

Mr. Mashal Moughal
Lake Macquarie Council
mmoughal@lakemac.nsw.gov.au

Attention: Mr. Mashal Moughal

87 Oakdale Road, Gateshead

Dear Mr Moughal

Thank you for the opportunity to comment on the planning proposal for 87 Oakdale Road Gateshead under the *Lake Macquarie Local Environmental Plan 2014*.

We have reviewed the planning proposal and make the following comments:

Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974*

The following reports were considered in our assessment:

- Aboriginal and Cultural Heritage Assessment (updated) at Lot 100 DP 717604, Oakdale Road Gateshead NSW (Myall Coast Archaeological Services 12 September 2022)
- Aboriginal and Cultural Heritage Preliminary Assessment at Lot 100 DP 717604, Oakdale Road Gateshead NSW (Myall Coast Archaeological Services 2 February 2021)

Heritage NSW recommends that a comprehensive Aboriginal cultural heritage assessment is needed and should inform this planning proposal. An Aboriginal Cultural Heritage Assessment Report should be prepared in accordance with the '*Code of practice for Archaeological Investigation in NSW*' (DECCW 2010), the '*Aboriginal cultural heritage consultation requirements for proponents*' (DECCW 2010) and guided by the '*Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*' (OEH 2011).

We provide the following comments on the Aboriginal and Cultural Heritage Assessment (updated) at Lot 100 DP 717604, Oakdale Road Gateshead NSW (Myall Coast Archaeological Services, 12 September 2022):

- A due diligence approach has been conducted for the Assessment of Aboriginal Cultural heritage. We advise Council that an assessment under the 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* is not considered an archaeological assessment or substitute for a comprehensive Aboriginal cultural heritage assessment report. The due diligence process does not adequately assess the impacts of this planning proposal on Aboriginal cultural heritage as required by Local Planning Direction 3.2. This is because without Aboriginal community consultation the extent of the impacts on Aboriginal objects and heritage values through the planning proposal and future development is not known.
- From the information presented consultation has not been conducted in accordance with '*Aboriginal cultural heritage consultation requirements for proponents*' (DECCW 2010).
- The survey information provided does not meet the assessment process and reporting requirements described in the '*Code of practice for Archaeological Investigation in NSW*'

(DECCW 2010) and 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH 2011).

- The unexpected finds protocol does not include the requirement of applying for an Aboriginal Heritage Impact Permit prior to impacts to Aboriginal Objects.

Further information about preparing an Aboriginal cultural heritage assessment is available on our website: <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/aboriginal-objects-and-places>.

Please note the above comments relate only to Aboriginal cultural heritage regulation matters. You may wish to seek separate advice from Heritage NSW in relation to matters under the *Heritage Act 1997*.

General Comments

Before finalising the planning proposal, Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed. Council's assessment should include, but not be limited to, a search of the State Heritage Inventory (<https://www.heritage.nsw.gov.au/search-for-heritage/search-for-nsw-heritage/>) and the Aboriginal Heritage Information Management System (<https://www.heritage.nsw.gov.au/protecting-our-heritage/record-aboriginal-sites/>).

If you have any questions about the advice above, please contact Alison Lamond in relation to Aboriginal cultural heritage matters by email at alison.lamond@environment.nsw.gov.au,

Yours sincerely



Nicole Davis

Manager Assessments

Heritage NSW

Department of Planning and Environment

(As Delegate under *National Parks and Wildlife Act 1974*)

14/09/2023