjacent  
40 to the Minnamurra River and generally aligns with the areas in which we know there is a commercial quantity of sand resource.

Our project will result in an impact of a relatively small footprint within the wider cultural landscape, which will not be significant. All site activities will be managed  
45 in line with an approved heritage management plan prepared in consultation with government and relevant Aboriginal groups. Finally, we know that there have been some claims that our project will be impacting on a massacre site claimed to be

located in the vicinity of the Minnamurra River and there are a couple of key points we would like to make. Firstly, the proposed stage 5B area has no direct or indirect connection to the massacre site located in the vicinity of the banks of the Minnamurra River.

5

Secondly, the archaeological investigations of the project area showed no connection to the massacre event. It is highly likely that evidence of the massacre would have been discovered as part of the survey effort if it occurred on or immediately adjacent to the stage 5B area. While the actual location of the massacre has not been accurately recorded, we recognise and acknowledge it is a very important event in local Aboriginal history. We also recognise that Aboriginal burials may exist anywhere given the correct conditions. As a result, a procedure for human remains will be in place in our management plans, which has been the case with our other management plans for our Dunmore sites and other sites we manage across New South Wales.

We welcome members of the Aboriginal community to present any of their salvage works – to be present, excuse me, when any of the salvage works or works to establish the dredge ponds occurs. Next slide, please. Another aspect of our project I would like to cover off briefly relates to traffic and transport. Next slide, please. This is an image – it has an aerial and two photographs of the stage 5A area. For stage 5, we've developed a solution which utilises a combination of pipes and pumps pumping the sand and water mixture from the extraction ponds to our existing operations to the north for processing. What this does is it allows us to avoid the introduction of any new distribution ..... activity from the stage 5 areas.

In the interests of ensuring that any haulage and construction activities for the project do not impact on road network safety, we will be establishing a new access point to the stage 5 areas by creating a dedicated right turn access as is shown in the lower right-hand image on your screen. This will allow vehicles heading south along Riverside Drive, the former Princes Highway, to pass any of our vehicles which are waiting to make a right turn into the site. This solution has already been endorsed by Kiama Council as an appropriate solution, given the circumstances. Next slide, please. Now, we just have some data on this particular slide. Excuse me, sorry. The new movements which will affect the road network are tied to VENM importation for the purposes of re-establishing the stage 5A area for grazing land once operations are completed.

For clarity, VENM is Virgin Excavated Natural Materials, which includes natural material, such as clay, gravel, sand, soil or rock fines, which come from project areas that are not contaminated with manufactured chemicals or with processed residues and do not contain any sulphatic ores or soils or any other waste. These materials are heavily regulated by the EPA and we have established protocols in place which will ensure only suitable materials are accepted for the rehabilitation program. What we've done on the current slide is provide a breakdown of the likely truck movements which will be associated with the rehabilitation program, which will require some 23 trucks per day on average making deliveries to the stage 5A area.

We projected a theoretical maximum of 45 trucks per day coming to the site, which would be some 5 trucks per hour, to stress test the ability of the road network to accommodate our operations. And our assessments have concluded that the road network has sufficient capacity to accommodate these movements. We projected  
5 that these rehabilitation activities could be completed, potentially within 48 weeks. However, we're projecting it is more likely to be completed within two years. Next slide, please.

To provide some additional context as to what the intersection will look like, we  
10 have prepared a before and after photo. This is the location of the proposed access as it currently appears on Riverside Drive, facing south east, with our proposed stage 5A operation located to the right and the Kiama Council depot located to the left. Next slide, please. We tried our best to create this render to illustrate the extent to which the dedicated right turn lane will be located with the new ..... shown toward  
15 the centre of the image with the entrance sign to the Kiama Council depot partially relocated to accommodate the new access point.

Next slide, please. Finally, in closing, I just wanted to touch on a few points which have been raised in the past in relation to our project. Next slide, please, and there's  
20 a few icons on this particular slide. We have always maintained we will not impact on nearby white bellied sea eagle nests. While some in the community have called our ecological studies into question, due to the difficulty in determining the exact location of the eagle's nest, this stems to the fact that it was finally found to be over 280 metres away from stage 5B. This is well outside of our investigation area and  
25 the typical 200 metre buffer which applies to such searches.

This area is heavily vegetated and we are confident our proposed operations will not impact on this nest. Our technical experts who monitor numerous groundwater locations in the region have confirmed that we will not impact the toxic plume  
30 Kiama Council is trying to manage at their facilities. As we have always stated, we will not be extracting any sand from the Minnamurra River, its immediate surrounds or the wetlands abutting it. We assert our project will contribute to the local economy, rather than detract from it. Our continued operations will sustain local employment and ensure continuity of the supply materials upon which we all rely for  
35 public and private infrastructure.

Any suggestion this project will affect the local tourism sector is ignorant of the prominence of our existing operations and the consequent negligible effect on Kiama's pre-COVID visitation numbers. We are an organisation that is committed  
40 to fulfilling its rehabilitation obligations as detailed in our proposal. We have shown we can do this as is evident at the original stage 1 ponds located to the west of the highway, adjacent to the Dunmore Lakes estate, and further north, surrounding our existing operations. Next slide, please. Thank you, commissioners, once again, for the opportunity to present to you. And I will make myself available for any  
45 questions the panel may have. I would now like to hand over to my colleague who will provide a further explanation of the processes involved at the Dunmore Sand and Soil Operations.

MS LEESON: Thank you, Adnan. Just before you hand across to James – unless James is going to cover off on VENM materials – Peter, do you have any questions for Adnan?

5 MR COCHRANE: No.

MS LEESON: No. Adnan, I just have one question around VENM.

MR VOLODER: Certainly.

10

MS LEESON: You mentioned it is highly regulated. There'll be sand, clay, rocks. You described the types of material that would qualify as VENM and it would be no chemicals or, I think, manufactured waste associated with that. Would the protocols or do the protocols also consider exotic weed species? So would the VENM be clean  
15 of any vegetation materials?

MR VOLODER: Thank you, commissioner for the question. My understanding is that the VENM material will not contain any remnants of vegetation material within it or construction materials, for that matter.

20

MS LEESON: Thank you. Thank you. Are we now handing across to James Collings? Thank you.

MR VOLODER: That is correct. Thank you, commissioners.

25

MR COLLINGS: Okay. Good afternoon, commissioners and all others that have taken your time to present and talk today. So onto the next slide that says Applicant Presentation Business on it; is that right?

30 MS LEESON: We're not quite there, yet. Just bear with us, James.

MR COLLINGS: You're right.

MS LEESON: Yes. We do have that now. Thank you.

35

MR COLLINGS: Excellent. So as I say, good afternoon, commissioners and all others that have taken your time to present and talk today. Whilst many of our views are contrary to each other's, I do recognise the value and Boral recognises the value in such a process that gives us all the opportunity to listen and seek to better  
40 understand each of our positions. My name is James Collings and the metropolitan operations manager for Boral Quarries, New South Wales and the ACT. I'd like to take the time allocated to myself today to speak more generally about how we have operated and how we plan to continue to conduct our operations at Dunmore but also take the opportunity to provide the panel and the people watching the hearing more  
45 of a general explanation as to how we go about our dredging processes, what is involved and what some of our rehabilitation efforts look at as they've not necessarily been, you know, brought out in the proposal to date.

So if we could move on to the next slide, please. Before we get to some of those details, it would be beneficial, I think, to give some more context to what this resource means, not just for the broader development industry but the infrastructure in which we all do rely upon. Next slide, please. So this should be a slide with some  
5 key facts and some data on it. So finding accessible high quality sand resources that are within transportable distance to the metropolitan Sydney area is never easy and we find these resources generally located, you know, proximate to rivers or coastal areas and that is what we certainly have down at Dunmore Sand and Soil. Now, you know, what does 1.3m tonnes of sand, sort of, look like in terms of – in terms of  
10 construction activity?

You know, we take some assumptions in these because there's various inputs into concrete and asphalt but as a rule of thumb and using standard-type process it looks like about 200 kilometres of dual lane road – sorry, 200,000 house slabs or 20  
15 kilometres of dual lane road is what 1.3m tonnes of fine sand would manifest itself like and, as I say, in terms of those things that we rely upon – 200,000 house slabs. We're getting there. Next slide, please, if I might. You know, the balancing act and the balancing equation is never an easy one in any of these sorts of proposal and we recognise that but as Adnan previously explained, you know, there was numerous  
20 constraints that we took into account and, you know, what we've tried to do you can see in that aerial shot is to limit our project area to area which is currently being used for grazing and agricultural purposes.

Our operations, we're not proposing, will require the removal of any previously  
25 undisturbed areas of native vegetation. Instead, we'll be establishing our dredge ponds on land that has already been significantly cleared and is being actively grazed. Next slide, If I can, please. I'd like to take a few moments, now, if I can, though, to explain the dredging processes and how we go about doing what we propose to do. Next slide, please. So in very simple terms, when we develop an  
30 operation, as we would, in stage 5, as proposed, which is part of this proposal, we establish our bunds, which is an absolute requirement. An excavator prepares a pond, if you want to call it that, sufficiently large enough to place the dredge in.

We transport the existing dredge that is used in our current operations into the pond  
35 and the dredge – just hang on a minute – and the dredge will then – it has a cover head that sits below the water level that is essentially for want of a better word a large vacuum. It loosens the sand. It then sucks the sand and water mix up through the dredge pump and pumped across to our existing processing plant. That is a diesel powered pump on that dredge and that is essentially the only noise that is generated  
40 from our operations in those ponds – is the diesel engine on those dredges. Okay, the next slide, please. Sorry. Okay. So we've got a slide that should have some icons across the top.

45 MS LEESON: That's right.

MR COLLINGS: Yes. Sand, you know, is required for use in concrete and other construction materials – does need to meet, you know, certain strict specifications

and does need to be cleaned and processed, so the sand and water mix which is pumped from the dredge is pumped across to our wash plant where it is washed. That's designed to take out oversized materials and also take out any fines and silts out of it. Now, the fines and silts and any water that comes out of that wash process  
5 through recirculation winds up in what we have at our existing operations – is a fines pond which is a pond which is located or is discretely separate from our other ponds through earth walls and it is in that pond that the wash water with the silts and fines settles and those fines settle before that water is then re-put back into the system as clean water and recirculated back to the existing dredge pond.

10 The sand is then allowed to sit and dry. Now, that can be anywhere from a day – you know, a day or more, but dried sufficiently to allow transport by either road or rail and we do note that the Dunmore Sand and Soil and Dunmore Quarry operations are the quarrying operations in the Illawarra region to have rail transport infrastructure  
15 and that is a key – it was a key consideration in terms of this proposal was to utilise our existing rail infrastructure to ensure that we can minimise trucks on road, which is, you know – which is naturally an important factor. Next slide, if I can, please. So just to touch on environmental management, our existing operations have in place various management plans and it will be those plans that we will obviously leverage  
20 to ensure that whatever plans we would be required to put in place on the basis this proposal would be approved would use those existing as a basis given that we know that they work and they work well.

25 Next slide, please. So what do some of those plans look like? So we have rehabilitation and fauna management plans. We have water management plans. We have air quality and noise management plans. All of those things go to understanding how we track, monitor, measure and ensure that our operations in those aspects are compliant with the requirements of our consents. And cultural heritage management plans, which we are working through – and this will be a plan  
30 that we have at another operations and, you know, they work very successfully in terms of guiding us and ensuring how we go about engaging and working with our local indigenous communities in all that we do in those operations.

35 Next slide, please. So having plans is great. That's one thing but how do we make sure that we do comply with those? So we have various, I guess, parts of that process but there's an audit process, a monitoring process and a reporting process. So that audit process consists of various internal audits. We have monthly checklists, environmental permit planners, which our internal management teams have listed all consent conditions that they can ensure they're compliant to on a monthly basis.  
40 Then, we naturally have various external audits from our regulators and that includes three independent audits of our performance relative to our consent conditions.

45 But in some ways we would say it's those monthly checks and balances we have in place, you know, which are important. There's no point finding out a year down the track that you've got a problem. So they're the things we have place and they work very, very well. Regular monitoring as required in terms of water and air quality – rehabilitation progress sits as part of that monitoring element – and, then, there's

reporting, so we have those various reports through to our regulatory bodies and any of that information, any of our monitoring and reporting information, is available by the Dunmore Operations website. Next slide, please. Actually, we'll skip past the next one in terms of consultation to the one after that – it should look like – it sort of looks like four leaves.

And that describes various consultation activities. So we do have our community consultative committee and, look, we work very hard in terms of consultation and engagement with our community. I think what we've fully learnt from this and we do recognise through this process is that our stakeholder footprint is much larger than we'd previously considered and we certainly take that on board as a learning out of this. Nonetheless, this slide does describe the various activities we undertake routinely. Through our community consultative committee we've had various public meetings which we have for this proposal. We have our website, as I spoke about. You know, Dunmore Sand and Soil as an operation, as a part of Boral, you know, we are determined and dedicated to being not a responsible but an integral part of the community in which we operate. It's key to our license to operate.

Next slide, please. Just to describe some of the, you know, discussions and consultation processes we've had as part of this proposal with both Shellharbour and Kiama Council, with DPIE and the IPC, in terms of those site tours that you did touch on earlier, and community groups – and they, you know, go through from I think our first meeting with the Minnamurra Progress Association where we tabled some of this – was on 2 October 2018 right through to the most recent IPC visit on 28 September 2020. Next slide, please. So in terms of rehabilitation, the next couple of slides I would just like to touch on some examples of what we have achieved at our existing operation.

So if we can go to the next slide. Thank you. So we have a history of working with the Office of Environmental Heritage and Dunmore to provide habitat for fauna. So we were approached by the OEH to assist in conservation efforts of four threatened micro-bat species. That top left picture we see there shows one of our employees and one of our bat boxes. So as part of that, the OEH supplied 18 bat boxes. They were modified to be more effective in conjunction with our own local operational teams and the OEH. They've worked very, very well. You know, similar provisions to compensate for the loss of hollows proposed for stage 5 would be the relocation of existing hollows or installation of fauna boxes or constructed hollows.

The bottom-right image on that slide shows a section of the bird island. So we've created bird islands over at our existing operations at Tabitta Road and at Swamp Road and these islands are isolated landforms where birds can nest freely without risk of predation of land-based animals and, you know, they've been very, very successful and the top two images show a before and after as part of our rehabilitated lake on stage 2. Next slide, please. This once again shows a before and after of a rehabilitated area as part of stage 3. So for those current operations, stage 2 and 3, the rehabilitation has been selected from two ecologically endangered communities, one being fresh water wetlands on coastal flood plains, which is what we can see

above on this slide and swamp oak flood plain forests which was on the previous slide.

5 These communities were planted within the constructed the wetlands, the bird islands and pond areas to complement the amenity and we would propose in stage 5 the plantings will be based on species selected from the existing Bangalay Sand Forest EEC and sourced from local prominent seed as per existing rehabilitation practices. Next slide, please. That was fairly short and sharp, I think, but I did want to give a bit of a sense of what we operationally. I think, you know, planning and technical  
10 studies et cetera are one thing but how we put those in practice and how we monitor and manage and make sure we get these things right are equally important and, on behalf of Boral and the business, I'm very proud of what we do do in that space, so thank you for your time.

15 MS LEESON: Thank you, James. That's been most informative. Peter Cochrane, my fellow commissioner here, has a question for you.

MR COLLINGS: Sure.

20 MR COCHRANE: Thanks, James. The question is about diesel fuel on the dredge. How is it stored and how do you refuel and what protections are there against spillage into the ponds during operations and refuelling?

MR COLLINGS: Well, we have – I mean, it's stored in tanks on the dredge. We  
25 don't store a lot on the dredge. We fuel up daily from an external bunded fuel source. We have a little fuel barge that takes ..... out to refill. The operations are set up with, you know, spill kit arrangements in the event that something did go wrong, you know, with sausages et cetera. We did unfortunately have an event some years ago where a dredge did sink and I won't go into that, at our existing operation. And  
30 through those various – you know, through the fact there's very little fuel stores but through those protection mechanisms we have in place and our pollution, you know, response management plans that we have, that situation was managed without harm to the environment. So it's not to say these things can't happen but we don't have fuel on there that, you know, we go and fill up once a week. It's once a day, so we  
35 minimise the risk in that space and, then, we have other reactionary protections.

MR COCHRANE: Thank you.

40 MS LEESON: Thank you, James. That concludes your presentation and our next speaker is Will Chyra and I hope I've pronounced that correctly. Will, we'd like to hear from you. Thank you.

MR CHYRA: Thank you very much and you have pronounced that correctly. Good  
45 afternoon, commissioners. As you indicated, my name is Will Chyra and I'm a local resident of Kiama. I'm requesting that you refuse the application extension to expand the sand mining extraction at the Dunmore Lakes Project Modification 2. My reasons are as follows: the applicant is seeking amendments to an approval that

was given in 1999, over 20 years ago. Legislation has changed significantly over the last 20 years, particularly environmental legislation, which are now a lot more stringent. The applicant should simply apply for a new approval under the current legislation.

5

This proposal has been identified as being in the public's interest, both Sydney and Illawarra, but Illawarra, including Shellharbour and Kiama, are a major part and most affected by this proposal and represent over 300,000 residents. The Illawarra, as you're well aware, is not an endless resource. It's primarily a rural area with very special and natural environments, unique places, like Minnamurra River, that has been enjoyed not only by those that live there but hundreds of thousands of tourists annually. The sand mining proposal will only provide a few years of extraction and it may significantly impact if not destroy an environment that has taken hundreds of years to develop.

15

We all have the responsibility to preserve these precious environments and to ensure the survival of current and future generations. Mr Marcus Ray, the group deputy secretary from New South Wales Planning, Industry and Environment Department, wrote, in fact, to yourself – Professor Mary O'Cain, in September – March 2020 stating and I quote: "After a thorough assessment and consideration of community submissions on balance, the Department considered that the impacts of the modifications are manageable and the proposal modification is approval". Yet, the same letter states that 149 submissions from the community, primarily in the form in objections, were received ..... people with the Illawarra.

25

Both Kiama and Shellharbour submitted strong objections to the proposal, raising concerns about the impacts of the proposed medication on water, biodiversity, heritage and, obviously, traffic noise. And I don't believe this is a very balanced view. The opposition to date has come from many fields. The Honourable Mr Gareth Ward, member of Kiama and Minister for Families and Communities and Disability Services – he presented in the paper in parliament opposing the proposal, supporting, obviously, the local residents of Kiama and Shellharbour. Mr Justin Fields, member of the Legislative Council – he ..... petitions with almost 5000 signatures once again against the modifications.

35

As we mentioned previously, Shellharbour Council, Kiama Council and staff, including councillors, are opposed to this proposal. The Landcare Group, which is very much involved in the local area, ensuring the viability of the environment, is opposed. The Minnamurra Progress Association, as the applicant has identified, a local community group. The Friends of Minnamurra River, once again, a local community group. These are all people who have openly opposed the proposal. The modifications lie within the catchment of the Minnamurra River, which obviously contains endangered ecological communities, particularly, for example, the Bangalay Sand Forest, which provides habitat for a variety of fauna and rely on its existence.

45

A literal rain forest in a southern border of the proposal – a literal rain forest identified as critically endangered – you know, the removal of trees within this

environment would be seen as reprehensible. The applicant has identified the extraction of sand. They last, you know, up to five years of less, yet the endangered ecological species, particularly the Bangalay species, could be over 400 years old. The balance is far from being equitable. The Minnamurra River was identified by  
5 the New South Wales government itself as being under stress back in 1998. The river represents, you know, one of the last natural assets within the Illawarra region and, you know, no risk is worth taking if development has potential of negatively impacting on delicate ecosystems. The applicant's original approval was in the  
10 Rocklow Creek catchment, I should say.

MS LEESON: Thank you, Will. That has been your five minutes that you sought for presentation today. If there's one very quick point that you would like to make, I'd ask you to make it now, otherwise we will conclude.

15 MR CHYRA: There certainly is: I'd like to finish off with saying that, you know, there are laws that are imposed on society for almost everything and everyone. You know, why is it that there is no law against extinction? You know, we pretend to care until it's all too late, so I ask the commissioners of the Independent Planning  
20 Commission to reject the proposal and advise the applicant to apply for a new approval under the current environmental legislation. Thank you for giving me the opportunity.

MS LEESON: Thank you very much, Will. We appreciate your contribution. Our next speaker is Vicki Steele, who's also on the phone. Vicki, you also have five  
25 minutes for your presentation. Thank you.

MS STEELE: Good afternoon, commissioner. Can you hear me?

MS LEESON: We can hear you. Thank you.  
30

MS STEELE: Wonderful. Look, I'd like to give my opinion on three of my main concerns with this project and ask for the opportunity to ask some questions of Boral Sand and Soil.

35 MS LEESON: I'm sorry. I didn't quite catch that. You said you have some issues to raise.

MS STEELE: There's just a few questions I have that I feel that we haven't been able to get satisfactory answers to.  
40

MS LEESON: I think, then, your presentation should address what those questions are and it'll be a matter for the commissioners to then take those on board.

45 MS STEELE: Fine. Thank you. Is Boral Sand and Soil a responsible operator to carry out these new sand mining sites? My first encounter with the company was of an MPA, Minnamurra Progress Association, meeting, where myself and others ..... some years ago about a milky substance – they called it ..... flowing into the Rocklow

Creek from the existing sand mine lakes. This was denied at the meeting and they said they would investigate and get back to us but I had no correspondence back. Now, on Friday 23 October, just gone, these ..... and we had four millimetres of rain approximately two weeks before. I phoned the number on the glossy leaflet that we  
5 all received in the mail, left a message but no response, again. This brochure says we can check water ..... on the website but my experience is that they did not correspond with the date of the ..... that we experienced. So I've got two main points. That was my first point. The second point is ..... sand is a finite resource. I appreciate that local jobs are important. However, this ..... will continue as long as it is allowed to.  
10 The old Minnamurra school is another proposed site for the future. Is it not better to address these jobs in our community sooner rather than after the possible impact this will have on our community's environment, our mangroves, our fish and our river?

But my main point is about how does sand mining affect the surrounding  
15 groundwater? My main concern is the impact that exposing the groundwater to sunlight by creating shallow lakes where sunlight can reach the bed of the body of water. This will potentially create the opportunity for blue-green algae to produce a range of different toxins depending on the species of blue algae that may grow. Combined with the high transmission of sand substrate, it could create the perfect  
20 opportunity for these lakes to act as the source of blue-green algae and associated ..... in the local groundwater and river. This seems to be an issue that has not been addressed by any New South Wales government papers that I can find.

When I searched, "How does sand mining affect the surrounding groundwater in  
25 tidal rivers and estuaries and the uses local people ..... of the river", I found a paper from New South Wales Planning and Industry and Environment ..... DERA ..... study which is a closed ..... risk assessment tool to be used to better understand the relationship between land use and catchments, its impacts on estuaries and costal lakes. Has this study been done? There's also a MER, M-E-R, study which is a  
30 Marine Evaluation and Reporting on estuaries study. Has this been done? I found an article from 1996 ..... 2005 on survey on tidal limits in New South Wales but surely there's something more current available.

Does the proponent routinely measure sinoplaxon in lakes they have created to date?  
35 And if they have reported the data for sino bacteria and related toxins associated with the bacteria? It still smells specifically of sino bacteria, particularly in the summer months. The proponent should consider how the shallow lakes would potentially act as a source of sino bacteria and related toxins, ie Haplotoxin and Hepatotoxin, and, given this, the potential ..... of the local ..... could these proposed lakes act as a long  
40 term source of toxins in the estuary and can we ask the proponent – have they done any research on this issue? There seems to be a significant risk at the ..... thank you. Thank you.

MS LEESON: Thank you very much, Vicki. Our next presenter is Richard  
45 Maitland. Richard, you're representing the Friends of Minnamurra River and you have 10 minutes to present your submission. Thank you. Richard, I think you might

be on mute. Richard, are you on mute? Okay. Richard, you might need to turn your volume up if you're not on mute.

MR COCHRANE: Can you hear us?

5

MS LEESON: Richard, can you hear us? No, it seems we can't hear Richard.

MR COCHRANE: Or vice-versa.

10 MS LEESON: Richard, we will come back to you. We will go now to Howard Jones, if Howard's in the room.

MR MAITLAND: Good afternoon, commissioners and fellow presenters.

15 MS LEESON: I'm sorry. Richard, we have you. Thank you. So we've had a few problems at your end. As I - - -

MR MAITLAND: I'm not on.

20 MS LEESON: You are on, Richard.

MR MAITLAND: Am I there?

25 MS LEESON: Richard, you're there. We can see you and we can hear you very well. Thank you. You have - - -

MR MAITLAND: Good afternoon, commissioners and - - -

30 MS LEESON: - - - 10 ten minutes to present. Thank you.

MR MAITLAND: - - - fellow presenters. My name is Richard Maitland and I'm a member of the environment group Friends of Minnamurra River. This group has a core membership of some 120 members and has been a leading advocacy group in highlighting issues in recent years of matters pertaining to the Minnamurra River and its catchment. My submission is an objection on behalf of this group in regard to this particular application, Dunmore Lakes Project Modification 2. This was originally lodged and placed on public exhibition in April 2019. We are here today before the Independent Planning Commission largely as a result of the leading advocacy work of this group in regard to this application which is seeking to establish two new sand mining extractions within the catchment of the Minnamurra River.

45 The original proposal on April 2019 attracted 161 submissions. There were 140 individual community submissions. Two were in support and 138 were objecting. Both Shellharbour City Council and Kiama Council lodged strong objections. The member for Kiama, the Honourable Gareth Ward, Minister for Families, Community and Disabilities Services, raised the matter in the Legislative Assembly in a private member's statement on 7 August 2019 where he called upon the Independent

Planning Commission to reject this proposal. I July 2019, a rally coordinated by Friends of Minnamurra River attracted over 1000 supports who were unanimous in their opposition to this proposal.

- 5 In November 2019, the Honourable Justin Field presented a petition containing over 4800 signatures in the Legislative Council opposing the proposal. Why has this particular Dunmore Modification 2 Project attracted such widespread and diverse criticism from a wide cross-section of the community? One significant reason is that elements of the project lie within the catchment of the Minnamurra River, which is within the New South Wales Coastal Management Zone. There are also endangered ecological communities listed under the Biodiversity Conservation Act 2016 present on the sites. The proposed 5B site has a rich and diverse flora and fauna community. This was most evident when the site visit was undertaken with the commissioners.
- 10
- 15 The proposed site has an area exceeding 50 per cent of the proposed extraction zone, vegetated with mature Bangalay Sand Forest, which provides critical habitat for a number of identified listed species. This is abutting a significant stand of littoral rainforest. This proposal poses a significant ecological threat to these EEC remnants as the Bangalay trees will be destroyed to enable sand mining to be undertaken. This proposal in its current form stands in stark contrast with Boral's current operations in the Rocklow Creek catchment, approximately some one kilometre to the north of this proposal. Boral's current operations are being undertaken in a catchment which has been highly modified as a result of European impact.
- 20
- 25 The area's original vegetation was cleared and crops and pastures sown to enable dairying to be carried out. Rocklow Creek itself with redirected in order for these agricultural activities to be undertaken. Prior to its current land use as an extractive industry, Rocklow Creek consisted of a series of manmade channels which would have been designed to drain flood prone land and convert it to pasture for agriculture. It's worth noting that the area referred to as stage 3 for sand extraction is subject to ..... inundation during times of above average high tides. Riverside Drive, adjacent to the proposed 5A pit, has been flooded and closed in the last four years. Residents were redirected to travel north by Jamberoo Road, Kiama, to Albion Park. Swamp Road is often closed as a result of flooding.
- 30
- 35 It's our considered opinion that with anticipated rise in sea levels, coupled with climate change bringing more intense storm events, that this inundation may become more frequent in the future. Boral's operations in the Rocklow Creek catchment is limited in terms of sand reserves, as they are unable to access reserves on a joining privately owned property. The New South Department of Planning, Industry and Environment, in their assessment report, significantly downgrades the ecological significance of the Minnamurra Catchment where they state that the environmental impacts can generally be managed rather than prevented.
- 40
- 45 It's most apparent that the DPIE places far greater emphasis upon the weighting of the perceived needs of industry demands and employment maintenance than the needs of the environment and the sustainability of endangered ecosystems. The

DPIEs assessment report considers that this project modification does not create a radical transformation of Boral's operation in the Rocklow Creek catchment. And, at first glance, this is a true observation. Sand mining by its very nature results in the disturbance and destruction of the physical environment. Vegetation is cleared .....  
5 removed, stockpile – then, sand resource accessed for processing.

However, when we transpose this activity into these two proposed pits, 5A and, especially, 5B, we see a most radical transformation during the proposed life of this project and beyond. Listed endangered ecological communities, adjoining wetlands,  
10 adjoining littoral rainforest and the disturbance and destruction of identified Aboriginal cultural heritage will all be adversely impacted ..... radical transformation ..... what was currently a largely undisturbed site expect for grazing. None of these EEC communities are present in any of Boral's Rocklow Creek catchments. Where  
15 mining operations are undertaken to seek this modification as part of the granted DA195-82004, it is our considered opinion entirely inappropriate and ought to be refused.

There appears to have been no consideration of the application in the light of the fact that the proposal may be within the gazetted New South Wales Coastal Zone for the  
20 Minnamurra River. A refusal may lead to the applicant lodging a new application, which would be assessed under the current legislation, which, in our considered opinion, would be a fairer outcome for the environment. In respect to 5B and distance from the pit to the Minnamurra River, our consultants have calculated the distance from the proposed boundaries to the edge of the saltmarsh, which is subject  
25 to tidal inundation, is being 162.6 metres.

Boral and the DPI use a distance of some 370 metres or they also state in excess of 100 metres to the main channel of the river. This 162.6 metre distance will be further reduced with the impact of sea level rise is factored in. Mangroves and their  
30 peripheral saltmarsh communities are already retreating westward, ie towards the proposed pit 5B. The bunds projected to be some 4.1 AHD will be a barrier to this realignment. The DPI report states that the 5B extraction area – and I quote – “remains free of flooding impacts during the more frequent rainfall event but be susceptible to flooding during a one in 100 year event”. In the past nine months, the  
35 Minnamurra catchment has experienced two extreme rain events, more than 125 millimetres in less than 24 hours.

Meteorological projections are that such events will be more frequent as a result of climate change. In respect to traffic issues, Riverside Drive is the ..... road into  
40 Minnamurra, Kiama Downs and Gainsborough, some 6670 vehicles use it each day. It's already at level of service of D in the afternoon, which is a level of operating near capacity with the potential for more frequent accidents. Additional truck movements, as Boral state, five per hour, would exacerbate this loss. For residents living at 431 Riverside Drive, their existing driveway already has issues with line of  
45 sight and safety access onto Riverside Drive. These additional truck movements will aggravate the safety situation for them.

In respect to the amenity of adjoining property owners, there is no reference made to the major integrated development application, number DA0563/2019, for the redevelopment of the property at 71 Fig Tree Lane. This is for an eco-tourist development which will have a major focus on preservation on the bulk of the site  
5 under a biodiversity stewardship agreement. This revised application complies with all statutory conditions and is to be determined by a regional panel, I understand, in December this year. In regard to 79 Fig Hill Lane, the DPI acknowledges that the noise level would exceed NPFIs by up to 11 decibels and up to 16 decibels during certain operational periods. Boral's 5B proposal on the adjoining leased property  
10 will be detrimental to these redevelopments.

To sum up, the applicant is seeking to open up two sand extraction pits which are within or in very close proximity to the Coastal Management SEPP 2016 zone for the Minnamurra River. This is in a new catchment to the applicant's current operations  
15 in Rocklow Creek catchment. The mining of this finite resource in the short term, only two to five years, in such an environmentally sensitive area will have a major long term impacts whose costs will be borne by the community and the environment in the long term. The precautionary principle ought to be applied in relation to this application. The risks are great and the environment ought not to be compromised  
20 and degraded by this particular proposal. The request ought to be refused. Thank you, commissioners.

MS LEESON: Thank you, Richard. That was, indeed, a comprehensive presentation. Our next presenter is Anabel Parbury. Anabel is on the telephone and  
25 you will have five minutes. I hope you can hear the one minute bell which will sound when you have reached four minutes. So Anabel Parbury, thank you.

MS PARBURY: Thank you. Good morning. My name's Anabel Parbury. I live at 431 Riverside Drive and I'm the closest neighbour to the 5A sand mining proposal.  
30 I'm also separated by only one property from the 5B proposal. I'd like to address six items of concern that I have over this proposal, being increased danger when exiting my property from trucks turning into 5A, flooding of Riverside Drive in front of 5A, destruction of the endangered ecological community of Bangalay Sand Forest to the detriment of fauna that rely on it, proximity of the sand mining to the Minnamurra  
35 River during king tides, using old legislation to evaluate the proposal instead of the more recent Coastal Management SEPP 2018 and noise and dust pollution.

My access to Riverside Drive is down a slope that runs alongside a cliff bordering Riverside Drive. It emerges along the boundary along the proposed 5A site. At this  
40 point, there's a blind spot which hides the traffic travelling north between the Minnamurra River and my access. In order to safely enter Riverside Drive, I need to travel along the road to approximately opposite the tip to have a margin of safety to enter onto the Riverside Drive bitumen. At this point, my attention is totally focused on any vehicles travelling behind me in a northerly direction along Riverside Drive.  
45 Boral proposes that the entry to 5A for trucks travelling south by opposite the tip and, therefore, the point at which they turn across Riverside Drive is where I need to enter onto Riverside Drive.

As my focus is on the traffic coming up behind me, I'll be in conflict with trucks turning across my path. I'm requesting the trucks enter 5A from the Fig Hill Lane/Dunmore House Drive two to 300 metres further north along Riverside Drive. This will make it much safer for my access to Riverside Drive. It's also Dunmore  
5 House's property which is being sand mined. Alternatively, there will need to be traffic lights or stop/go people to ensure that a collision between the trucks and vehicles exiting my property is avoided. This issue was highlighted in my submission to the Department of Planning but has not been addressed by either them or Boral.

10 I'd like to reinforce to the IPC that during times of heavy rain combined with king tides, Riverside Drive floods between Fig Hill Lane and the Minnamurra Bridge in front of the 5A mining site. When this happens, this section of Riverside Drive is close to vehicular access. Flooding has the potential to carry leachate from the 5A  
15 sand mine across to the Minnamurra River. I'm strongly opposed to the destruction of the endangered ecological community of Bangalay Sand Forest so the 5B sand mining can go ahead. The area, at any time of the day, is a cacophony of sound of activity, from birds using the trees for nesting, perching and breeding.

20 Further, the removal of trees which were actually part of the littoral rainforest near the southern boundary must surely see an increase of the edge of the – to the littoral rainforest, which, as you would be aware, is federally listed as critically endangered. There's talk about environmental offsets but these do not replace 100 to 150 year old trees with nesting hollows, as in the Bangalay Sand Forest. Australia has the highest  
25 extinction rate of fauna in the world and the ongoing destruction of an endangered ecological community such as this only accelerates the problem. When measuring the proximity of the sand mining to Minnamurra River, Boral has not taken into account the flooding of the Minnamurra River onto the wetlands during king tides.

30 This brings the river into much closer proximity to the sand mining than Boral has indicated in its proposal. This alone should make 5B unviable under the legislation. Boral has applied to extend its sandmining operations under old legislation, being section 75W since repealed of the 1979 New South Wales Environmental Planning and Assessment Act. This has been replaced by Coastal Management SEPP 2018  
35 and this sand mining project, I believe, should be evaluated under that more recent legislation. The current position is equivalent to controlling the speed of cars under legislation made in horse and buggy days. It's obsolete. Finally, I'm concerned about noise and dust from the sand mining interfering with the peaceful enjoyment of my property. In particular, I believe that the noise to pump sand in 5B from a depth  
40 of 27 metres up a significant hill and then on for a distance of one kilometre will be very significant. I hope the commissioners will consider my comments and refuse permission for the sand mining to proceed as currently proposed. Thank you for your time and consideration of these issues.

45 MS LEESON: And thank you very much, Anabel. We now have Howard Jones. Howard, you're representing the Gerroa Environmental Protection Society and you

also have five minutes. I one minute warning will be provided at four minutes.  
Thank you, Howard.

5 MR JONES: Thank you. Thank you, commissioners. First of all, I'd like to pay  
my respects to the Wodi people of the Dharawal Nation and pay respect to their  
elders past and present. Our society is very concerned about the environmental  
impacts of this proposal and we believe the Department of Planning's response and  
the company's response doesn't take into consideration a number of issues,  
10 particularly environmental issues and heritage issues. First of all, the assessment of  
the impacts of the removal of the Bangalay Forest haven't been fully assessed. The  
Bangalay Forest is the only vegetation community in the area that has hollow-  
bearing trees.

15 The rain forest doesn't have hollow-bearing trees. The casuarina swamp forest  
doesn't have hollow-bearing trees. The mangrove swamps don't have hollow-  
bearing trees. And so the removal of 48 hollow-bearing trees from this site will have  
a disproportionate impact on the wildlife habitat of the vegetation fragment. This  
hasn't been assessed. All that's been assessed in the compensatory offsets for the  
Bangalay and the proposal that nesting sites would be placed to compensate for the  
20 loss of the nesting hollowing. However, the nesting hollows would last for hundreds  
of years in the Bangalay trees. The nesting boxes that are put up will be a temporary  
measure and so they won't address the habitat loss over the long term.

25 My second point is that those Bangalay trees, I believe, could be as much as 200  
years old and they would have or may have witnessed the massacre that took place at  
their feet. Contrary to what Adnan Voloder said, the estimation of where the  
massacre site took place actually corresponds with the sudden end of the mine site. I  
was there with the commissioners, with you both, as you know, and I actually took a  
GPS reading where we stood at the end of the site. I, then, measured it against the  
30 landforms and the vegetation and looked at Professor Lyndall Ryan's maps and saw  
that the two correspond. That is, the proposed dredge pond corresponds with the  
northern part of her proposed site.

35 Furthermore, I'd like to say that when that massacre took place in 1818, it occurred  
on the northern side of the river because the perpetrators of the massacre came from  
..... area. There was no bridges, so it most likely occurred in the general area of the  
river on the northern side. Now, what's significant about this? The significance is  
that this was one of the earliest massacres to take place in early settlement. It  
happened 30 years after the first settlement, 48 years after Captain Cook landed. Of  
40 the 150 massacres that Professor Lyndall has documented, it was, I think, the fourth,  
so it occurred at a time that is referred to as the Frontier Wars. Can you hear me  
okay?

45 MS LEESON: Yes, I can, Howard.

MR JONES: Yes. So I think it's very significant this site, historically speaking,  
because this could be considered a Frontier War historical site. It was the fourth

documented massacre, very early. We know that massacres occurred up to 100 years later but this was one of the earliest and it corresponds with the period that it often referred to as the Forty Year War or the Frontier War period. So this is a significant site, not just because it's a massacre site but because it's a Frontier War site.

5 Furthermore, there's a very interesting story associated with this site that needs to be told and retold and that is we have direct evidence that the perpetrators of the massacre were exonerated by the superintendent of police, Darcy Weston, who was then granted – it was in three years of that decision, he was granted 5000 hectares of Wodi Wodi land.

10

That is, he was granted that belonged to the people who were massacred. So the story of this site is very significant because it provides a historical link between the massacre, the dispossession and the Frontier Wars. So this a very significant site and, what's more, just adjacent to the site is a parking area and a walking track, where school children on school excursions can be taken and that history can be told and it needs to be told and told. So that site should not be interfered with. It should be considered as a cultural landscape and I actually don't think the Department of Planning has done due diligence in exploring this matter.

15

20 MS LEESON: Thank you, Howard. Is that the conclusion of your presentation?

MR JONES: Well, I would like to talk about other things but I think my time's up.

25 MS LEESON: You have, indeed, met the end of your time but thank you very much anyway. Our next presenter is Cliff Mason. Cliff you have five minutes. Thank you very much.

30 MR MASON: Thank you. And good afternoon, Commissioners. My name is Cliff Mason. I'm president of Minnamurra Progress Association, which is a community organisation of Minnamurra Resident that has been in existence for the last 60 odd years and is recognised by Kiama Council as one of its precinct committees. I pay my respects to the traditional owners and the elders past and present. We have 60 household memberships currently – financial memberships. The association and our members are very concerned about this development. The whole development is

35 hardly a modification – has been mentioned previously of the present Dunmore operations, as the previous sites are part of the Rocklow Creek catchment area on the western side of the highway and nowhere near the Minnamurra River and on the eastern side.

40 So we regard this as a new development and should be judged accordingly to current regulations. This new development located just 180 metres from the Minnamurra River is just too close for comfort for our residents, given that the Minnamurra River is such a unique and irreplaceable jewel within the landscape of the Illawarra and south coast. It's a very unique river. It's a beautiful river and very clean and it's

45 attracted by lots of tourists. The removal of four and a half hectares of endangered Bangalay Sand Forest in area 5B is also just unacceptable to our residents. And regarding the white bellied sea eagle, which has been mentioned, if Boral thinks that

the sea eagle sitting on their nest on top of the tallest tree overlooking the area of operations is not going to be disturbed, even if it's a couple of hundred metres away by the sand mining operations, I think they're kidding themselves.

5 I mean, it's 50 odd metres up in the air overlooking that operation and we hate to see  
the sea eagles disturbed. Area 5B is also less than the 150 metres from the grey  
mangrove forest and saltmarsh covering the Minnamurra River floodplain and high  
rainfall flood events are occurring – has been mentioned – with increasing frequency  
and size. And we've just seen from Boral's diagram that the 100 year flood comes  
10 right up to the bund – to the banks of the proposed 5B area and, with rising sea  
levels, this could be a real problem. And it's not just the environment that needs to  
be considered, I tender, but what about the residents of Minnamurra?

15 The noise of excavation and dredging and future truck movements in area 5A, which  
is barely 250 metres from the village area of Minnamurra, is just unacceptable. Can  
you imagine 40 to 50 trucks – and Boral mentioned that the maximum would be  
about 45 – can you imagine 40 to 50 heavy trucks per day arriving and departing for  
up to 12 months, at least, along Riverside Drive transporting 325,000 tonnes of  
landfill that's come from who knows where? These trucks will be leaving and  
20 entering Riverside Drive almost opposite the entry and railway crossing that will  
cross into Kiama Recycling Centre and less than 200 metres from the Princes  
Highway exit onto this road.

25 The potential for traffic accidents is going to increase exponentially. Boral claims  
that after nearly 5000 signatories opposing the mine, after a 1000 person rally on  
Minnamurra headland, of 149 opposition submissions, I quote, "That no substantial  
changes to the proposal have been necessary". I find that incredible. This simply  
can't be allowed to proceed in its present form. If the IPC considers that approval in  
some form is really necessary then may I suggest two modifications that would  
30 significantly reduce some of the problems? The first is that area 5A next to  
Riverside Drive should be left as a lake after sand extraction, removing the need for  
thousands of dangerous truck movements alongside Riverside Drive transporting  
those 325,000 tonnes of landfill.

35 That would overcome a big traffic problem that's going to occur and I don't see why  
it can't be left like a lake like the other areas are. And the other suggestion is that  
area 5B, if it has to go ahead – and it really concerns us – you should consider  
chopping off the southern 200 metre section of area 5B that contains the majority of  
the Bangalay Sand Forest trees and further distancing the sand mining operation  
40 from the sea eagles' nest to the south. That would leave a gap of some 450/480  
metres to the sea eagles' nest. And if you saw the aerial photo in Adnan's  
presentation from Boral of that area 5B, it actually showed a good picture of all the  
trees that would be removed and if you cut off that bottom 200 metre section or  
removed it from the approval, then, you'd save the majority of those hollow-bearing  
45 trees. So I ask just those two simple changes would significantly mitigate the  
concerns of our local residents, I believe.

MS LEESON: Thank you, Cliff. That has brought us beyond your time period, so  
- - -

5 MR MASON: I'd just like to thank you for the opportunity to present to you today.

MS LEESON: No, you're most welcome and we thank you for your contribution.  
Thank you. We, now, will take a short break and we will resume at 2.10, so in the  
meantime, everybody can have a cup of tea and we'll see you at 2.10. Thank you.

10 **RECORDING SUSPENDED** [1.33 pm]

15 **RECORDING RESUMED** [2.10 pm]

MS LEESON: Welcome back to the afternoon session of this planning commission  
meeting on Dunmore Lakes. Our next registered speaker is Carl Glaister. Carl,  
you're on the phone I believe, and you have five minutes for your presentation.  
20 We'll give you a warning at the four minute mark so you know you've got one  
minute to go. So, we'll hand to you. Thank you.

MR GLAISTER: Thank you. Thank you.

25 Hi, my background is I'm a horticulturist and a bush regenerator employed at  
Wollongong Botanical Garden. My speciality is Illawarra native plants, in particular  
rainforests. I'm also an environmental educator and have been conducting  
educational nocturnal animal walks for more than 20 years. I'm also a founding  
30 member of Bondi Headland Landcare Group which has been restoring forests to  
Bondi Headland for 32 years. I'm also a keen recreational fisherman. I'm in  
opposition to the opposed sand mine pit 5A and also 5B. I will mainly talk about 5B  
as this is where I have most concerns although it should be understood I strongly  
object to both pits being approved.

35 The reasons I believe 5B should not be approved are as follows. The existing  
Bangalay Sand Forest cannot be moved or duplicated anywhere close by. It is  
composed of Eucalyptus Botryoides, commonly known as Bangalay. These trees are  
hundreds of years old which is how long it takes for the substantial tree hollows to  
form on. These old hollow bearing trees are a habitat for birds and mammals that  
40 need hollows for shelter and nesting. Threatened species such as the powerful owl  
need big hollows and large trees such as these bangalays. The adjacent littoral  
rainforest, whilst providing suitable hunting territory for owls is not ..... trees that  
form hollows.

45 In the event that this Bangalay Sand Forest is destroyed, the deep pond created in its  
place will be a very mediocre aquatic habitat and certainly useless to the terrestrial  
animals currently living in the Bangalay Sand Forest. The reasons I believe it will be

a poor aquatic habitat are as follows. Firstly, the pond will be separate from the river so will not be accessible to many fish that move from fresh to brackish water as part of their lifecycle. This includes Australian bass, sea mullet, the endangered Australian grayling and also many other smaller species.

5

Another concern I have is that there is potential for the salinity of the Minnamurra River to be altered by freshwater seeping or overflowing from the 5B pit. The river has already been affected by run-off from the Shell Cove Housing Development situated to the east, due to extra freshwater entering the river. This has resulted in a change in the mangrove population. There is surely a strong likelihood for this to occur if a deep pond of freshwater is positioned within a few hundred metres of a tidal river. Currently the sand and existing trees act as a filter that allow freshwater to slowly permeate into the river.

10

15 Aquatic life in the river that is reliant on a certain level of salinity is likely to be negatively impacted if this pit is excavated. For example, Australian bass move downstream from freshwater to breed in brackish water. If the water chemistry is altered and they have less successful spawning or will have to move further down the river placing their eggs and young in danger from predation. The pond will be too deep to be of use by wading birds as it will lack shallow margins or wetlands that most water birds rely on for foraging.

20

The pond, however, will quite likely be colonised by invasive exotic species such as the noxious alligator weed, elodea canadensis, and common carp. These invasive species all pose a risk to the biodiversity of the river. They have all established substantial populations in Boral previously mined pits to the west of the proposed extension. The carp have migrated from Boral's oldest sand mine lake which abuts Dunmore Lakes housing estate into the most recently finished pit and I have observed them in the river which proves they are capable of escaping in flood conditions. Carp are responsible for severe environmental degradation and result in loss of native fish species. The endangered Australian grayling could be made locally extinct if a large number of carp manage to establish themselves in the river. The water plants are readily moved by floods or in water birds legs and can severely alter the freshwater habitats they invade.

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I have little faith in the local sand mining companies doing long-term establishment of replacement forests as offset for forests that will be destroyed, even if there was suitable land available nearby. In the case of the Bangalay Sand Forest, there just isn't available land anywhere in the vicinity of the existing forest that could be planted up to replace the trees that will be lost. The surrounding land is either occupied by another EEC such as littoral rainforest or is a different geology, latite, which would support a different forest type. The currently cleared land which is comprised of sand was padded up with Bangalay Sand Forest, there's a fair chance that in the future the mining company would apply to have it cleared for sand extraction. This is what is currently being proposed down at Gerroa by another company.

40

45

I'm also concerned that the resident white breasted sea eagles will be severely stressed by all activity associated with construction of the 5B pit. Boral is saying the eagles' nests is 280 metres away but – so they will not be disturbed. On the contrary, I believe the loss of mature bangalays that are no doubt used for perching, and the  
5 noise and visual disturbance caused by the whole extraction process is likely to drive these apex predators away from their current nest which they have been using for many years. These icon and majestic birds are incredibly important to the eco-system and the local community as a whole.

10 MS LEESON: Carl, I'll interrupt you - - -

MR GLAISTER: Therefore, I implore you - - -

15 MS LEESON: Carl, I'll interrupt you there. You've run somewhat over time, have you about – are you about to conclude your presentation?

MR GLAISTER: I was. All I was going to say is I implore you to say no to the application for 5A and 5B.

20 MS LEESON: Thank you, Carl. Thank you very much. Our next speaker is Tanya George. Tanya, you will also be on telephone and have five minutes and we'll give you a one minute warning towards the end. Thank you.

25 MS T. GEORGE: Great, thank you.

Good afternoon, Commissioners. My name is Tanya George and I'm a member of Friends of the Minnamurra River, long term resident of the Minnamurra area and Landcarer for over 30 years with Bondi Headland Landcare Group. I wish to present my argument against the Dunmore Lakes Project Modification 2 based on my  
30 experience in Landcare and the DPIE Assessment Report for this proposal with particular regard to the loss of the Bangalay Sand Forest EEC and impacts on the neighbouring littoral rainforest are critically endangered community under the EPBC Act.

35 The occurrence of Bangalay Sand Forest within the Minnamurra catchment has been fragmented due to clearing for residential and agricultural purposes and exists within small margins to the western side of Minnamurra River, with some still existing on Minnamurra Spit although this population is under key threatening process such as weed invasion, loss of vegetation structure and a variety of human disturbances. The  
40 Department report states that this EEC covers a land mass of 6300 hectares from Sydney to the Victorian border, inferring that the four and a-half hectares slated for removal in stage 5B is proportionally insignificant.

45 However, the New South Wales scientific committee in their determination identified that New South Wales has potentially only one quarter of this community's distribution remaining since pre-European times and they can see this is most likely an over estimation. The situation is probably far worse. This committee's final

assessment concludes that this EEC will most likely become extinct if the factors threatening its survival are not ceased, land clearing being the number one factor.

5 The Department's report identifies that under the Biodiversity Conservation Act 2016, if allowing this proposal to be offset by retiring 71 ecosystem credits for the removal of the Bangalay Sand Forest or alternatively, paying into the Biodiversity Conservation Trust. There is mention of investigations into two biodiversity stewardships sites however there is no guarantee of success of securing these sites and this does not alter the reality that there will be a net loss of this EEC regardless  
10 of the outcome.

Under the current biodiversity conservation laws in New South Wales, according to the report, Restoring the Balance in New South Wales Native Vegetation Law by the Environmental Defenders Office, since the introduction of the current legislation  
15 land clearing has increased 13-fold annually and biodiversity is at risk in nine out of 11 regions in New South Wales. Additionally, offsetting does not guarantee like for like and as has been previously been discussed there's a paucity of Bangalay Sand Forest remaining in New South Wales rendering any real offsetting almost impossible. This is certainly an untenable situation and highlights the great value of  
20 this mature stand of forest in 5B.

I would like to turn to the loss of tree hollows from stage 5B, 38 hollow bearing bangalay trees and four hollow bearing stags are identified as requiring removal. Considering the very small stand of bangalay remaining in this location, these  
25 hollows represent critically important habitat for local fauna and bird species. The adjoining littoral rainforest to the south and west, and swamp oak forest to the east do not produce tree hollows as they do not drop limbs and will not be an adequate substitute. The competition for hollows would be extraordinary as the Bangalay Sand Forest has been reduced in this location over the last 200 years. And  
30 considering it takes approximately 150 years to create a hollow, it stands to reason that this loss of so many hollows in such a small location would have severe adverse impacts on the local wildlife.

The report states that the applicant will retain the hollow bearing logs after being cut  
35 down and install nest boxes on neighbouring trees which I assume they are referring to littoral species or retained bangalays on the adjoining property. However, according to a report by the Victorian Department of Environment, nest boxes are not a long-term solution to natural hollows as they typically only last 10 years whereas natural hollows may exist for over a hundred years. They require constant  
40 monitoring to ensure they haven't decomposed and have appropriate positioning. They are not a replacement like for like for natural hollows and cannot be considered as such.

45 Lastly, I would like to offer my experience as a long time Landcarer attempting to recreate a littoral rainforest at Bondi Headland. The complex – yep, just a couple more sentences. The complexity of this eco-system requires a substantial length of time to become self-sustaining and one lifetime will certainly not be enough.

Bangalays can live as long as 500 years and to remove these ancient trees and their accompanying eco-system would be an absolute tragedy. So, I just implore the Commissioners to reject this proposal on these grounds I have outlined in addition to the many other arguments put forth by fellow speakers. Thank you for the time.

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MS LEESON: Thank you very much, Tanya. We'll now call on Gary Caines. Gary, you're representing the people's indigenous corporation. You have 15 minutes. You're on the phone, we will give you a one minute reminder at 14 minutes and we'll hand across to you now. Thank you, Gary.

10

MR CAINES: Minnamurra – can you hear me?

MS LEESON: Yes, we can hear you. Thank you.

15 MR CAINES: Thank you very much. And I pay my respects to the community and future generation, being here now and the opportunity to share.

MS LEESON: Gary, you are slightly muffled. Can you just make sure you've got your mouth a reasonable distance from the phone, so – in case that's causing the muffle.

20

MR CAINES: How is that?

MS LEESON: That's better. Thank you.

25

MR CAINES: Yes. There's respect, as I said, and I have an Aboriginal identity and a voice that's a rarity. I spoke at ..... and I continue in that way as authority for ..... Aboriginal voice.

30 MS LEESON: I'm sorry, Gary. You still are a little hard to hear. Are you on a mobile phone?

MR CAINES: Yes.

35 MS LEESON: I'm wondering if you can perhaps just move a few feet to see whether we get a better reception. I'm sorry about this.

MR CAINES: How is that?

40 MS LEESON: You might just need to speak a little more so we can pick it up. Yes. Keep going.

MR CAINES: Where was I? Yes. And I'd like to speak about ..... extension of my own local people by which I'm a part of, but I respect ..... the tribal chief in ancient times is buried at Saltwater Creek at Minnamurra River. Exactly where that is is still a mystery, as much of the massacre site ..... has been. The archaeological report is inadequate. I ..... no consultancy on several grounds, and even with the addendum

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report it is still insufficient to prove the ground and what are the trees. The test ..... were inadequate in quantity and insufficient in ..... where there is expected to be centimetres deep of resource recovery and 25 metres deep of resource recovery.

5 More can be done to reveal the truth and it ought follow that operations of the legitimate voices that are petition on ground and assert some anomaly that are inconsistent with – might be ..... the evidence of scorched objects that ..... there needs to be more down to Koollanburra. There – there’s just that ..... there are paths or fireplaces, and it’s all how the policy – the recovery would mean, but we do not need to claim, and say “sorry” when it happened. The inadequacy of the sample ..... of the archaeological investigation is – was obvious. Like, eight hectares ..... five hectares is ..... square metres. There’s only the 50 square metres of ground opening in – sorry. 10 12 square metres in – 50 by 50 ..... it adds up to ..... square metres of ground opening of an impact area. That’s 80,000 square metres.

15 Now, that’s hardly .5 per cent, and the ..... area – it’s on ..... land – is much greater than that. Well, applied by ratio ..... government policy. It’s very much under ..... with ground probes today. So let me ..... with some non-destructive testing is defining how ..... and the ..... my great-great-great-grandfathers and the massacre site will be here to ..... in amongst there ..... or not ..... policy ..... which are relevant, and 20 on Aboriginal culture ..... we have two strong values, which are ESP principle and the ..... of the ESP principles, the ..... principle ought strongly be recognised in ..... my people local are of rarity in numbers and ..... and in a confused state between the ..... group that I ..... which should ..... the outset and even back in the early native 25 approach by this project ..... outside the boundaries of ..... now it ..... there are extensions which are dangerous.

The ..... could import this to organise and issue it ..... it’s integrity is to be ..... for the back ..... around my way. And – well, it’s the – that’s in the Rocklow embankment. 30 Over the other side is Dunmore Hill, which encroaches upon the fragile landscape of the estuary ..... Minnamurra River, and the Minnamurra once had an established estuary management committee to be investigated, and my people have put forward Minnamurra Aboriginal management initiative about five years ago, and that was very appreciated as a ..... collaborative component ..... recipient of the ..... property at 35 79 Fig Hill Lane. It was ..... possible eco-tourism venture, and should that ahead without the extraction bit being developed, there is plenty of ..... for further and better return.

There all the companies ..... to take measured ..... of aggregate ..... natural resource and separate the finer ..... for house making and road building. Well, there’s a lot of 40 recycled material, glass, plastic, that could be substitute by an aggregate while ..... push ahead with exploiting the natural resources, because – where it is meant to be a ..... but something’s – well, a reconciliation in regards to the innocent ..... with that principle ..... which has no recognition and adherence. Now, the reports that have 45 been written are hastily prepared, and there’s evidence of that in the OEH report, the ..... report, which reports that ..... over the Rocklow Creek ..... no. No one – consultants work in a perfectly ..... environment and hastily put the ..... which

underwrote and short-changed my people ..... the previous statements have been undertaken ..... adjacent ..... they are scattered ..... reports earlier ..... information from ..... recognisance ..... archaeological resource that has come from the Dunmore region. There is opportunity ..... to include ..... and there's every reason that ..... 700  
5 ..... Aboriginal heritage ..... statewide ..... significant ..... but in this process there was ..... for community to put ..... responses engagement, and as the OEH ..... to speak today, and .....

10 MS LEESON: Gary, can I just ask you to pause there. You're still from time to time quite difficult to hear. I think we caught most of it, but what I'm going to ask you to do is – you're more than welcome to finish out your time. I invite you to write a submission to the commission, because some of your presentation has been a little bit difficult to follow on the audio quality. Is there anything that you wanted to conclude with in the last minute and a half that you have?

15 MR CAINES: Minute and a half. Okay. Let me see.

MS LEESON: But I do invite you to write a submission to us, because some of your presentation has been a little bit difficult to catch.

20 MR CAINES: ..... there should be a high degree of margin ..... there is no hurry, there's no need ..... biodiversity ..... I will conclude, I think, and I ..... in writing. What I've got – the Aboriginal ownership .....

25 MS LEESON: Thanks, Gary. We might actually stop you there, because you are becoming quite difficult to hear.

MR CAINES: Yes.

30 MS LEESON: But if you can put a written submission to the commission, we'll certainly take that on board. So I'd like to thank you very much for your time today.

MR CAINES: Yeah. You're right.

35 MS LEESON: Thank you. Bye-bye. Our next presenter is Warren Holder. Warren, we have you on video conference, thank you. You have five minutes, and as normal, we'll give you a reminder at one minute to go. Thank you, Warren.

40 MR HOLDER: Okay. Thank you. Good afternoon, Commissioners. I'm Warren Holder. I'm president of Gerroa Environmental Protection Society, and I have been that for 15 years. I'm also a member of Kiama Council's catchment and flood risk management committee and also a member of the Gerroa sand resource community consultative committee. I'm requesting that we refuse this application. I came upon this modification when I was invited to attend the Boral neighbourhood briefing on  
45 the 10<sup>th</sup> of April 2019. I took notes. Amongst other things, one thing I did note was that there was 11 Bangalay trees and one stag noted in area 5B. Shortly after the neighbourhood briefing, I went to a neighbour's property with a good view of the site

5B. I estimated around 30 Bangalay trees were in that area. I pursued that constantly until finally the department of planning officer Anthony Barnes told me that in fact there were 38 Bangalay trees in area 5B. Unfortunately, these trees were not written down to be Bangalay trees but simply hollow-bearing trees. So my point  
5 here is that since the department of planning don't just make one person in charge of giving a report, it's done by a team, and these – several of these team members may well have thought that the hollow-bearing trees, some of which may have been Bangalay and some of which may have been other trees – they may have  
10 misunderstood how important these trees were to that particular area and in fact the whole area. It may have affected their decision, and it also may have affected the offsets that they granted.

So what we have here in the nearby area around the mine is a series of associated complex interrelated ecosystems, and by taking one system out, the Bangalay Sand  
15 Forest, within that area, it will impact on all the interrelated ecosystems within that area. The loss of the Bangalay hollows is – and certainly is disproportionate to the sustainability of the habitat in that area, because those hollow-bearing trees provide great – what's the word – great hollows for sustaining the local population, animal  
20 population.

The other thing I'd like to mention is also the – they're very nearby littoral rainforest. Now, originally, it's quite likely that that whole area 5B would have been littoral rainforest, but it was cleared, and it's had cattle grazing on it, and it's lowered it down to being Bangalay Sand Forest, endangered ecological community, however,  
25 we've had the littoral rainforest butting right up against this Bangalay Sand Forest, and the edge effects must surely have an impact on that littoral rainforest. So to put it into context, rainforests in New South Wales represent less than one per cent of all forests, and littoral rainforests represent way less than one per cent of the rainforests in ..... so littoral rainforests are incredibly rare and special, and federally listed as  
30 critically endangered. Thank you.

MS LEESON: Thank you very much, Warren. Thank you. Our next presenter is Aapo Skorulis, and I hope I've pronounced that correctly – Aapo, we have you on video conference as well, and you also have five minutes. Thank you.

35 MR SKORULIS: Thank you. Good afternoon, Commissioners. My name is Aapo Skorulis, and I am a resident of Minnamurra and over many years a frequent recreational user of the ..... Minnamurra River. Today I would like to address the independent planning commission on two issues related to the proposal ..... to extend  
40 their fine sand mine operations at Dunmore.

Issue 1 is the location of the proposed stage 5A mine. Many studies, both in Australia and internationally, have recognised the potential negative impacts on mining on floodplains. For example, in Malaysia, the 2009 guidelines outline issues  
45 that should be taken into consideration when approving sand mining permits, and ..... specific criteria to ensure sand extraction is carried out in a sustainable way for floodplain mining. These guidelines state that sand should not be extracted within

1000 metres from any critical structures. If these guidelines were applied to the proposed location of the 5A mine site, then this minimum distance recommendation would surely apply to the ..... toxic leachate plume at the Minnamurra site and depot which all have acknowledged exists and which poses a significant risk to the  
5 Minnamurra River. The Minnamurra recycling depot is less than 100 metres from the proposed stage 5A mine site. The significance of this plume cannot be dismissed with respect to the proposed 5A mine site.

10 In addition, disturbing the natural environment at the proposed 5A site has potential for impact on the groundwater flow into the proposed mine site during mine operations due to evaporation. This is significant. I've not seen this addressed in any of the ..... material. Boral make the claim all rainfall and runoff will be contained within operational areas. At the proposed mine site sits ..... are on a floodplain, this statement is ..... significantly reduced area for the floodplain and thus  
15 impacting the benefits of a floodplain in a flood by reducing water velocity and floodwater height. Every 16 millimetres is significant when it has the potential to enter your home.

20 Issue 2 – the proposed filling at stage 5A is virgin excavated natural material ..... the fill will be of different physical nature from existing fine sands that currently exist on the floodplain. This different physical nature of the VENM will have a detrimental impact on both the hydrology of the floodplain and its current natural ability to reduce flood flow velocity by water absorption. Adding a solid impermeable mass to the floodplain will have a significant impact on the existing groundwater flow. It  
25 will channel the groundwater from existing ..... catchment area, forcing its flow pattern into a much smaller neck area. Therefore has the potential to either cause the groundwater to rise to the surface and/or increase the pressure on the barrier in place to stop the known existing toxic Minnamurra recycling centre leachate ..... if this barrier fails, the toxins will be forced into Minnamurra River, causing an  
30 environmental disaster. This has not been addressed by Boral.

Boral has previously acknowledged that the proposed VENM has potential to contain acid sulphate soil ..... compound the known existing toxic leachate issues at the Minnamurra recycling depot. I get small comfort from Boral stating – and I quote:

35 *In the event of unforeseen circumstances, ie, early indications of acid generation, appropriate management action may be triggered before environmental impacts are realised.*

40 In summary, the location of the proposed new sand mining activity at 5A and 5B at Dunmore is very complex and very different to existing sand mining occurring in the area. At a minimum, I think that the proposed mine site at both sites 5A and 5B should be considered as new develop applications and a thorough EIS be undertaken that looks at and addresses the many complex issues around the proposal. For  
45 activity of this nature, public transparency, including ..... monitoring at the site with groundwater in the actual river and ..... is critical. They're all part of the same environment. Thank you, Commissioners, for your time.

MS LEESON: Thank you very much, Aapo. Thank you. Our next presented is Terry Sinclair. Terry, we can see you on the video link. Thank you. You have 10 minutes.

5 MR SINCLAIR: Good afternoon and thank you, Commissioners. My name is Terry Sinclair, and I've been a rate payer and resident at Minnamurra since 1985. I'm before the commission today as an individual representing no other interests and without affiliation to political parties or officeholders. Thank you for allowing me a voice today on the matter of state significance under the act and one of great local  
10 significance and importance and potential impact. And today I'm adding my voice to many others, the 4883 voices who signed a petition to the New South Wales parliament; the 1000 plus voices, which is approximately 20 per cent of the immediate local population, who gathered to protest on the Minnamurra headland approximately where Aapo's photo was taken overlooking the critically endangered  
15 south-eastern littoral rainforest, which I will return to later; the traditional owners and custodians as just voiced by Gary; the 139 submissions to the department; the 10 community groups; the local, state and federal members and the voices of the local planning authorities, being Shellharbour and Kiama councils.

20 As an individual citizen, I rely on two key things in order to exercise my rites on planning matters – a clear set of rules and procedural fairness, and I will talk to both of those right now, and I'd like to start with the first of my three main grounds for my objection. Prior to lodging the proposal request, the applicants sought advice from the Department as to the ..... appropriate approval pathway. The Department  
25 responded in a letter by Director Howard Reed dated the 21.12.2018 which states the follows – following:

*I have reviewed the information provided and sought advice from the Department's legal branch. This advice indicates there is a degree of risk that  
30 modification to would not be considered substantially the same as the development for which consent was originally granted. On this basis you are advised to seek and carefully consider legal advice before proceeding with the proposal under section 4.55 of the Act as amended.*

35 So, in other words, Commissioners, consent may be ..... if the applicant follows the rules set out in the current legislation. Instead the applicant took up the alternative pathway that the department also advised was available to the applicant under certain conditions. And I quote again from the same letter. And this letter's available in the planning portal:  
40

*Alternatively the above modification request may continue under what's known as section 75 approval pathway, provided that a complete EA, Environmental Assessment, is provided to the department no later than 28 February 2019. If a  
45 complete EA is not submitted by the 28<sup>th</sup> of February 2019 the Department intends to give immediate notice that modification to will not be dealt with under section 75.*

You will note two critical points here. The words, “Complete EA,” and the cut-off date of by the 28<sup>th</sup> of February 2019. In trying to understand as an individual whether the applicant meant the complete EA condition from other publicly available information in the portal, I refer to a letter from Shellharbour General Council, Carey McIntyre dated the 12<sup>th</sup> of July, which states:

*Revision one of the EA is dated 26 February 2019 for an adequacy review. Whereas the final EA is dated the 10<sup>th</sup> of April 2019.*

10 In trying to understand whether the complete EA met the cut off condition I .....  
various publicly stated rules for this particular criteria. On the Department’s website  
referring to part 3A, 7 – section 75 approvals, it has the cut-off date as the 1<sup>st</sup> of  
September 2018. I then looked at the current website version of the regulations for  
part 3B(4) which is EPA Savings Transitional and Other Provisions Regulations  
15 2017 which provides for this transition period when the cut-off date is clearly stated  
as the 1<sup>st</sup> of March 2019. I compare that to the documentation by the Department of  
when they received the complete documents from the applicant, which is document  
control marked the 10<sup>th</sup> of April 2019. So, Commissioners, almost 10 years after the  
relevant part 3A, section 75 approval pathway was repealed by ..... the DPA recorded  
20 receipt of the complete EA six weeks after the cut-off date.

So today in pursuit of the community’s right to have confidence that indeed a clear  
set of rules are in place and, indeed, have been followed in good faith, I ask the  
commission to consider in its deliberations the following questions. (1) What is the  
25 relevant cut-off date under 70 – 75W approval process? (2) If the applicant is  
asserting that the EA was for all practical purposes complete at the 26<sup>th</sup> of February  
why did it take six further weeks to lodge the final or compete the EA on the 10<sup>th</sup> of  
April 2019? (3) Did the applicant meet all the criteria by the cut-off date? If so,  
where is that documented? If not, did the secretary notify the applicant that the  
30 secretary had determined that insufficient information has been provided to deal with  
the request. (4) If there has been some form of discretion exercised around this rule,  
who exercised this discretion, under what authority, using what decision criteria and  
who was notified of this?

35 I’d like to now turn to my second grounds of my objection. For a development  
consent to be provided under section 75W the proponent must not only meet the  
lodgement requirements of the documentation by the cut off dates, the applicant must  
also demonstrate that the change if carried out would result in the development that  
would be substantially the same as the original consent. By referencing EPA  
40 guidelines, Land and Environment Court decisions and published guidelines from –  
of legal firms, substantially the same is typically taken as meaning:

*Essentially or materially the same. Has the qualitative and quantitative  
differences in their proper context with materiality or quantitative difference  
45 being indicated a plus or minus 30 per cent.*

However, the proposal EA limits this assessment of differences to a narrow set of operational and technical aspects of the sand extraction and logistics process without adequate weight being given to the overall differences of the proposal, being the different lots, the different zonings, the different excavation pit designs and the location in different catchment areas all with qualitative and quantitative differences to the original consent. The EA therefore does not adequately demonstrate the modified development is essentially or materially the same in its proper context.

And I'll illustrate this by just two examples today. My full – full submission to the commission identifies seven others. The first is the overall site footprint increases by 43 per cent. The EA identifies that the current approval footprint of 88 hectares will be increased to a total of 126 hectares for the proposal area., but does not contemplate the qualitative and quantitative differences in this overall scale of subject lands or footprint, which is material being a 43 per cent increase. The second one is the new extraction pits are up to 120 per cent deeper, 120 per cent deeper than the current operating pits which have approximate depth of 12 metres. This is a material difference. Yes. Well out of the 30 per cent rule of thumb and one of the most important operational parameters that could impact groundwater in the Minnamurra River Catchment.

The behaviour of the pits under flooding events, the siltation effects in the water ways, the impact on sensitive ecosystems and also the safe consideration of working margins, angles of proposed ..... roadways, waterways and structures in any revised EPA licence condition. These matters are not contemplated in the EA, therefore not assessed for qualitative and quantitative difference in their proper context and as a result the applicant has not demonstrated the proposal to be substantially the same. In any event, it appears that a different standard or rule may be being applied by the department when assessing this proposal as it states in its assessment report.

The Department considers that the proposal can be considered as a modification to the existing development consent as it does not constitute a, "Radical transformation of the project." Not constituting a radical transformation of the project is not the same standard or rule as the applicant demonstrating the proposal is substantially the same as the original consent. My third ground for the objection is that the ..... EA does not identify it and therefore cannot consider any potential negative impacts to the Minnamurra Point littoral rainforest listed as critically endangered since the 10<sup>th</sup> of October 2008, which is located on the sandspit which shelters the ..... ecosystem and the village from the pacific ocean. As it is classified as critically endangered under the EPBC Act, approval cannot be granted without a referral to the responsible Federal Minister and a subsequent determination on the approval process as required by the EPBC A – Act which would typically involved an EIS and a public meeting – hearing. Commissioners, if I could just summarise my objections, please?

MS LEESON: Thank you.

MR SINCLAIR: I would like to conclude today by summarising my objection as follows. The proposal is not compliant with the provisions of approval under part B,

75W transitional arrangements given. The applicant failed to provide a complete EA documentation by the 1<sup>st</sup> of March 2019 and that the Department failed to notify parties of that default. Secondly, the applicant failed to demonstrate that the proposal is substantially same as the current approval and the Department's response failed to apply the appropriate test. Three, the EA does not consider the implications for the critically endangered south-eastern littoral rainforest on the Minnamurra Point and the applicant failed to notify the Minister under the EPBC Act and the Department failed to notify the applicant of this deficiency in its proposal. I noted in my introduction that many voices have also objected to this proposal. Today I thank the commission for this opportunity to add mine.

MS LEESON: Thank you very much, Terry. Our final speaker this afternoon is Justin Field MLC. Justin, we've allocated five minutes to you, so we'll give you a reminder at four minutes that you have one minute to go, but we'll hand across to you.

MR FIELD: Thank you, Commissioners, and thank you for the opportunity to present to you today. I am an independent member of the state upper house. I'm based in Shoalhaven and have worked with the community of Minnamurra over the last year in opposing this project.

Commissioners, about a year ago, 1000 people came together to form a human sign on the headland at the mouth of the Minnamurra River that read no Boral sand mine. That's an extraordinary response from a relatively small community. People across all age groups, across the political spectrum, they came together to take that symbolic action. Many people are not in a personal position to engage in formal processes of the New South Wales planning system, including today, but I think it is important to recognise that the voices of opposition you have heard here today are backed by a weight of public concern about this project.

Commissioners, I ask that you reject this expansion proposal by Boral. I do not think that this project addresses the objectives of the Environmental Planning and Assessment Act, and in particular, it fails to protect the environment, including the conservation of threatened and other species, of native animals and plants, ecological communities and their habitats, and it also fails to promote social and economic welfare of the community and a better environment by the proper management, development and conservation of the state's natural and other resources, two of the objectives of that Act.

For the sake of just three to four more years of sand extraction – and that is all that Boral are suggesting these new pits will provide – the community are being asked to wear significant impacts to local amenity, the loss of critically endangered habitat, the loss of local agriculture land and potential contamination of the Minnamurra River. This proposal represents a significant change to Boral's current Dunmore operations by moving active pits significantly closer to the river and the local community. These new operation will be seen and heard by residential communities who have reasonably assumed this expansion would not have been pursued by Boral

given how its current operations are constrained to the western side of the Princess Highway.

5 Commissioners, we are facing an extinction crisis in New South Wales, and last  
season's bushfires have exacerbated that crisis. This project will destroy four and a  
half hectares of remnant Bangalay Sand Forest, an endangered ecological community  
and a critical habitat for vulnerable and threatened species. While Boral would be  
required under the proposed conditions to offset these impacts, as you well know,  
10 this will still mean a net loss of this habitat type, and that is happening at a time  
where the full impact of last season's fires on endangered ecological communities  
are not qualified – or quantified, I apologise. Offsets cannot be used to mitigate risks  
to species and habitats under these uncertain conditions.

15 Commissioners, there is a need for the New South Wales State government to  
develop a long-term strategy for the supply of construction materials, including sand,  
right across our region and the broader state. In my conversations directly with  
Boral, it seems there is no other resource in the Illawarra Shoalhaven that has been  
identified outside of Dunmore and the other active sand mining operations at Gerroa.  
20 And Boral has known for a long time that the Dunmore resource has been coming to  
an end under its current approvals. It is clear they are trying to maximise the value  
of their plant and equipment by expanding their operations to the east of the  
highway, and that is understandable, but I think the failure of Boral and the  
government to look for more suitable alternatives is no reason to approve this  
25 project would support the ongoing employment of the existing workforce is not an  
argument that – and this is one of the key objects of the Act – promotes the social  
and economic welfare of the community and a better environment by the proper  
management of natural resources. That is just really an argument to kick the can  
down the road for a few years because both the state and the industry have not come  
30 up with an alternative plan for resource supply or new building strategies.

35 So what happens in three to four years time? That's an open question. But we can't,  
bit by bit, keep chopping away at the environment and local amenity because it's  
easier to do what we've been doing rather than to look for alternatives.

40 Commissioner, Boral's Dunmore operations have been supported by the community  
historically, but this expansion is a step too far. It is not a matter of the community  
saying "not in my backyard". No one is calling for Boral to pull up stumps  
immediately and move on. It is a question of what is the nature of this community  
going to be in the long-term? Does it want to see an industrial expansion east of the  
highway and closer to their much-loved river? If you do not feel your remit allows  
you to reject this project on such grounds, I ask you to reflect that as a concern in  
your statement reasons if an independent planning commission can't take into  
account the need for future resource planning and alternatives, how can your  
45 decisions deliver against the objects of the Act in a long-term way? Commissioners,  
thank you for your time and consideration today. I urge you to draw a line in the  
sand here and reject this proposal. Thank you.

MS LEESON: Thank you very much, Justin. We appreciate your contribution. That brings us to the end of today's speakers and presentations, so thank you. As I say, that brings us to the end of this public meeting to the Dunmore Lakes Modification 2 Project. Thank you to everybody who has participated in this  
5 important process. Peter Cochrane and I have certainly appreciated your input. It's not too late to have your say on this application, and we remind you to simply click on the Have Your Say port on our website or send us a submission via email or post. The deadline for those written comments is 5 pm next Wednesday 4 November. In  
10 the interests of openness and transparency, we will be making a full transcript of this public meeting available on our website in the next few days. At the time of determination, the commission will publish its statement of reasons for the decision which will outline how the panel took the community's views into consideration as part of its decision-making process. Finally, I would like to thank again all of those  
15 who have presented today, those who have watched it on the livestream, and my fellow commissioner Peter Cochrane. Good afternoon. Thank you.

**RECORDING CONCLUDED**