



Our ref: DOC19/38894

Senders ref: DA 10.2018.36584.1

Mr Marius Shepherd
Senior Town Planner
Albury City Council
ALBURY NSW 2640

Via Email MShepherd@alburycity.nsw.gov.au

17 June 2020

Dear Mr Shepherd

Subject: DA 10.2018.36584.1 –Extension of Andersons Clay Mine – General Terms of Approval

Thank you for your email dated 21 May 2020 about the proposed extension of Andersons Clay Mine integrated development application, seeking General Terms of Approval with respect to Aboriginal cultural heritage (ACH) from the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (the Department).

We have reviewed the information provided including recommendations in the Aboriginal cultural heritage assessment report (ACHAR) for the project. We have determined that we are able to issue an Aboriginal Cultural Heritage Impact Permit (AHIP) under section 90 of the *National Parks and Wildlife Act 1974*, subject to several conditions.

General Terms of Approval for this proposal are provided in **Attachment A**. These conditions must be incorporated into any development consent granted for this proposal.

These general terms relate to the development and associated footprint as proposed in the documents provided to BCD. These terms may not apply if either the applicant or Council alter the development and associated footprint. If changes occur prior to consent, BCD must be consulted to determine whether our general terms need to be modified to ensure that all Aboriginal cultural heritage values have been considered.

Our previous advice to Council about the assessment is dated 12 February 2019 and provided at **Attachment B**. Page 3 includes nine recommended actions for the ACH assessment to meet assessment requirements. We understand that Actions 1 and 2 have been addressed, however BCD have no information to indicate that Actions 3 to 9 have been completed.

Recommended conditions of consent in **Attachment B** still apply. We also recommend that the approval be conditioned for ACH Actions 3 to 9 to be addressed in a revised ACHAR at the AHIP application stage.

Recommended additional condition of consent:

- *A revised ACHAR must be submitted with the AHIP application that addresses all actions listed on page 3 of the OEH submission to ACC dated 12 February 2019.*

If you have any questions about this advice, please contact me via the South West Planning mailbox rog.southwest@environment.nsw.gov.au or 02 6022 6023.

Yours sincerely



Andrew Fisher
Senior Team Leader Planning
South West Branch
Biodiversity and Conservation Division
Department of Planning, Industry and Environment

ATTACHMENT A – General Terms of Approval for the proposed Andersons Clay Mine extension (DA 10.2018.36584.1)
ATTACHMENT B: – Previous DPIE correspondence for the proposed Andersons Clay Mine extension

ATTACHMENT A General Terms of Approval for the proposed Andersons Clay Mine extension (DA 10.2018.36584.1)

Administrative conditions

Information supplied to BCD

Except as expressly provided by these general terms of approval (GTA), works and activities must be carried out in accordance with the proposal contained in:

- The integrated development application DA 10.2018.36584.1 submitted to Albury City Council on 17 December 2018 and received by BCD (then OEH) on 16 January 2019.
- The Environmental Impact Statement prepared by VGT Environmental Compliance Solutions Pty Ltd for PGH Bricks & Pavers and titled "*Environmental Impact Assessment for Andersons Clay Mine Extension*" dated 27 November 2018 and received by BCD on 16 January 2019.
- The Aboriginal Cultural Heritage Assessment Report prepared by NGH Environmental and titled "*Aboriginal Cultural Heritage Assessment Anderson's Clay Mine Extension*". Dated 29 August 2018 and received by BCD on 16 January 2019.

Aboriginal cultural heritage conditions

On 16 January 2019 the Department received the development application DA 10.2018.36584.1 and supporting documents. Although not stated as being integrated development at that time, Council has now requested GTA. Accordingly, BCD has consolidated previous advice, including completing a review of the following documents for this DA and the GTA:

- "*Aboriginal Cultural Heritage Assessment Anderson's Clay Mine Extension*". NGH Environmental, 29 August 2018

Based on the information contained within this document it is understood that one Aboriginal object Andersons PAD 1-1 (AHIMS 60-3-0146) was located within the activity area and would be subject to an Aboriginal Heritage Impact Permit (AHIP) application.

The artefact site 60-3-0146 comprised a single stone artefact and was assessed as having a lack of context and of low scientific significance (NGH Environmental 2018:33).

No mitigation was proposed in the cultural heritage assessment. This is noted in our previous correspondence in Attachment B and will need to be considered by the proponent at the AHIP application stage.

To facilitate the recommended activities concerning Aboriginal cultural heritage, NGH Environmental has advised that an application be made for an AHIP. The application would be for the development area and should consider the management of Aboriginal heritage material discovered during construction or ongoing operation of the clay mine.

General Terms of Approval for Aboriginal cultural heritage

Based on the review of the documents, it appears that everything required to process is present and to a standard sufficient to support a successful AHIP application.

General Terms of Approval:

- No harm can occur to any Aboriginal objects within the development area unless an Aboriginal Heritage Impact Permit (AHIP) has been issued by the Department.
- The applicant must comply with the conditions of any AHIP that is issued by Department.
- The applicant must ensure that all persons involved in actions or works covered by an AHIP (whether employees, contractors, sub-contractors, agents and invitees) are made aware of, and comply with, the conditions of any AHIP.

- Where an Aboriginal object/site will be avoided by the proposed works then the boundary of the site must be fenced, with a qualified archaeologist present, and marked as a 'no-harm area' to ensure they are not inadvertently impacted during development activities.
- No human remains in, on or under the land may be harmed. If any human remains are discovered and/or harmed in, on or under the land, the proponent or AHIP holder must:
 - a) not further harm these remains
 - b) immediately cease all work at the particular location
 - c) secure the area to avoid further harm to the remains
 - d) notify the local police and the Department of Planning, Industry and Environment's Environmental Line as soon as practical on 131 555, providing any details of the remains and their location
 - e) not recommence any work at the particular location unless authorised in writing by the Department of Planning, Industry and Environment.

ATTACHMENT B Previous DPIE correspondence for the proposed Andersons Clay Mine extension (DA 10.2018.36584.1)

DOC19-38894 OEH Response DA2018-36584 Andersons Clay Mine extn.pdf