

Our ref: DOC22/703717-22

Ms Emma Yule
Narromine Shire Council
124 Dandaloo Street
Narromine NSW 2821
Email: eyule@narromine.nsw.gov.au
Letter uploaded to the NSW Planning Portal

Address: 224 Warren Road, Narromine

Proposal: Sand Quarry and Processing Plant

Development Application no: DA2022/38, CNR-66462, A-80273. Received: 8 March 2024

Subject: Advice for Integrated Development Application, *National Parks and Wildlife Act 1974*

Dear Ms Yule

Thank you for referring the above integrated development application to our office. We understand that Council is seeking our general terms of approval pursuant to s.90 of the *National Parks and Wildlife Act 1974*. We note that:

- An earlier referral for this development application (DA2022/38, CNR-44054, A-52041) was made to Heritage NSW on 15 March 2023.
- Heritage NSW requested additional information on 20 March 2023 (DOC22/703717-6).
- Additional information was uploaded to the NSW Planning Portal on 8 March 2024 under a new referral CNR-66462, A-80273. The additional information noted that disturbance of site 35-3-0305 (Browning Quarry Open Site 1), which is within the proposed impact area, occurred after the archaeological survey was conducted. The Department of Climate Change, Energy, the Environment and Water undertook an investigation in the matter.
- Heritage NSW requested additional information on 15 March 2024 including archaeological re-survey of the application area, re-consideration of archaeological potential and test excavation, updated Aboriginal community consultation and the results presented in a revised Aboriginal Cultural Heritage Assessment Report (DOC22/703717-19).

We have reviewed the advice letter prepared by Area dated 21 June 2024 and the revised Aboriginal Cultural Heritage Assessment Report, prepared by Area dated and uploaded to the portal on 1

November 2024. The report identified that no Aboriginal objects were identified during the 2024 site visit by Area and representatives from the Registered Aboriginal Parties. Area notes the location of site 35-3-0305 is now a void due to quarrying activities with no potential for subsurface Aboriginal objects and archaeological test excavations are unnecessary.

The report documents a new consultation process undertaken in 2024 in accordance with the 'Aboriginal cultural heritage consultation requirements for proponents 2010'. No comments were received from Registered Aboriginal Parties on the draft report. The report recommends an unexpected finds protocol to manage any unexpected finds identified during works and that an Aboriginal Heritage Impact Permit is not required, as there are no objects to harm or relocate.

Advice

- Documentation provided by the applicant in support of this application states that there are no known Aboriginal objects within the subject land and the potential for Aboriginal objects has been removed through quarrying activities.
- Heritage NSW notes site 35-3-0305 is listed as valid on the Aboriginal Heritage Information Management System (AHIMS). We recommend the applicant complete a 'Natural and unauthorised impact assessment Aboriginal cultural heritage form' noting the results of the site inspection that the site has been destroyed, is no longer valid and submit to AHIMS.
- It is stated in s.4.46(2)(a) of the *Environmental Planning and Assessment Act 1979* that development is not integrated development in respect of an Aboriginal Heritage Impact Permit under Part 6 of the *National Parks and Wildlife Act 1974* unless an Aboriginal object is known, immediately before the development application is made, to exist on the land to which the development application applies.
- Accordingly, our understanding is that since there are no known Aboriginal objects on the subject site, the development is not integrated for the purposes of the *National Parks and Wildlife Act 1974* and we cannot provide general terms of approval.
- A copy of the revised 'Aboriginal Cultural Heritage Assessment Browning's Quarry Expansion' (Area, 1 November 2024) will be provided to the Department of Climate Change, Energy, the Environment and Water for their records.

If Council considers approving the development, Heritage NSW have provided recommended conditions of consent for Aboriginal cultural heritage matters in **Attachment A**.

If you have any questions in relation to this matter, please contact Lyndon Patterson, Senior Assessments Officer, at Heritage NSW on 6022 0619 or lyndon.patterson@environment.nsw.gov.au.

Yours sincerely

Nicole Davis

Nicole Davis
Strategic Manager, Heritage Referrals
Heritage NSW
Department of Climate Change, Energy, the Environment and Water
As Delegate under *National Parks and Wildlife Act 1974*
6 November 2024

Attachment A - Recommended Conditions of Consent for 224 Warren Road, Narromine, Development Application: DA2022/38, CNR-66462

If Council consider approving the Development Application, Heritage NSW recommend the following conditions to ensure the protection of known Aboriginal sites and ensure that no additional harm is caused should Aboriginal cultural heritage be encountered:

- If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
 - Not further harm the object(s)
 - Immediately cease all work at the particular location
 - Secure the area so as to avoid further harm to the Aboriginal object(s)
 - Notify NSW Environment Line as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location
 - Not recommence any work at the particular location unless authorised in writing by Heritage NSW.
- If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit must be prepared and submitted to Heritage NSW before work may continue.
- In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.