

Appendix H
Cultural Heritage
Assessment (ERM, 2009)

Reavill Farm Pty Ltd
And Tucki Hills Pty Ltd

Champion Quarry,
1586 Wyrallah Road,
Tuckurimba NSW
Cultural Heritage Report

November 2009

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Cultural Heritage Report

November 2009

Reference: 0098287_Cultural Heritage

For and on behalf of
Environmental Resources Management
Australia

Approved by: Murray Curtis



Signed:

Position: Partner

Date: 18 November 2009

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PURPOSE

Environmental Resources Management Australia (ERM) was engaged to update the Aboriginal Heritage Assessment (AHA) for the expansion of Champions Quarry to bring the Report into line with Part 3A Environmental Assessment criteria. The original AHA was undertaken by Everick Heritage Consultants Pty Ltd (2008) and the report is provided in *Appendix G* of the EA.

It is ERM's opinion that the survey undertaken by Everick was adequate for the original proposal and note the accompanying report has previously been reviewed and deemed adequate by the Department of Environment, Climate Change and Water (DECCW). However, some additional work was considered necessary for the purpose of the Part 3A application. This necessitated adherence to the DECCW's *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*. These guidelines ensure all relevant Aboriginal stakeholder groups had the opportunity to identify any heritage issues or concerns they may have with the expansion of the quarry.

1.2

DIRECTOR GENERALS REQUIREMENTS FOR HERITAGE

The DGR's specified five aspects of Aboriginal cultural heritage that should be addressed by the Environmental Assessment:

- follow the *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*;
- identify nature and extent for impacts on Aboriginal cultural heritage values across the project area;
- the extent and significance of the site assessed and avoidance of disturbance of the of the site preferred;
- describe action of avoidance of mitigation to impacts or compensate for unavoidable impacts; and
- demonstrate the effective community consultation undertaken with the Aboriginal communities.

In 2007/08 Everick undertook an Indigenous and non-Indigenous heritage assessment at Champions Quarry. For the assessment, two separate fieldwork events were undertaken in the company of local Aboriginal Community Elders. The initial fieldwork was undertaken with Dean Bolt from Ngulingah Local Aboriginal Land Council (NLALC) on 7 November 2007. The first survey found no evidence of Aboriginal occupation and this is reiterated in the letter dated 21 January 2008 from Dallas Donnelly (acting CEO) of NLALC. The NLALC letter stated that two additional individuals may hold information on the area: Mr Murray John Roberts and Mr Sheldon Harrington.

As a result Mr Murray John Roberts was contacted and an additional fieldwork event was undertaken on 15 February 2008. As a result of this consultation, an offer by the applicant was made that two 3 ha extraction cells would have a precautionary survey after approval and prior to commencement of quarrying activities including topsoil removal.

The 2008 Everick report found no Aboriginal heritage sites within the study area. It was recommended further heritage work, as described above, to be undertaken with Mr Murray John Roberts.

As part of the 2008 Development Application (DA) the Everick report underwent review by DECCW. The review found the report adequate. Therefore, considering this Part 3A application covers the same study area, the only task for ERM to undertake is the appropriate level of Aboriginal community consultation in line with the DECCW's *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*, as required by the DGR's for the Part 3A application.

The project proposes to undertake the following:

- expansion of approved resource extraction and processing area to approximately 16 ha to allow access to approximately 6.25 million tonnes of sandstone material over 25 years;
- an increase in approved annual extraction rate from approximately 64,000 tonnes per annum to 250,000 tonnes per annum;
- processing and stockpiling of extracted materials;
- associated quarry infrastructure including, but not limited to sand washing plant, weighbridge, office, amenities and storage facilities; and
- boundary adjustment of the six existing rural allotments to create a quarry allotment of approximately 38ha, and four rural allotments.

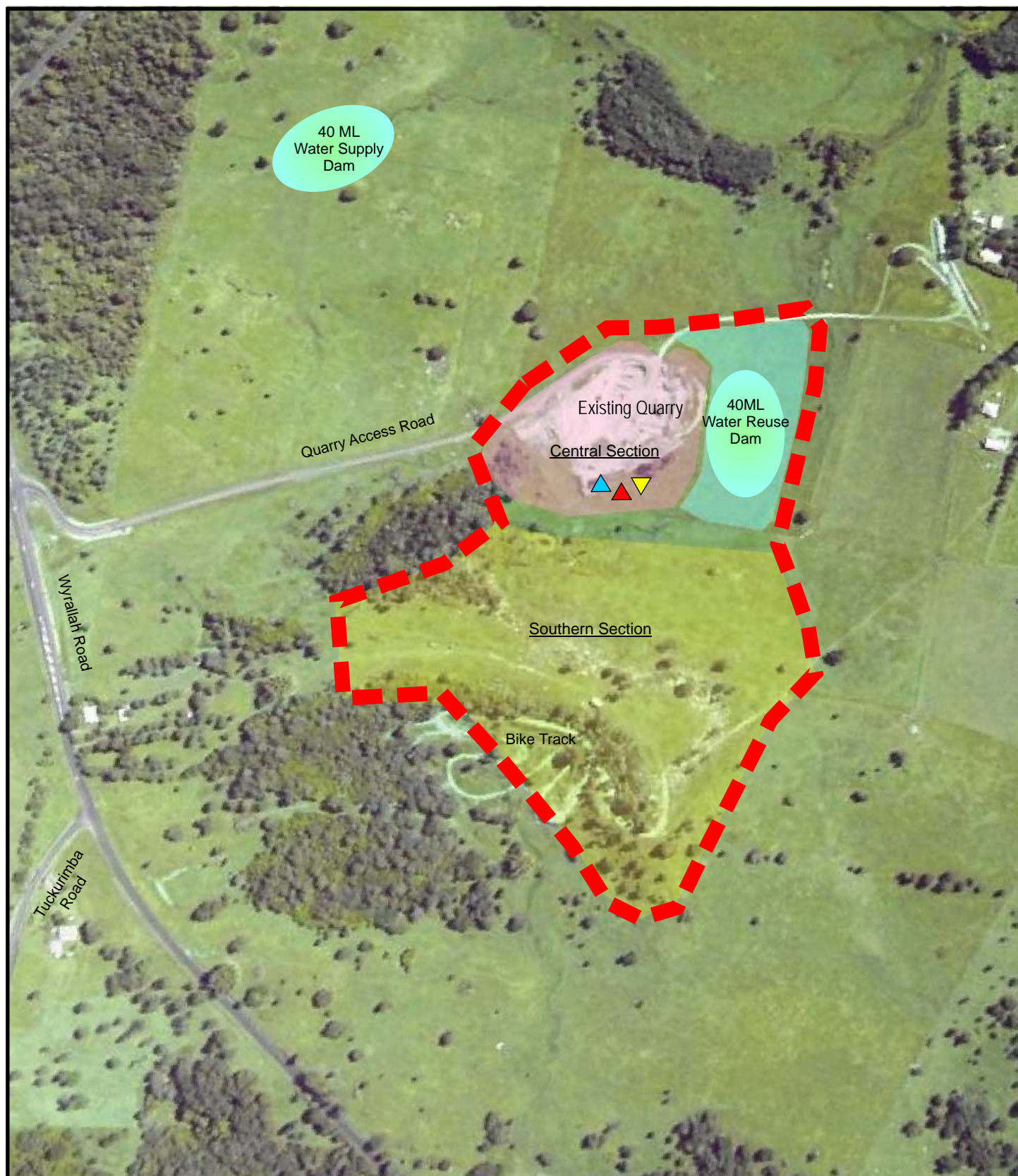
This proposal will take place through a staged lateral and vertical expansion of the resource in two quarry sections (referred to as the *Central* and *Southern* Sections) as shown on *Figure 1.1*.

Quarrying operations will consist of minor clearing of vegetation, topsoil removal and stockpiling for reuse or sale, overburden removal and stockpiling for reuse or sale, winning of materials, and material processing and stockpiling for sale. The existing quarry floor is at approximately 12 m AHD. Initially, extraction is planned to take place to a floor level between 8 m AHD and 10 m AHD within the Central section, allowing access to approximately 300,000 tonnes. The remainder of the materials will be won within the Southern central, with extraction expected to take place to a floor level between 8 m AHD and 10 m AHD.

In addition to excavation and materials processing equipment, the following elements will also be established on-site:

- partially covered temporary holding stockpile and service area comprising of a 100 m x 40 m concrete slab with product/aggregate bays;
- building containing an office and staff amenities;
- vehicle storage sheds with servicing bay and bunded fuel tank;
- vehicle wash down area;
- up to four shipping containers for small volume general and hydrocarbon storage purposes;
- upgraded internal access roads; and
- stormwater management structures, process water treatment and supply dams and related infrastructure.

As part of the project, it is intended to undertake a boundary adjustment, as stated above. The final layout of the allotments will be provided within the Environmental Assessment report.



Legend

- Extent of Quarry Extraction and Operations (Project Area)
- ▲ Washing Plant
- ▲ Processing Plant
- ▼ Service Area and Temporary Stockpile Holding Area
- Water Management Dam
- Central Section
- Southern Section
- Water Management (Non-quarrying area)

Client:	Champions Quarry
Project:	Champions Quarry Expansion
Drawing No:	0098287pm_03
Date:	12/08/09
Drawn by:	AM
Source:	-
Scale:	Refer to Scale Bar



Figure 1.1

Proposed Project Area Layout

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1.5

COMMUNITY CONSULTATION

Aboriginal consultation is required for any assessment of Aboriginal heritage. The DECCW has released the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* for Aboriginal consultation in relation to studies that might eventually be used to support an application under Part 3A under the *Environmental Assessment and Planning Act 1979*.

The interim guideline sets out a process for inviting Aboriginal groups to register interest as a party to consultation (including local press advertisement), seeking responses on proposed assessment methodology, and seeking comment on proposed assessments and recommendations. The interim guidelines requires proponents to allow ten working days for Aboriginal groups to respond to invitations to register, and then 21 days for registered Aboriginal parties to respond to a proposed assessment methodology. Additional time should be allowed for groups to review a draft report and comment on the results and management recommendations.

The Aboriginal community consultation for the project has been carried out in accordance with the DECCW guidelines.

1.5.1

Initial Consultation

Letters requesting advice on Aboriginal organisations to consult, and any known heritage issues to be taken into consideration in the area, were emailed on 12 March 2009 to:

- the NSW DECCW;
- Registrar, *Aboriginal Land Rights Act 1983* (NSW); and
- Ngulingah Local Area Land Council (NLALC).

A local press advertisement requesting local Aboriginal stakeholders interested in being consulted, was run in the *Lismore Echo* on 16 April 2009.

Responses to the advertisement and the initial emails on consultation suggested that a total of 18 Aboriginal groups were interested in the assessment process. These included:

- Ngulingah Local Aboriginal Land Council;
- Doug & Susan Anderson;
- Bundjalong Tribal Society;
- Bundjalung Elders Council Aboriginal Corporation;

- Banjum Co-Operative Society Ltd;
- Cubawee Aboriginal Corporation;
- Nunbahging;
- Kurrachee Co-Operative Society Ltd;
- Nunger Aboriginal Corporation;
- Wai:Bal Aboriginal Corporation;
- Mr Lewis Cook;
- Auntie Patricia Cook;
- Bogal Local Aboriginal Land Council;
- Jali Local Aboriginal Land Council;
- Rosslyn Sten;
- DECC/NPWS Alstonville;
- Gilbert King; and
- North Zone NSW LALC.

Each group was provided with a written letter, by post and email, between 24 April 2009 and 1 May 2009, stating that ERM were updating the consultation process for this project and was interested in registering Aboriginal community groups for involvement. Registration for involvement in the process was received from the following groups:

- Ngulingah Local Aboriginal Land Council;
- Dianne Harrington;
- Jenny Smith;
- Tracey King; and
- Auntie Patricia Cook.

1.5.2 *Invitation to Community Meeting*

All registered Stakeholders were emailed on the 5 May 2009 an invitation to a community meeting, giving the time and location of the meeting and a general outline of what was planned for the meeting.

An email was received on 12 May 2009 from Dianne Harrington stating that for herself, Auntie Patricia Cook and Jenny Smith the date was not suitable. An additional alternative meeting was suggested for either the 18, 20 or 21 May if deemed to be convenient. However, another date could not be mutually agreed upon.

1.5.3 *Community Meeting 19 May 2009*

The meeting was held at 10:00am at the entrance to Champions Quarry. One community representative attended the meeting; Mr Murray John Roberts. Mr Murray John Roberts declined an offer to inspect the Project Area and wider Project Site.

1.5.4 *Requirements for Future Aboriginal Consultation*

Copies of this report was sent to all registered Aboriginal groups for comment and feedback on the content, assessment and recommendations. All comments received from these groups are appended to this report for submission to the NSW Department of Planning. Any future work relating to the Aboriginal archaeological mitigation, as stipulated in this report, should include consultation with the relevant Aboriginal stakeholders.

1.6 *OUTCOME OF COMMUNITY MEETING*

The main concern voiced by the Aboriginal representative, Mr Murray John Roberts, was a lack of ethnographic and wider survey in the area. There were several sites referred to, including the Tucki Tucki Bora Ring, and springs and camp sites that are known to have special Aboriginal significance in the area, but not specifically on the Project Site.

Another issue raised during conversations with Mr Roberts was the potential for Aboriginal burials in the area. While Mr Roberts did not wish to walk on the Project Area during the meeting he indicated it may contain burials. His belief is that there is local oral tradition suggesting that Aboriginal burials are present across the wider area.

The option of probing the ground prior to extraction was discussed. Probing can evaluate if there is the likelihood of burial in the area (through determining the depth of topsoil above the bedrock). If any areas with potential burials are located their destruction could be mitigated, limiting the potential of chance finds of burials. Probing was however not considered necessary as discussed in the *Section 1.9* below.

Steele (1983) discusses the Tucki Bora ring north of the study area. The Bora Ring is on the main travelling route into Lismore. Further, a Corroboree Ground is known to be two kilometres northeast of the Bora Ring on Robsons Knob. It is recorded that south of the Bora Ring lie caves that contained stencilled drawings. The stencil drawings are recorded as having been destroyed in the 1930's. Along the banks of the Wilson River were stands of hoop pines and this area was considered to be the main camping spot in this area (Steele 1983 p12-14).

There is a historically recorded burial in the Tucki area recalled by John Currie. He claimed that the body was buried in a hole and covered in earth and sticks (Steele 1983 p15).

The method of burial to bury the bodies upright is important for the current investigation because it suggests that there is unlikely to be burials in the current study area. Personal communications from Mr Murray John Roberts indicates that burials were dug into the ground in an upright position and the graves in-filled and often marked with a burial stone. There is an image taken south west of the current study area showing small pyramidal mounds of sticks and soil (see Steele 1983). These types of construction would have been removed once European agriculture was established in the region; leaving little if any archaeological evidence for this mode of burial.

Geotechnical data for the study area (Coffey, 2007) suggests that soil deposits across the surface of the proposed quarry areas would be too shallow to allow burial shafts to be excavated. It is suggested that any subsurface burials would have necessitated excavation through the sandstone bedrock.

The geotechnical data records the soil and clay substrates together as overburden over the sandstone. This overburden is a maximum of 1 metre in depth, frequently much less. The ethnographic and personal communication from the Aboriginal community suggests that burials occurred in sandy deposits and not in clay deposits. It therefore suggests that the study area will not contain burials as the remnant soils are generally shallow, and have a matrix which is generally not suited to Aboriginal burial.

As a precautionary measure a methodology for probing soil horizons (in an effort to determine whether burials could be present) was put to the Aboriginal community. This methodology is described below. However, further Aboriginal community consultation determined that a probing program was unnecessary; as the community members do not believe the study area to contain Aboriginal burials.

The original AHA proposed that two 3 ha extraction cells have a precautionary survey prior to commencing full quarrying activities. Due to the concerns expressed by Mr Murray John Roberts during the community meeting a proposal for probe testing was put forward to the Aboriginal community.

1.8.1

Proposed Methodology for Probing Program

The following proposed methodology was recommended to the Aboriginal community representatives, as a technique for determining whether the study area held the potential to contain Aboriginal burials.

The probing program methodology aimed to test soil depths over a central spur landform, where rock extraction will occur. A series of parallel transects, spaced at five metre intervals, was planned to cover the entire spur.

Probe tests would be made on each metre mark along each parallel transect; the depth of each probe was to be recorded. As an upright burial would require a minimum of a meter of soil to cover it, any areas where a meter or more soil depth was recorded, was to be further tested to determine the extent of the area with deeper soil above bedrock.

If an area was found to be 1 metre in length and width, i.e. large enough for a burial to have been placed, then archaeological test excavation was to be undertaken. This test was to strip the upper A soil horizon, revealing and determining whether 'cut marks' (indicative of a burial shaft) were present.

It is not the intention of the excavation to impact any burials, if present. Following any indication of a burial or burial shaft, the excavation would cease and the exact area was to be spatially marked out.

If areas with potential and/or confirmed burials were identified, then a burial management plan would be established in collaboration with the local Aboriginal representatives, the DECCW and Champions Quarry. The following simply puts into place several protocols that would need to be undertaken in the unlikely event of human skeletal material being uncovered on-site including:

1. all works in the immediate vicinity of the burial should be halted;
2. the police contacted;
3. a Local Aboriginal Representative contacted;
4. if required a suitably qualified archaeologist or physical anthropologist contacted; and

5. once ascertained that the burial is in fact Aboriginal, the local Aboriginal community should be consulted on how best to proceed. Options available include that the remains be reburied as closely as possible to their original location (i.e. on the proponents farm land) or relocated to another site.

Further details with regard to the above protocols are provided in *Section 1.11*.

1.8.2 *Community Response to Proposed Probe Methodology*

The probe methodology was sent to all registered community groups on 5 June 2009. A follow up phone call or email was made or sent to the community members on 24 June 2009 to gain community responses.

Only one detailed response was received. The first response was received from a representative of the NLALC and can be found in *Annex A*. It posed a series of questions of the project and suggested that there was little top soil left in which burials could be located.

1.9 *COMMENTS ON REPORT*

A draft copy of this report was made available to all registered stake holders in accordance with the DECCW guidelines. Two responses were received, the first from Mr Murray John Roberts (on NLALC letter head) in which he raised a number of issues regarding the consultation process, the failure of the report to recognise the importance of the site to the broader cultural landscape, and states that there are indeed Aboriginal burials on the site. These concerns were also raised in correspondence received from the Environmental Defenders Office submitted on behalf of the NLALC. Both letters are provided within *Annex A*. The issues raised within these separate pieces of communication are addressed in *Section 1.10*.

1.10 *DISCUSSION*

The outcomes of the community consultation undertaken for this project have shown that there is some disagreement within the Aboriginal community on the potential for the study area to contain Aboriginal burials.

It can be confirmed that there are no previously recorded Aboriginal sites within the Project Site. The formal heritage assessment of the study area determined that no new archaeological sites were identified.

Table 1.1 Correspondence from Mr Roberts and *Table 1.2* below provide detailed responses to all matters raised by Mr Murray John Roberts, the NLALC and the Environmental Defenders Office.

In looking at these matters, DECCW stated during adequacy assessment of the overall Environmental Assessment (EA) report that given the differences of

opinion that exist regarding the potential for sites and site types within the area, it is imperative that the proponent makes every effort to discuss with the local Aboriginal community the implications of the cultural heritage context for the Project.

The proponent extended an invitation to Mr Roberts to discuss matters raised during the course of the consultation. Additionally, correspondence from Mr Roberts and the Environmental Defenders Office requested meetings be held with the NLALC, the proponent and the Department of Planning to investigate further Aboriginal heritage impacts from the proposed quarry expansion. ERM considers that involvement of the Department of Planning during the impact assessment phase is improper as it is the role of the Department to assess independently prepared documents, not aid in their preparation. However an invitation was put forward to the Department of Planning to attend a meeting. The Department of Planning declined the offer of a meeting. Subsequently, Mr Roberts, the NLALC and the Environmental Defenders Office have refused to meet with the proponent and ERM.

Table 1.1 Correspondence from Mr Roberts

Comment	Response
When the matter was first commenced in February 2008 the report was undertaken by Dean Bolt as acting Site officer which was not received.	The current consultation process has been undertaken in full accordance with DECCW's guidelines – the referenced date formed part of the process undertaken for a previous development application submitted to Lismore City Council.
Initial site visit in 2008 did not involve an appropriate field investigation and assessment of cultural heritage significance. The proponent simply drove me out to the site, stated that they found no artefacts and then drove around the site to demonstrate what the quarry would do.	See Above
During the last site meeting in the presence of Mr Champion and Diana Neuweiger, I stated that Mr Champion had not been honest with me and my concerns as to the seriousness of the Aboriginal and cultural issues were not being properly assessed.	This is not considered relevant to the assessment of the heritage values of the site.
At no point did I state that there was limited potential for burials. Unwillingness to walk on such areas is the only proper traditional behaviour.	The author of the letter visited the site during investigations undertaken by Everick Heritage Consultants Pty Ltd associated with the previous development application and raised no such concerns. During the most recent meeting in which Mr Roberts refused to walk on the site he did not state clearly his reasons for refusal. It is noted that in subsequent correspondence, Mr Roberts indicated that he had previously inspected the site in the late 1980's (refer Annex A for correspondence).
There is ample literature as to the importance of bora rings in relation to the wider	Noted

Comment	Response
ceremonial environment and other key sites both for Bundjalung and this particular site.	
The Tucki Bora ring is a highly significant site. The most important aspect of the heritage legislation in relation to Aboriginal Place is to recognise the landscape and wider environs as an intricate and indivisible part of the heritage value. To approach the matter of this site as if only a few bones or stones might need care is insulting at this late date of the understanding of the heritage values of my people.	The Tucki Bora ring site is substantially removed from the proposed quarry expansion site. The Project Area is highly modified with and existing quarry and moto-cross track.
The idea that burials could be removed to some other place is utterly repugnant and totally inappropriate in Aboriginal heritage terms and I have repeatedly stated this and been ignored. There are no mitigation methods for interfering with ancestors burials, or the area around such burials, at a significant initiation area which means they are clever men and women's burials.	<p>The site is already subject to disturbance including the existing quarry and an approved moto-cross track. Additionally, during its assessment of the previous development application to Lismore City Council (which would have resulted in the disturbance to a larger area of land than is presently proposed), DECCW acknowledged the conclusions that the archaeological potential and significance of the site is low and that no part of the extraction area constitutes a Potential Archaeological Deposit (PAD).</p> <p>The shallow nature of the soil and the nature of the underlying geology makes it highly unlikely that any of the areas of the site to be disturbed contain any burials.</p> <p>It is ERM's experience that the relocation of burials has been deemed an acceptable mitigation measure for chance find situations.</p>
With or without burials identified the site is of immense significance. The only acceptable possibility for probing would be to do a full Anthropological study evaluating the areas of possible burials and then to do under surface photography to indicate possible graves as was done at Tabulam.	A methodology was developed in which it was proposed to undertake probing. This was developed following the outcomes of the meeting with Mr Roberts. This methodology was distributed to registered stakeholders in accordance with the DECCW guidelines. The only responses received, which did not include one from Mr Roberts, questioned the scientific value of undertaking such works.
A full assessment of this site in cultural terms delineating it as a complex site of initiation, camp site, residence site, burial site and mythological site in line with other points in Widjabul country is essential so that the true heritage significance can be properly established.	An invitation was extended to Mr Roberts to attend a meeting to elaborate on this and come to an agreement with regard to progressing the heritage assessment. However Mr Roberts, through the EDO, refused to do so unless such a meeting was attended by the Department of Planning.
There were all sorts of markers and indicators of significance that have already been destroyed. The lack of these now is due to previous destruction by European interests and cannot be taken to be a sign of lack of burials or other areas of significance.	The absence of any markers destroyed due to historical farming practices has not influenced the outcome of the report. ERM developed a methodology for determining the presence of any burials on site, however Mr Roberts did not respond, with the only response questioning the scientific value of the works.

Comment	Response
Concerned as to the lack of appropriate consultation. Consultation of a high level of initiation site such as this can only be undertaken with properly authorized elders of the community. These processes cannot be ignored or undermined. It is not for the consultant or proponent to decide what constitutes correct Aboriginal community consultation. This is a matter of following properly established traditional methods that are congruent with protecting our heritage.	ERM undertook consultation in accordance with the DECCW guidelines, including with members of NLALC and others as recommended by DECCW. Copies of all relevant consultation documents are provided in <i>Annex A</i> .

Table 1.2 *Correspondence from Environmental Defenders Office on Behalf of the NLALC*

Comment	Response
The NLALC is of the view that there should be no further expansion of Champions Quarry because it is located on land which is of a high order of significance to the traditional owners of the land. The existing quarry operation degrades that landscape and there should not be any further degradation.	The site is already subject to disturbance including the existing quarry and an approved moto-cross track. Additionally, during its assessment of the previous development application to Lismore City Council (which would have resulted in the disturbance to a larger area of land than is presently proposed), DECCW acknowledged the conclusions that the archaeological potential and significance of the site is low and that no part of the extraction area constitutes a Potential Archaeological Deposit (PAD). It is also noted that significant areas of remaining vegetation stands including sandstone rock formations and overhangs are to be retained on site. No sandstone rock overhangs are proposed to be removed by the Project.
The heritage assessment conducted by ERM focuses solely on the site of the proposed quarry expansion and ignores the place that the site of Champions quarry has in the context of the wider landscape.	An invitation was extended to the NLALC and the Environmental Defenders Office to attend a meeting to elaborate on this and come to an agreement with regards to progressing the heritage assessment. However they have refused to do so unless such a meeting was attended by the Department of Planning.
The NLALC is of the view that the completion of an anthropological study is imperative in order to gain a full appreciation of the Aboriginal heritage values of the landscape which includes the quarry site. Those heritage values continue to hold significance to the Widjabul people.	The Ethnographic and Archaeological understanding of the Greater area is discussed in <i>Section 1.7</i> above and the Everick Heritage Consultants Pty Ltd report.

Comment	Response
<p>Any anthropological study needs to consider the wider landscape which includes the following elements:</p> <ul style="list-style-type: none"> • the Tucki Bora Ring in the grounds of the Tucki General Cemetery; • the grinding stone in its original position adjacent to the Bora Ring at Tucki; • the caves on the ridges surrounding the quarry which were used by the Clever-men of the tribes; • Young Man's Creek on the eastern side of the Bora Ring; • The canoe trees on the banks of the Tucki Swamp; • The Old Men and Old Women's Camp in the grove of Hoop Pines below the Bora Ring and the axe grinding stone and spring at this camp. 	<p>None of these described elements of the wider cultural landscape occur within the operational Project Area to be disturbed by the quarry.</p> <p>On-site inspection within the broader project Site has revealed a number of small sandstone rock overhangs on the ridges adjoining proposed extraction areas. All of these are within areas that are proposed to be included in biodiversity "lock-up" areas meaning that they will not be disturbed by quarrying activities.</p>
<p>The NLALC maintains that there are burial sites at risk on the existing quarry and on the site of proposed expansion and that those burial sites are very important to the Widjabul people and should never be disturbed.</p> <p>It is inappropriate for a quarry to be operating on what is effectively an Aboriginal cemetery, with the last tree burial occurring in the area after white settlement.</p>	<p>A methodology was developed in which it was proposed to undertake probing. This was developed following the outcomes of the meeting with Mr Roberts. This methodology was distributed to registered stakeholders in accordance with the DECCW guidelines. The response received from the NLALC questions the scientific value of undertaking such works.</p> <p>The shallow nature of the soil, the soil matrix and the nature of the underlying geology makes it highly unlikely that any of the areas of the site to be disturbed contain any burials.</p>
<p>We understand that a geotechnical study constitutes the full extent of ERM's inquiries into the use of the quarry site as an Aboriginal burial ground. As a result of this study, ERM has dismissed the possibility of burials on the site on the basis that geotechnical conditions indicate that the area of the proposed quarry expansion is too shallow for sitting burials. However we are instructed that there are known to be a variety of burial customs which occurred in the area in addition to sitting burials. These include prone burials and the reburial of bones after a set period.</p>	<p>ERM did not dismiss the issues of burials on-site and sought to engage the Aboriginal community in development of a methodology to investigate the potential presence or otherwise of burials.</p>

Comment	Response
As the proposed quarry expansion is located in the vicinity of a high level initiation site, consultation can only properly be undertaken with those elders of the Widjabul community who have received knowledge from their elders and have been properly authorized by those elders.	ERM undertook consultation in accordance with the DECCW guidelines, including with members of NLALC and those as recommended by DECCW.
We acknowledge that ERM carried out community consultation largely in accordance with the guidelines and consulted with Aboriginal groups and individuals who registered as stakeholders in response to a local press advertisement. However, the NLALC maintains that it is inappropriate to consult with Aboriginal people who are not Widjabul elders about matters affecting Widjabul country because they do not hold the relevant knowledge of the area.	ERM has consulted extensively with Mr Roberts at the recommendation of the NLALC.
It is highly inappropriate to ask a young person who has not received relevant teachings and in this instance, consulting a female in regards to sites that were of male significance.	

An assessment of the geotechnical work (Coffey 2008) and prior archaeological reports discussing Aboriginal burials in the region, indicates that there is no scientific reasoning for the probe testing. The bore hole logs and a site walk over have shown that there is very little intact soil horizons remaining. Erosion of the soil horizons across the study area suggest that there is little to no potential for stone tools or any other Aboriginal site types to be present in the study area.

Therefore, on scientific grounds and following an absence of Aboriginal community support for the probe testing, it is considered that further impact assessment in the form of probe testing is not required.

1.11 *MANAGEMENT AND MITIGATION MEASURES.*

The following recommendations are made in light of the findings of the survey undertaken, the background research, the predictive modelling, and the relevant NSW legislation protecting historic and Aboriginal heritage.

The geotechnical conditions at the Project Area and prior archaeological reports discussing Aboriginal burials in the region, indicates that there is no scientific reasoning to expect burials within the proposed quarry expansion area.

All Champions Quarry workers should be informed regarding potential Aboriginal heritage sites and objects, prior to all work commencing. In the event of any Aboriginal heritage sites and/or objects being uncovered during the course of clearing or excavation of the site, all sites works within the vicinity of the find are to cease and the Local Aboriginal Land Council and a qualified archaeologist should be contacted.

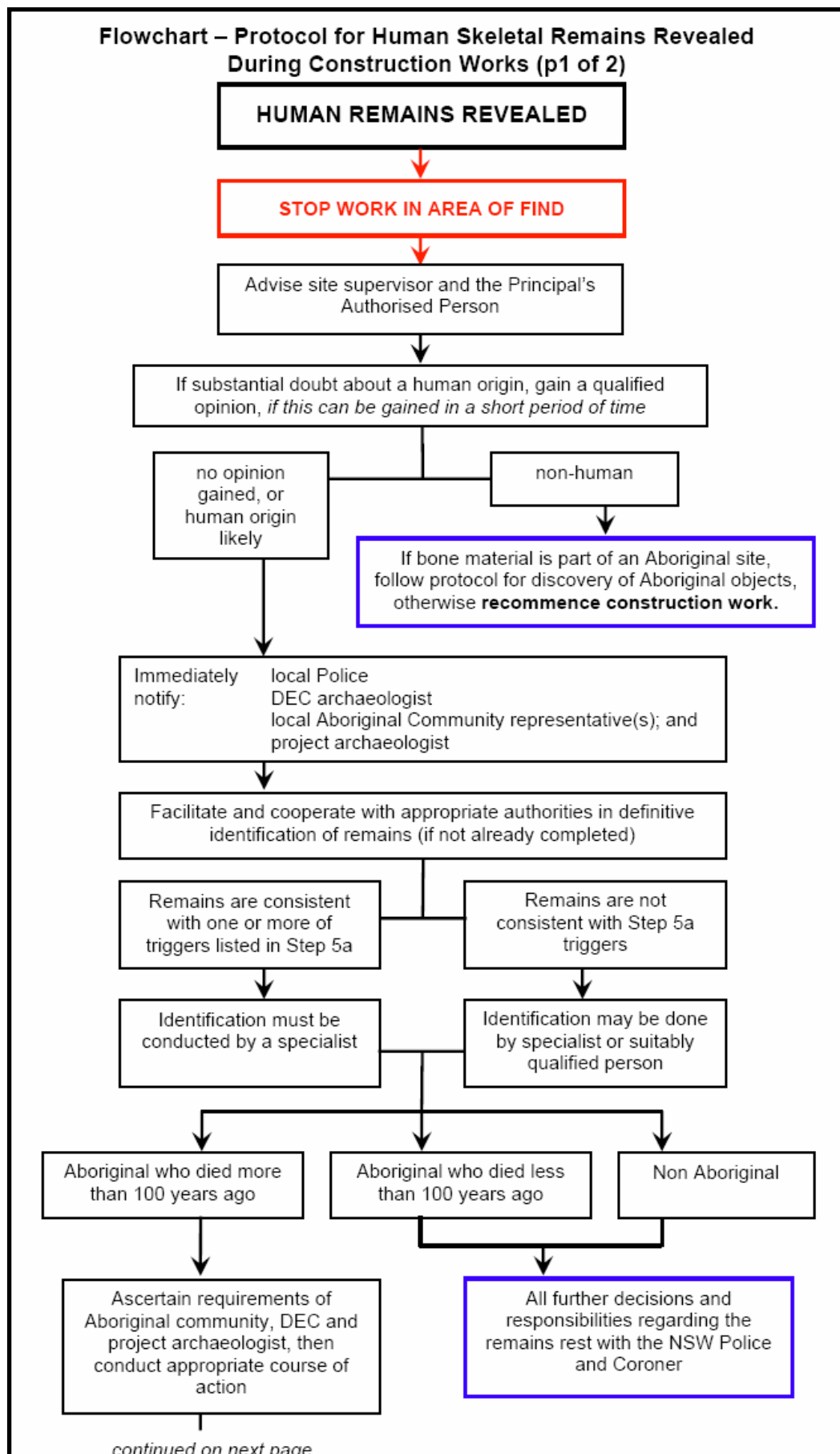
DECCW has recommended that an Aboriginal Cultural Heritage Management Plan be developed in consultation with community stakeholders. This plan is to outline proposed management and mitigation measures in the event that Aboriginal burials or objects are located during the development works. To date, the key identified stakeholders, through the EDO, have refused further meetings to progress any Aboriginal cultural heritage matters. It is recommend that the proponent commit to developing such a plan and undertake further consultation.

The Aboriginal Cultural Heritage Management Plan should include:

- a description of the measures that would be implemented to salvage any identified chance find Aboriginal sites within the disturbance area;
- description of the measures that would be implemented to protect any Aboriginal sites identified within the Project Site outside of the disturbance area; and
- a description of the measures that would be implemented if any new Aboriginal objects or skeletal remains are discovered during the project.

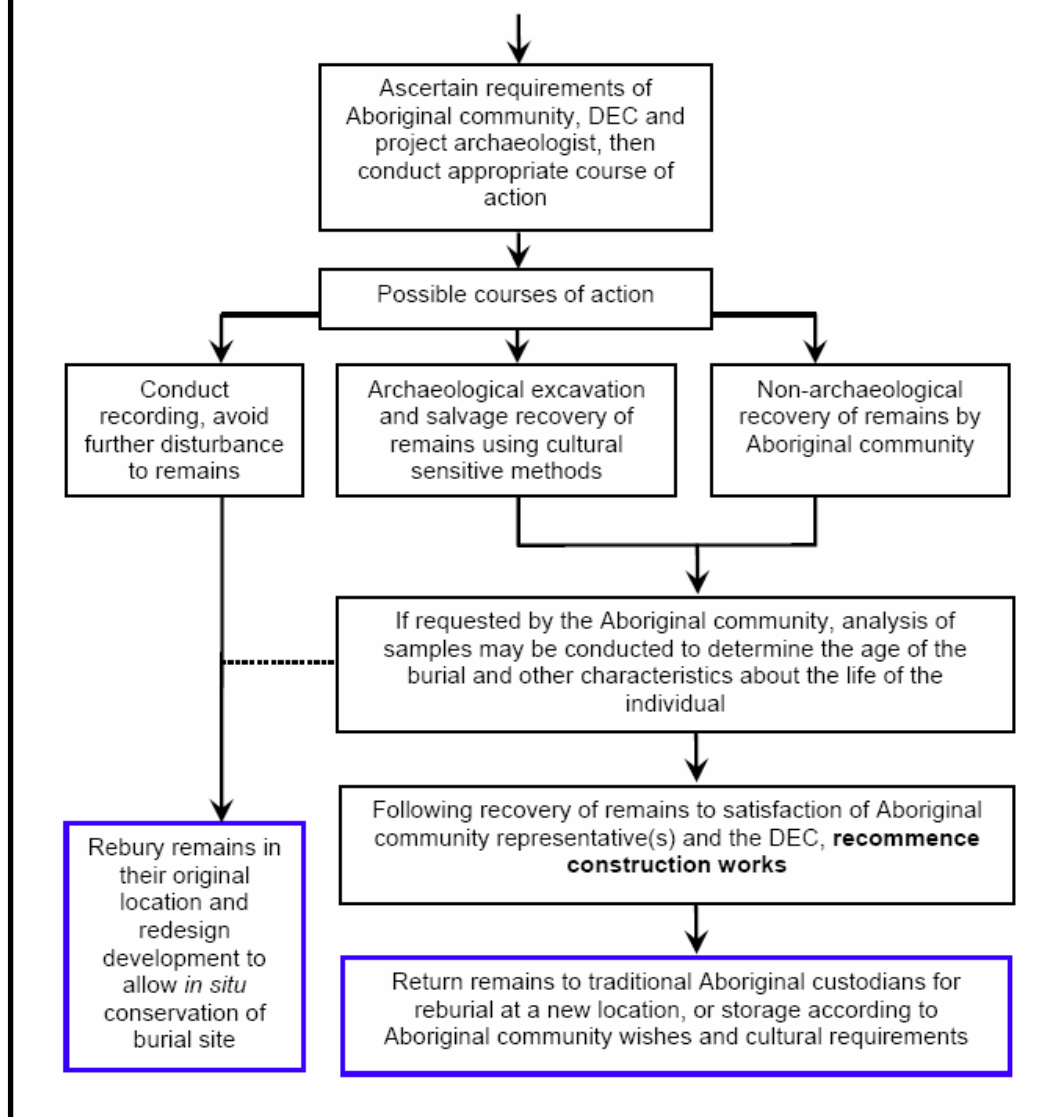
An example concept flow chart of burial management protocols that should be contained in the plan is provided below:

Figure 1.2 Example Burial Management Flow Chart



Flowchart – Protocol for Human Skeletal Remains Revealed During Construction Works (p2 of 2)

continued from previous page



1.12

CONCLUSION

There were no known Aboriginal heritage constraints identified for the proposed expansion of Champions Quarry.

REFERENCES

Coffey Geotechnics Pty Ltd (2007) **Champions Quarry Material Assessment of Proposed Expansion Area** . Report for Champions Quarry.

Collins M (2000) **Wiy-abal Aboriginal Clan (Bundjalung Nation) Cultural Heritage & Values relating to the Lismore City Council Local Government Area**. For Lismore City Council LGA.

Everick Heritage Pty Ltd (2008) **Aboriginal Heritage Assessment at Champions Quarry Tuckurimba via Lismore**. Report for Champions Quarry.

Steele J.G. (1983) **Aboriginal Pathways in Southeast Queensland and the Richmond River**. University of Queensland Press, Hong Kong.

Annex A

Community Consultation

Table A.1 Community Consultation

Aboriginal Consultation Process			
Project:	Tucki Quarry	0098287	
Stage 1 - Advisory Requests Sent			
Organisation	Contact	Date Sent	Comment
Northern Rivers Echo Newspaper Ad	Christina	07-Apr-09	Email sent with Advertisement content, to run 16 April
Northern Branches DECC	Brett Nudd	12-Mar-09	10 groups identified
Ngulingah LALC		12-Mar-09	8 individuals identified to be involved in consultation
Registrar Aboriginal Owners	Adam Black	12-Mar-09	Ngulingah LALC only group identified
Native Title Services		12-Mar-09	Bungulung Native Title group
Lismore Local Council			No response
Initial letter sent			
Organisation	Contact person	Date	Comments
Doug& Susan Anderson		24-Apr-09	Letter
Bundjalong Tribal society		24-Apr-09	Letter
Bundjalung Elders Council Aboriginal Corporation		24-Apr-09	Letter
Bunjum Co-Operative Society Ltd		24-Apr-09	Letter: Letter return to sender
Cubawee Aboriginal Corporation		24-Apr-09	Letter
Nunbahging		24-Apr-09	Letter: Letter return to sender
Kurrachee Co-operative Society Ltd		24-Apr-09	Letter
Nunger Aboriginal Corporation		24-Apr-09	Letter
Wai:Bal Aboriginal Corporation		24-Apr-09	Letter
Mr Lewis Cook		24-Apr-09	Letter
Wai:Bal Aboriginal Corporation		30-Apr-09	Letter return to sender
Auntie Patricia Cook		01-May-09	Email
Bogal Local Aboriginal Land Council		01-May-09	Email
Jali Local Aboriginal Land Council		01-May-09	Email
Rosslyn Sten		01-May-09	Email

Aboriginal Consultation Process

DECC/NPWS Alstonville	01-May-09	Phone rang out no answer
Gilbert King	01-May-09	Mobile switched off or out of coverage area
North Zone NSW LALC	01-May-09	Mobile switched off or out of coverage area

Aboriginal Group Registrations Received

Organisation	Contact person	Date	Comments
Ngulingah Local Aboriginal Land Council	Tracey King	28-Apr-09	
Dianne Harrington		28-Apr-09	
Jenny Smith		29-Apr-09	
Tracey King		29-Apr-09	
Auntie Patricia Cook	Dianne Harrington	04-May-09	

Stage 2 - Briefing & Methodology Advice Sent

Organisation	Contact person	Date Sent	Comments
Ngulingah Local Aboriginal Land Council		05-May-09	Email sent with the letter inviting to community meeting
Dianne Harrington		05-May-09	Email sent with the letter inviting to community meeting
Jenny Smith		05-May-09	Email sent with the letter inviting to community meeting
Tracey King		05-May-09	Email sent with the letter inviting to community meeting
Auntie Patricia Cook		05-May-09	Email sent with the letter inviting to community meeting via Dianne Harrington
Gilbert King		05-May-09	Email sent with the letter inviting to community meeting via Tracey King

Aboriginal Group Comments Received

Organisation	Contact person	Date Rec'd	Comments
Dianne Harrington			Email stating date not suitable for her for meeting, response emails suggesting meeting for 18th, 20th or 21st.

Aboriginal Consultation Process

Stage 3- Meeting Attendance

Organisation	Field Representative	Meeting Date	Comments
Ngulingah LALC	Murray John Roberts	19-May-09	Concerns for greater area and lack of archaeological and anthropological studies, concern for burials present but did not indicate clearly where these burials may be located.

Stage 4 - Probe methodology Briefing

Organisation	Contact person	Date Sent	Comments
Ngulingah Local Aboriginal Land Council		05-Jun-09	Email sent with letter of methodology for probe testing requesting comment
Dianne Harrington		05-Jun-09	Email sent with letter of methodology for probe testing requesting comment
Jenny Smith		05-Jun-09	Email sent with letter of methodology for probe testing requesting comment
Tracey King		05-Jun-09	Email sent with letter of methodology for probe testing requesting comment
			Email sent with letter of methodology for probe testing requesting comment via Dianne Harrington
Auntie Patricia Cook		05-Jun-09	Email sent with letter of methodology for probe testing requesting comment via Tracey King
Gilbert King		05-Jun-09	

Stage 4 - Chasing comment on Probing

Organisation	Contact person	Date Sent	Comments
Ngulingah Local Aboriginal Land Council	Jean Boussard	24-Jun-09	Phone call requesting comment, told to speak to Murray John Roberts directly
Murray John Roberts		24-Jun-09	Phone call, he stated he had not received the document
Dianne Harrington		24-Jun-09	Phone message left requesting comment
Jenny Smith		24-Jun-09	email sent requesting comment back by Friday
Tracey King		24-Jun-09	email sent requesting comment back by Friday
			Email sent with letter of methodology for probe testing requesting comment via Dianne Harrington
Auntie Patricia Cook		24-Jun-09	
Gilbert King		24-Jun-09	Email sent with letter of methodology for probe testing requesting comment be

Aboriginal Consultation Process

Ngulingah Local Aboriginal Land Council	Jean Boussard	24-Jun-09	given via Tracey King Email sent with letter of methodology for probe testing and requesting it be given to Murray John Roberts
Ngulingah Local Aboriginal Land Council	Jean Boussard	24-Jun-09	Email stating had previously been given to Murray John Roberts and that it would be given again
Stage 4 - Comment on Probing			
Organisation	Contact person	Date Sent	Comments
Jenny Smith		26-Jun-09	Email with questions about why probing and more information about the previous work; response sent on 2nd July 2009

Example of Initial Consultation Letter

Monday, 17 August 2009

Lewis Cook

Mr Lewis Cook

C/O PO Box 128

Wardell NSW 2477

Our Reference: 0098287L01.doc

Dear Sir/Madam,

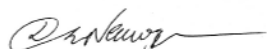
**RE: UPDATE OF ABORIGINAL CONSULTATION FOR A PROPOSED
QUARRY EXPANSION, TUCKURIMBA**

In accordance with the Department of Environment and Conservation Interim Community Consultation Requirements, Environmental Resources Management Australia (ERM) wishes to inform you that that we are undertaking an update of an Aboriginal heritage assessment of an area proposed for an expansion of Champions Quarry in Tuckurimba (please find enclosed a map of the study area). The study is being undertaken on behalf of Champions Quarry as part of environmental assessments of the area.

We would be grateful if you could indicate whether your organisation is interested in being consulted regarding this project, and if you could supply us with a list of all known Aboriginal groups or individuals who would be interested in being consulted on this project, within ten working days. If you have any specific information concerning the cultural values of the study area, we would be grateful if you could let us know. Our contact details are listed at the top right hand side of this letter.

If you have any queries concerning the project, please feel free to contact me by email (Diana.Neuweger@erm.com) or on the numbers listed above.

Many thanks,



Dr Diana Neuweger
Heritage Consultant

5 May, 2009

Ngulingah LALC
PO Box 981
Lismore 2840

Our Reference: 0098287 Heritage E02.doc

Dear John Roberts,



**RE: UPDATE OF COMMUNITY CONSULTATION FOR CHAMPIONS
QUARRY, TUKURIMBA**

Environmental Resources Management Australia (ERM) are undertaking an update of an Aboriginal heritage assessment of an area proposed for an expansion of Champions Quarry in Tuckurimba. The study is being undertaken on behalf of Champions Quarry as part of a detailed environmental assessment of the area.

An Aboriginal archaeological survey was undertaken by Everick Heritage Consultants Pty Ltd on 7 November 2007 and 15 February 2008. ERM are looking to undertake further consultation in accordance with Department of Environment and Climate Change (DECC) Interim Community Consultation Requirements. We wish to arrange an Aboriginal community meeting to discuss the proposed development and community feeling for the area. Champions Quarry have expressed their commitment to the sustainable development of the quarry and will value your input at this time.

The proposed meeting will involve a discussion of the revised plans for the proposed quarry expansion, a visit to the Tucki Tucki Bora ring and other Aboriginal sites in close proximity to the quarry. The aim of this meeting is to understand the community feeling about the study area and this will include understanding the significance of the surrounding area to the local Aboriginal peoples.

As there has been a large response to the initial invitation to register interest in this project, there will not be financial remuneration for attendance on the day. Lunch and light refreshments will be provided. As there will be some walking we ask that those interested in attending be physically able to walk some distance. If there are any individuals who wish to be consulted but have a physical

hindrance which will not allow them to attend, please contact me to arrange a time to discuss the matter.

The meeting will be held at Champions Quarry starting at **10am on Tuesday 19 May 2008**. If you would like to attend please contact me on 02 85848803 or via fax 02 85848800 or via email (diana.neuweger@erm.com).

If you have any further questions regarding this meeting feel free to contact me on the above contact details.

Yours sincerely,
for Environmental Resources Management Australia Pty Ltd

A handwritten signature in black ink, appearing to read 'Dr Neuweger', followed by a long horizontal flourish.

Dr Diana Neuweger
Heritage Consultant

RE: Champions Quarry meeting

HARRINGTON,Dianne [Dianne.Harrington@deewr.gov.au]

Sent: Tuesday, 12 May 2009 2:15 PM**To:** Diana Neuweger**Cc:** Jenny Smith [jennys_bullinah@internode.on.net]; tucki@wilddog.net.au

Hello Diana

Thankyou very much for the letters. I would just like to advise that the proposed meeting date of Tuesday 19 May is not a suitable time for myself, Aunty Patty or Jenny as we 2 of us are working that day and are unable to get out of our meetings.

As we are keen to be involved is it possible to set another date?

Thankyou

Dianne Harrington

Ph: 02-66264321

Fax: 02-66219857

Mob: 0412384110

email: dianne.harrington@deewr.gov.au

From: Diana Neuweger [mailto:Diana.Neuweger@erm.com]

Sent: Tuesday, 5 May 2009 10:47 AM

To: HARRINGTON,Dianne

Subject: Champions Quarry meeting

Hi Dianne,

Attached is the letter inviting you to the meeting at Champions Quarry. I have also attached the letter For Patricia Cook.

If you could respond to let me know if you will be attending I would be most grateful.

If you have any questions regarding this matter please do not hesitate to contact me.

Diana

Dr. Diana Neuweger
Heritage Consultant

Environmental Resources Management Australia Pty Ltd
Building C, 33 Saunders Street, Pyrmont NSW 2007
Locked Bag 24, Broadway NSW 2007

Switch: +61 (0)2 8584 8888

Direct: +61 (0)2 8584 8803

Fax: +61 (0)2 8584 8800

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RE: Champions Quarry meeting

HARRINGTON,Dianne [Dianne.Harrington@deewr.gov.au]

Sent: Tuesday, 12 May 2009 2:23 PM**To:** Diana Neuweger

Hi Dianna

Both Jenny and I are booked out until the week beginning 25 May.

Di

From: Diana Neuweger [mailto:Diana.Neuweger@erm.com]

Sent: Tuesday, 12 May 2009 2:16 PM

To: HARRINGTON,Dianne

Subject: RE: Champions Quarry meeting

Hi Dianne,

Is there a date in that week that would suit you?

From: HARRINGTON,Dianne [mailto:Dianne.Harrington@deewr.gov.au]

Sent: Tuesday, May 12, 2009 2:16 PM

To: Diana Neuweger

Cc: 'Jenny Smith'; 'tucki@wilddog.net.au'

Subject: RE: Champions Quarry meeting

Hello Diana

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As we are keen to be involved is it possible to set another date?

Thankyou

Dianne Harrington

Pf: 02-66264321

Fax: 02-66219857

Mob: 0412384110

email: dianne.harrington@deewr.gov.au

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Sent: Tuesday, 5 May 2009 10:47 AM

To: HARRINGTON,Dianne

Subject: Champions Quarry meeting

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If you could respond to let me know if you will be attending I would be most grateful.

If you have any questions regarding this matter please do not hesitate to contact me.

Diana

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Heritage Consultant

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RE: Champions Quarry Heritage Assessment

Jean Boussard [Jean.boussard@ngulingah.org.au]

Sent: Tuesday, 9 June 2009 4:27 PM**To:** Diana Neuweger**Importance:** High

Dear Diana,

Thank you for your transmission and we will liaise with John Murray Roberts for a reply. However, the letter to Auntie Patricia Cook was not attached: please send it again.

Cheers

Dr Jean BOUSSARD
CEO, Ngulingah LALC

53 Conway Street,
PO Box 981 Lismore NSW 2480

Tel: (02) 6621 5541
Fax: (02) 6621 5068
Mob: 0400 215 541

From: Diana Neuweger [mailto:Diana.Neuweger@erm.com]

Sent: Friday, 5 June 2009 10:15 AM

To: ngulingah@bigpond.com

Subject: Champions Quarry Heritage Assessment

To whom it may concern,

Please pass the following on to the relevant members of the land council and Mr Murray John Roberts for their comment.

Attached is a letter outlining the results of the community meeting held at Champions Quarry on 19 May and the proposed follow-up work to be undertaken as part of the Environmental Assessment of the area. ERM would appreciate your feedback on the proposed methodology by the 26th of June.

Also attached is the letter for Auntie Patricia Cook, please pass this on to her for her comment.

If you have any questions regarding this project please feel to contact me via email or on the number below.

Dr. Diana Neuweger
Heritage Consultant

Environmental Resources Management Australia Pty Ltd
Building C, 33 Saunders Street, Pyrmont NSW 2007
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5 June, 2009

Dianne Harrington

dianne.harrington@deewr.gov.au

Our Reference: 0098287 Methodology L03



Dear Dianne Harrington,

**RE: PROPOSED PROBE METHODOLOGY FOR INDIGENOUS BURIAL
SEARCH AT CHAMPIONS QUARRY**

The purpose of this letter is to update registered stakeholders on the progress of the heritage component of the Champions Quarry Environmental Assessment. This letter also details a methodology for determining the presence of indigenous burials in the study area.

ERM request that you read the following methodology and provide us with feedback regarding the proposed works within 21 days, so that the final stage Environmental Assessment (under Part 3A of the Environment Planning and Assessment Act [EP&AA]) can be undertaken.

SUMMARY OF THE HERITAGE ASSESSMENT TO DATE

In 2008 Everick Heritage Pty Ltd undertook an indigenous and non-indigenous heritage assessment at Champions Quarry. For the assessment, two field visits, with two Aboriginal Community Elders, was undertaken. The first field visit was undertaken with Dean Bolt from Ngulingah Local Aboriginal Land Council (NLALC) on 7th November 2007. This first survey found no evidence of Aboriginal occupation and this was confirmed in the letter dated 21 January 2008 from Dallas Donnelly (acting CEO) of NLALC to Everick Heritage (appended in the Everick 2008 report). This letter stated that two additional individuals may hold information on the area, Mr Murray John Roberts and Sheldon Harrington.

As a result Mr Murray John Roberts was contacted and an additional field visit day undertaken on 15 February 2008. No Aboriginal archaeological sites were identified during this survey. From discussions with Mr Murry John Roberts during the field visit an agreement that two 3ha extraction cells should have a

precautionary survey, to locate artefact scatters, was made. This was to occur prior to topsoil removal. after the current ground cover (grass) was cleared.

The 2008 Everick Heritage report reported that no Aboriginal heritage sites within the study area. It recommended further work as described above to be undertaken with the assistance of Murray John Roberts and a Ngulingah LALC representative.

As part of the original Development Application (DA) approval process, the Everick Heritage report underwent review by the Department of Environment and Climate Change (DECC). The DECC found the report adequate.

ERM became involved in this project after Lismore Council did not approve the DA. Project approval is now being sought under Part 3A of the EP&AA 1979. ERM have identified that the previous report by Everick Heritage did fulfil survey requirements but did not undertake full community consultation in line with the DECC's *Interim Community Consultation Guidelines*. Therefore ERM have now undertaken full community consultation.

Community consultation was undertaken following the DECC guidelines to ensure that all Aboriginal community members had the opportunity to understand the proposed development and to provide local knowledge of the area and voice any concerns regarding the development. Thus the guidelines were followed to organise a community meeting giving all an opportunity to be briefed and to raise any heritage concerns.

A newspaper advertisement was run in the *Lismore Echo* on the 16th of April 2009, to identify interested stakeholders. Letters were sent to 18 identified groups between 24 of April 2009 and 1st of May 2009. Registration for involvement in the process was received from the following:

- o Ngulingah Local Aboriginal Land Council
- o Dianne Harrington
- o Jenny Smith
- o Tracey King
- o Auntie Patricia Cook

All registered Stakeholders were emailed (on the 5 May 2009) an invitation to the community meeting, giving the time and location of the meeting and a general outline of what was planned for the meeting.

The meeting was held at 10am on 19 May 2009 at Champions Quarry. One community representative attended the meeting Murray John Roberts. The outcome of this meeting was that Mr Roberts expressed concern regarding the Aboriginal sensitivity of the general Tuckurimba area, due the proximity of the Tuki Tuki Bora Ring and other local knowledge of Aboriginal sites in the Tuckurimba area. Mr Murray John Roberts also expressed a view that burials may be located along the spur line directly within the area of the quarry expansion. To test this idea, the option of probing the ground prior to extraction was discussed. Probing was the preferred method suggested by Murray John Roberts during the meeting. Probing will determine if there is the likelihood of burials in the study area. If burials are subsequently discovered in the development area, mitigation measures will be developed in consultation with the LALC.

The most common method of burial in this region is to bury bodies in a seated or crouched position. From personal communication with Murray John Roberts, the bodies were dug into the ground in an seated or crouched position and the graves in filled and often marked with a burial stone.

The available geotechnical data (Coffey 2009) suggests that the soil deposits are not of a sufficient depth for burials to have occurred. in most areas to be quarried for sandstone. The geotechnical data records the soil and clay substrates together as overburden over the sandstone. This overburden is a maximum of 1 metre in depth. The ethnographic and personal communication from the Aboriginal community suggest that that burials occurred in sandy deposit and not in clay deposits and thus also suggests that the development area is unlikely to contain burials.

However, as a precautionary measure probing for burials is proposed with Aboriginal representatives to determine if there are any areas where burials have the potential to be contained.

DECC REQUIREMENTS UNDER PART 3A OF EP&A ACT.

The probe testing will be undertaken as part of the Environmental Assessment under Part 3A of the EP & A Act as a result does not required Section 87 approval (under Part 6 of the NP&W Act). To ensure that all stakeholders agree and that the DECC approves the heritage assessment procedures that are being

recommended by ERM, the input of the registered stakeholders is required. Therefore Aboriginal community comments are sought on the probe methodology prior to this methodology being discussed with the DECC. Once DECC approve the methodology the Probe testing can be undertaken.

Comment from the registered stakeholder groups are requested to ensure that all groups agree that

- o there is a potential for burials in the study area; and
- o that the proposed methodology is adequate to address this potential.

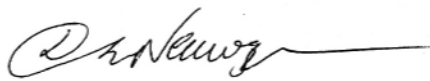
PROPOSED PROBE METHODOLOGY

- o The probing program will probe along transect lines on the spurline identified by Murray John Roberts. A transect in the centre of spur will be the first laid out, with additional transects at 10 metre intervals from the central line to cover the entire spur.
- o Probe tests will be made at every 5 metre intervals along each transect and the depth of each probe test recorded. *Figure 1* shows the layout of the proposed transects along the spur and it is estimated that 400 probe tests will be made.
- o As an upright burial would require a minimum of a metre of soil to cover it, any areas where a metre or more soil depth is recorded will be further tested to determine the size of the area with 1 metre or greater depth.
- o If the area of greater than 1m soil depth is found to be 1 metre or more in length and width (i.e. large enough for a burial to have been placed) a preliminary archaeological excavation of surface will be undertaken to determine if any cut marks indicating a burial can be found.
- o It is not the intention of this project to fully excavate any burials if they are present. If indication of a burial is found, the excavation will cease and the area will be marked out. A solution will then be workshopped with the Aboriginal representatives and Champions Quarry representatives prior to quarrying.

As a registered stakeholder we value your input into this project and invite you to comment on the proposed works and the methodology being employed.

Please provide your agreement or comment to Dr Diana Neuweger by email to diana.neuweger@erm.com, or by fax on 02 85848800, by 26th June 2009.

Yours sincerely,
for Environmental Resources Management Australia Pty Ltd

A handwritten signature in black ink, appearing to read 'D. Neuweger', followed by a long horizontal flourish.

Dr Diana Neuweger
Heritage Consultant

RE: Champions Quarry Heritage Assessment

Jean Boussard [Jean.boussard@ngulingah.org.au]

Sent: Tuesday, 9 June 2009 4:27 PM**To:** Diana Neuweger**Importance:** High

Dear Diana,

Thank you for your transmission and we will liaise with John Murray Roberts for a reply. However, the letter to Auntie Patricia Cook was not attached: please send it again.

Cheers

Dr Jean BOUSSARD
CEO, Ngulingah LALC

53 Conway Street,
PO Box 981 Lismore NSW 2480

Tel: (02) 6621 5541
Fax: (02) 6621 5068
Mob: 0400 215 541

From: Diana Neuweger [mailto:Diana.Neuweger@erm.com]

Sent: Friday, 5 June 2009 10:15 AM

To: ngulingah@bigpond.com

Subject: Champions Quarry Heritage Assessment

To whom it may concern,

Please pass the following on to the relevant members of the land council and Mr Murray John Roberts for their comment.

Attached is a letter outlining the results of the community meeting held at Champions Quarry on 19 May and the proposed follow-up work to be undertaken as part of the Environmental Assessment of the area. ERM would appreciate your feedback on the proposed methodology by the 26th of June.

Also attached is the letter for Auntie Patricia Cook, please pass this on to her for her comment.

If you have any questions regarding this project please feel to contact me via email or on the number below.

Dr. Diana Neuweger
Heritage Consultant

Environmental Resources Management Australia Pty Ltd
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RE: Probe testing at champions quarry

Jenny Smith [jennys_bullinah@internode.on.net]

Sent: Friday, 26 June 2009 4:35 PM

To: Diana Neuweiger

Cc: Dianne.HARRINGTON@deewr.gov.au; Sten, Rosslyn [Rosslyn.Sten@det.nsw.edu.au]; Tracey King [Tracey.King@ngulingah.org.au]

Hi Diana

Just a couple of comments;

1. We are not familiar with the probing method and have concerns, that this may not be viable at the current moment, as top soil has already been removed. Is there another possible method for identifying possible archaeological sites and evidence
2. Community consultation was only evident in recent times not at the initial quarry development stage.
3. Question who undertook previous Aboriginal consultation and what information was gained and are we able to have a look at prior consultation paperwork
4. We would like a copy of the report that was undertaken by Dean Bolt 2007 (November) and any actions to his recommendations
5. Why was there no heritage assessment for the 1st quarry, if there was can we have a copy
6. Why was the current community consultation held at the quarry on site and not at a neutral location, with other historians/researchers or other interested stakeholders. 1st meeting should be at a neutral location and then 2nd meeting on site to confirm previous community discussion about site identification, without pressure

If you require further information, please either myself or my sister Dianne Harrington on our relevant contact details

Thankyou

Jennifer Smith

From: Diana Neuweiger [mailto:Diana.Neuweiger@erm.com]

Sent: Wednesday, 24 June 2009 2:17 PM

To: Jennys_bullinah@internode.on.net

Subject: Probe testing at champions quarry

Hi Jenny,

On the 5th of June I sent the proposed methodology for the probe testing for the champions quarry site. I am currently chasing up comments on the probe testing prior to a submission to the DECC to confirm the methodology. Could you please supply me with any comments you have regarding this work by Friday.

Thank you for your time on this matter.

Diana

Dr. Diana Neuweiger
Heritage Consultant

Environmental Resources Management Australia Pty Ltd
Building C, 33 Saunders Street, Pyrmont NSW 2007
Locked Bag 24, Broadway NSW 2007

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FW: Probe testing at champions quarry

Diana Neuweger

Sent: Thursday, 2 July 2009 6:50 AM
To: jennys_bullinah@internode.on.net
Cc: Dianne.HARRINGTON@deewr.gov.au; Rosslyn.Sten@det.nsw.edu.au; Tracey.King@ngulingah.org.au
Attachments: Everick-heritage.pdf (4 MB)

Hi Jenny below i have answered your questions.

Hi Diana

Just a couple of comments;

1. We are not with the familiar with the probing method and have concerns, that this may not viable at the current moment, as top soil has already been removed. Is there another possible method for identifying possible archaeological sites and evidence

The probe method suggested was the preferred method that Murray John Roberts requested and said he had experience of. I did look into other options but electromagnetic and resistivity methods will not work in this area due to the sandstone outcropping in the area. I agree that the top soil has been removed and i am of the scientific opinion that there is no to limited potential for burials in the study area. Murray John Roberts was strongly opinioned that there should be testing for burials prior to Environmental Assessment being lodged, and development approval being granted.

2. Community consultation was only evident in recent times not at the initial quarry development stage.

The Quarry was started back in the 1950's when environmental assessments were not common place, there is no record with the DECC of any assessment on the Champions Quarry land prior to last years assessment by Everick Heritage.

3. Question who undertook previous Aboriginal consultation and what information was gained and are we able to have a look that prior consultation paperwork

Prior to ERM's involvement Everick Heritage undertook the survey for the original development approval process. Attached is a copy of the Everick report

4. We would like a copy of the report that was undertaken by Dean Bolt 2007 (November) and any actions to his recommendations

The everick report has an email from Dallas Donnelly attached reporting of Dean Bolt's findings, again i do not have a copy of this email to forward you, but it can be found in the Everick report.

5. Why was there no heritage assessment for the 1st quarry, if there was can we have a copy
As stated above the quarry was begun in the 1950's and no Heritage assessment was required in those days to obtain approval for quarry.

6. Why was the current community consultation held at the quarry on site and not at a neutral location, with other historians/researchers or other interested stakeholders. 1st meeting should be

neutral location and then 2nd meeting on site to confirm previous community discussion about site identification, without pressure

As the survey had already been completed, and the only requirement that had not been filled for the Heritage Assessment was the community consultation for this project, in accordance with current DECC guidelines. In my experience it is much easier to discuss landforms when you are present on the site and can see what is being discussed. I undertook the community consultation in line with the DECC's Interim Community Consultation Guidelines which are currently in force and do not state 1st and 2nd meeting locations. When the meeting notification was sent on the 5th of May no-one responded suggesting that they wished for the location of the meeting to change, and therefore I did not change the location to a neutral location as I was unaware of any issues with having the meeting at the Quarry. I did endeavour to contact the two individuals who stated they were unable to attend the meeting due to other commitments, yourself and Dianne Harrington, to make a time to see you in town on the days that I was in the area, but we were unable to come to a mutually convenient time.

I hope this has answered all your questions adequately.

Do you believe there is the potential for burials in the champions Quarry study area? Do you agree that testing should for burials should occur?

My next step will be to contact DECC, who in this project (as it is a declared Part 3A project) can only be an advisory services, but as I feel on scientific grounds there is no to limited potential for burials and no other sites are located on the study area. At this only 1 community member suggested there may be burials, but was not willing to walk over the site with me and show me where these burials may be, in your questions above you state that the topsoil is removed and that suggests to me that you would agree that there is limited potential for burials in the study area, is this correct?

Over the next few weeks I will be seeking advice from the DECC on this matter and so any further information you can give me on community feeling in the area and the cultural concerns will assist in making sure that the heritage assessment process is undertaken adequately.

If you wish to discuss this with me I feel free to contact me on my mobile (I am currently in the field on excavation so am not on my office number and only look at emails in the evening) my number is 0414 562 628.

Diana Neuweger.

If you require further information, please either myself or my sister Dianne Harrington on our relevant contact details

Thankyou

Jennifer Smith

From: Diana Neuweger [mailto:Diana.Neuweger@erm.com]

Sent: Wednesday, 24 June 2009 2:17 PM
To: Jennys_bullinah@internode.on.net
Subject: Probe testing at champions quarry

Hi Jenny,

On the 5th of June I sent the proposed methodology for the probe testing for the champions quarry site. I am currently chasing up comments on the probe testing prior to a submission to the DECC to confirm the methodology. Could you please supply me with any comments you have regarding this work by Friday.

Thank you for your time on this matter.

Diana

Dr. Diana Neuweiger
Heritage Consultant

Environmental Resources Management Australia Pty Ltd
Building C, 33 Saunders Street, Pyrmont NSW 2007
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09 OCT 2009

BY: KW

53 Conway Street PO Box 98
Lismore NSW 248
Ph: (02) 66215 54
Fax: (02) 66215 06

Email: jean.boussard@ngulingah.com.au

Lismore, 6 October 2009,

To Mr. Jeff Champion
Director
Reaville Farm Pty Ltd & Tucki Hills Pty Ltd
PO Box 5261
East Lismore NSW 2480

Re: **Champion Quarry Project (O9_OO80)**

Dear Mr Champion,

I am writing to you because I am very concerned about the process of the Aboriginal Heritage section of the Environmental Planning Assessment in relation to this Mining Project.

I have the following objections to the process to date:

- (1) When the matter was first contacted 15 Feb 2008 I asked for the report done by Dean Bolt acting as Site officer which I did not receive.
- (2) On 21 January 2008 Dallas Donnelly CEO of the Ngulingah Local Land Council wrote to Champion Quarry and told them to talk to me and Sheldon Harrington about the history and culture of Tucki Bora Ring and area. This did not occur they simply took me out there and said they had found no artefacts, and drove me around to show me what the Quarry would do.
- (3) Mr. Champion then came to see me while I was in hospital and said that he and Adrian Piper archaeologist could draw up a full monitoring plan. I said that was not suitable and I was not interested and this would not deal with the issue.

(4) In Feb 2009 I wrote a very concerned letter to Lismore City Council who I thought was the relevant body stating that 'I do not believe that Champion Quarry is compatible with the cultural significance and heritage values of Aboriginal people, and with our rights to protect lands that surround the Tucki Bora Ring.' And that 'the ecological and environmental issues on the area and surrounds of Tucki swamp from this quarry are on a very large scale.' I asked for all work to stop immediately and if there was any intention of continuing with the project that there be a full and proper heritage assessment.

(4) At my last meeting in the presence of Diana Neuwegeter and Mr Champion, I said he had not been honest with me and my concerns as to the seriousness of the Aboriginal and Cultural issues were not being properly assessed.

(5) At no point did I say that there was 'limited potential' for burials there being well known burials in the area and areas of land around them that should not be disturbed. Unwillingness to walk on such areas is the only proper traditional behaviour.

(6) Some study of the Significance of the area has been done in relation to other major sites of the area and appears in DEC publications relating to Aboriginal Place declarations and other DEC reports that should have been consulted in evaluating the heritage significance. There is ample literature as to the importance of bora rings in relation to the wider ceremonial environment and other key sites both for Bundjalung and this particular site and in other areas of NSW that regard should have been had to.

(7) The Tucki bora ring was one of the earliest sites registered by then National Parks and Wildlife at a time when few sites were well recognised. It has been known to Europeans as a highly significant and marked site since then. The most important aspect of the heritage legislation in relation to Aboriginal Place is to recognise the landscape and wider environs as an intricate and indivisible part of the heritage value. To approach the matter of this site as if only a few bones or stones might need care is insulting at this late date of the understanding of the heritage values of my people.

(8) I have repeatedly stated that there are burial sites at risk

including very important and to my people significant sitting burials that under no circumstances should be disturbed or should have the adjoining areas disturbed. The idea that burials could be removed to some other place is utterly repugnant and totally inappropriate in Aboriginal heritage terms and I have repeatedly stated this and been ignored. There are NO MITIGATION methods for interfering with ancestor's burials, or the area around such burials, at a significant initiation area which means they are clever men and women's burials.

(9) With or without burials identified the site is of immense significance. The only acceptable possibility for probing would be to do a full Anthropological study evaluating the areas of possible burials and then to do under surface photography to indicate possible graves as was done at Tabulam.

(10) A full assessment of the site in cultural terms delineating it as a complex site of initiation, camp site, residence site, burial site and mythological site in line with other points in Widjabul country is essential so that the true heritage significance can be properly established to others.

(11) There were all sorts of markers and indicators of significance that have already been destroyed, some of which has been recorded in the Assessment of Parrots Nest, the lack of these now is due to previous destruction by European interests and cannot be taken to be a sign of lack of burials or other areas of significance. Oral traditions exist as to the placings of these things and a proper study would document this. Burial sites are known in the oral tradition and can be properly documented with a proper study.

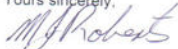
(12) I am also seriously concerned by the lack of appropriate consultation. Consultation of a high level initiation site such as this can only properly be undertaken with properly authorised elders of the community. Any attempt to alter the proper structure of knowledge holders by having general consultations run by the proponent or researchers is a gross interference in the very tradition and heritage that we are trying to protect. Community consultation is a matter appropriately undertaken internally to the community not with outsiders. Appropriate spokes people are known and established as indicated by Dallas Donelly to the

proponent and these processes cannot be ignored or undermined. It is not for the consultant or proponent to decide what constitutes correct 'Aboriginal community' consultation. This is a matter of following properly established traditional methods that are congruent with protecting our heritage.


(13) No earlier reports have undertaken a proper heritage assessment. A full assessment of significance is required. Community meetings are not the appropriate venue for developing a full statement of heritage issues surrounding a high level initiation site. The list of people registered for involvement in the process is seriously inadequate for a site that is predominantly a male site and the concern of senior elders and in particular of the Widjabul group of Bundjalung under who have the ownership and duty of care over the site on behalf of all participating groups of Bundjalung.

To deal with this matter I would request a meeting with you, the Proponent, together with a member of the Department of Planning where the important general issues of dealing appropriately with the Aboriginal Heritage issues of this very important area be properly considered.

Yours sincerely,



John Murray ROBERTS



p.o Dr Jean BOUSSARD

CEO

Copy: . Ms Lisa CORBYN / DG Planning, NSW Dept of Planning

✓

- . Ms Patricia LAURIE / State Councillor, NSWALC
- . Mr Andrew RILEY / Northern Zone Director, NSWALC
- . Ngulingah LALC Board of Directors
- . Ms Jessica WOODS / EDO (Lismore)

William Weir

From: Jessica Wood [jessica.wood@edo.org.au]
Sent: Tuesday, September 29, 2009 5:26 PM
To: William Weir
Subject: Submission in response to Draft Appendix H Cultural Heritage Assessment for Champions Quarry Expansion
Attachments: Letter to ERM.Request for extension of time.pdf

Dear Mr Weir,

We act for the Ngulingah Local Aboriginal Land Council (NLALC). We have been instructed to prepare a submission on behalf of the NLALC in response to the draft Cultural Heritage Report for the expansion of Champions Quarry.

Please find our letter attached.

Are you able to email me Appendix H? I currently only have a paper copy.

Yours faithfully,

Jessica Wood | Senior Solicitor | Environmental Defender's Office (NSW) | PO Box 212, Lismore, NSW, 2480 | ph: 1300 369 791 | fax: 02 6621 3355

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Our Ref: JBW:0914079

29 September 2009

Mr William Weir
Project Manager
Environmental Resources Management Australia
Suite 3, 146 Gordon Street
Port Macquarie NSW 2444

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PO Box 212
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email: edonsw@edo.org.au
web: www.nsw.edo.org.au

By email only to: William.Weir@erm.com

Dear Mr Weir,

Submission in response to Draft Appendix H Cultural Heritage Assessment for Champions Quarry Expansion

We act for the Ngulingah Local Aboriginal Land Council (NLALC).

We refer to your letter dated 21 September 2009 to Mr John Roberts of the NLALC. The NLALC has engaged the EDO to prepare a submission in response to the Draft Cultural Heritage Report for the expansion of Champions Quarry (September 2009).

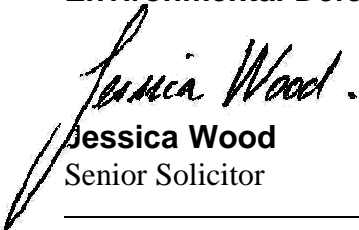
We note that ERM has made representations to our client that consultation with the Aboriginal community, which is mandated by the Director-General's Requirements for the project, is being undertaken in accordance with the Interim Community Consultation Requirements for Applicants (DEC 2005/04).¹ These Consultation Requirements state that proponents are to provide stakeholders with "a reasonable time (at least 21 days) to review and provide feedback to the proponent". However, you have only given the NLALC 2 weeks to provide a response.

We were engaged by the NLALC in this matter today. We have read the Draft Cultural Heritage Report and we are in the process of engaging an anthropologist to review the report and to conduct a heritage study which will inform the NLALC's submission.

Accordingly, we request an extension of time to **19 October 2009** provide an initial response. Subject to confirmation of our client's instructions, we anticipate that a full anthropological assessment will be provided to you by the end of October.

Yours faithfully

Environmental Defender's Office (Northern Rivers) Ltd


Jessica Wood
Senior Solicitor

¹ Letter dated 4 June 2009 from Dr Diana Neuwegger to John Roberts; Letter dated 5 May 2009 from Dr Diana Neuwegger to John Roberts.



William Weir

From: Jessica Wood [jessica.wood@edo.org.au]
Sent: Wednesday, September 30, 2009 7:32 PM
To: William Weir
Subject: RE: Submission in response to Draft Appendix H Cultural Heritage Assessment for Champions Quarry Expansion

Dear Will,

Thank you for this.

Regards,

Jessica.

-----Original Message-----

From: William Weir [<mailto:William.Weir@erm.com>]
Sent: Wed 30/09/2009 9:00 AM
To: Jessica Wood
Cc: ngulingah@bigpond.com
Subject: RE: Submission in response to Draft Appendix H Cultural Heritage Assessment for Champions Quarry Expansion

Dear Jessica,

Thankyou for your letter. I can advise that the 'two weeks' referred to in our letter was an oversight and should have read 'three weeks'. Please take this email as confirmation that we will accept responses up until the 23rd October 2009 to ensure sufficient time to prepare a response. All registered parties will be advised accordingly.

Please also find an electronic copy of Appendix H - Cultural Heritage Assessment.

Please do not hesitate to call and discuss the Project.

Regards,

Will Weir
Senior Environmental Engineer
ERM Australia Pty Ltd
3/146 Gordon Street, Port Macquarie, NSW 2444, Australia

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Ranked No. 1 All-Environmental Firm - ENR Magazine, 2004 - 2007

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From: Jessica Wood [<mailto:jessica.wood@edo.org.au>]

Sent: Tuesday, September 29, 2009 5:26 PM

To: William Weir

Subject: Submission in response to Draft Appendix H Cultural Heritage Assessment for Champions Quarry Expansion

Dear Mr Weir,

We act for the Ngulingah Local Aboriginal Land Council (NLALC). We have been instructed to prepare a submission on behalf of the NLALC in response to the draft Cultural Heritage Report for the expansion of Champions Quarry.

Please find our letter attached.

Are you able to email me Appendix H? I currently only have a paper copy.

Yours faithfully,

Jessica Wood | Senior Solicitor | Environmental Defender's Office (NSW) | PO Box 212, Lismore, NSW, 2480 | ph: 1300 369 791 | fax: 02 6621 3355

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Please visit ERM's web site: <http://www.erm.com>

Our Ref: JBW:0914079

23 October 2009

Mr William Weir
Project Manager
Environmental Resources Management Australia
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email: edonsw@edo.org.au
web: www.nsw.edo.org.au

By email only to: William.Weir@erm.com

Dear Mr Weir,

Submission in response to Cultural Heritage Assessment for the proposed expansion of Champions Quarry (September 2009)

We have been engaged by the Ngulingah Local Aboriginal Land Council (NLALC) to respond to the Cultural Heritage Assessment Report for the proposed expansion of Champions Quarry in Tucki, dated September 2009 (the **Report**). This letter constitutes the NLALC's written response as requested in your letter dated 21 September 2009.

The Widjabul people

The NLALC represent the Widjabul-Wiyabal people of the Bundjalung Nation. The Widjabul people are the traditional owners of Wiyabal country, which covers the Lismore area from Ruthven to the southern border of the Tuckean Nature Reserve and north along the Blackwall Range to south of Coorabell, northwest towards Palmwoods along the Koonyum Range, west to Blue Nob and south through Upper Horseshoe Creek. This area encompasses the land where Champions Quarry is located. We have attached a map showing the Wiyabal country.

A broader cultural landscape which has not been assessed

The NLALC is of the view that there should be no further expansion of Champions Quarry because it is located on land which is of a high order of significance to the traditional owners of that land. The existing quarry operation degrades that landscape and there should not be any further degradation.

The NLALC maintains that the entire area from the Tucki Bora Ring in the vicinity of Champions Quarry to the Tucki swamp at the base of the quarry is a sacred site and as such, should be protected as an Aboriginal Place under the *National Parks and Wildlife Act 1974 (NPW Act)*.

According to the NLALC, the Champions Quarry and the area of the proposed expansion, form part of a broader cultural landscape which has been of immense significance to all the clans of the Bundjalung Nation for centuries, with particular significance to the Widjabul people. That landscape has cultural significance as a



highly important initiation site, meeting ground for members of the Bundjalung Nation at set times of the year, long-term residential camping ground for Widjabul people, burial ground and spiritual country of the Bundjalung Nation.

The heritage assessment conducted by ERM has focused solely on the site of the proposed quarry expansion and ignores the place that the site of Champions quarry has in the context of the wider landscape.

That landscape includes:

- the Tucki Bora Ring in the grounds of Tucki General Cemetery;
- the grinding stone in its original position adjacent to the Bora Ring at Tucki;
- the caves on the ridge surrounding the quarry which were used by the Clevermen of the tribes;
- Young Man's Creek on the eastern side of the Bora Ring;
- the canoe trees on the banks of Tucki swamp;
- the Old Men and Old Women's Camp in the grove of Hoop Pines below the Bora Ring and the axe grinding stone and spring at this camp;

We note from page 7 of the Report that Mr Murray John Roberts voiced a concern at a community meeting held by ERM that there "was a lack of ethnographic and wider survey in the area". Mr Roberts is a sites officer at the NLALC. The NLALC maintains Mr Roberts' concern that ERM has not conducted an anthropological study of the area as part of the heritage assessment for the quarry expansion. Further, the NLALC is of the view that the completion of an anthropological study is imperative in order to gain a full appreciation of the Aboriginal heritage values of the landscape which includes the quarry site. Those heritage values continue to hold significance to the Widjabul people.

Tucki Bora Ring

Central to the cultural landscape of Tucki is the Bora Ring, which is located close to Champions Quarry. The Bora Ring was a very special annual meeting place for all of the member tribes of the Bundjalung Nation.

The people knew to travel to Tucki every year when a small pink rainforest plant flowered. They came from the far reaches of the Bundjalung Nation's boundaries from the eastern Richmond Range in the south to the north bank of the Clarence River in the south-east to the south bank of the Logan River in South-East Queensland and the foothills of the Great Dividing Range in the west.¹

They would have camped in set camping areas arranged by the home directions of the incoming group in all of the surrounding area, including on and in the vicinity of the quarry expansion site for months at a time every year over thousands of years.

The use of the quarry site as a campground is supported by the discovery of numerous

¹ Olley, W.J., *Squatters on the Richmond, Runs, Owners and Boundaries: From Settlement to Dissolution 1840-1900*, Lismore City Printery, Lismore, 1995; Steele, J.G., *Aboriginal Pathways in Southeast Queensland and the Richmond River*, Queensland University Press, 1984.

stone tools such spearheads on and around the quarry site by Mr Roberts and his family during the late 1980s. Mr Roberts says that he and his family scoured the land on and around the quarry for Aboriginal objects during that time and when they found tools and spearheads they dug their findings into the soil under the places where they were found.

The Tucki Bora Ring was one of two Bora rings in the area where initiation ceremonies for male and female initiates of the clans as well as other ceremonies took place.² Only the larger ring inside the Tucki cemetery survives and is listed as an Aboriginal object under the NPW Act since such listings first began. The smaller ring has been destroyed.

The Tucki Bora Ring was so sacred to the Bundjalung people that “young men weren’t even allowed to cast their shadows on the ring”.³ We understand that the Bora Ring is closely connected in significance with Goorumbil (Parrots Nest), which was listed as an Aboriginal Place under the NPW Act in 2000. Goorumbil, as well as a number of other major linked sites, can be seen from the Tucki Bora Ring.

Tucki Swamp

The Tucki swamp at the base of Champions Quarry was an essential source of food for the visiting tribes. Swamp lands are well documented as important sites of dense resources attracting intense Aboriginal activity of hunting, tool making and general socialising. We are instructed that there are canoe trees on the banks of the swamp which evidence the use of the swamp for hunting. We are also instructed that the swamp was used as a place where people prepared themselves for the ceremonies that took place at the Bora Ring.

Caves adjacent to the Quarry site

Page 8 of the Report refers to caves to the south of the Bora ring which used to contain stenciled drawings. We are instructed that there is a cave in a gully on the quarry site and there are caves on the ridge surrounding the quarry. These caves would have been used as camp sites by elders (known as Clever-men) of the tribes. It is highly unfortunate that the drawings in the caves have been destroyed.⁴ Nevertheless, the caves in which the drawings are known to have existed still hold a high level of significance to the Widjabul people.

Drawings in caves are one part of the evidence of the significant activity of Aboriginal people in the area and the importance of the caves to those people. That these caves were chosen for such drawings indicates the importance of the area as a sacred site regardless of the survival of the drawings.

Aboriginal burials on the Quarry site

² Riebe, I., *Assessment of Significance for Aboriginal Place Declaration, Parrots Nest (Goorumbil) for the NSW National Parks and Wildlife Service* (2000).

³ Communication between Murray John Roberts and Inge Riebe in Riebe, I., *Assessment of Significance for Aboriginal Place Declaration, Parrots Nest (Goorumbil) for the NSW National Parks and Wildlife Service* (2000).

⁴ Page 8 of the Report. This un-referenced record is from Steele, J.G., *Aboriginal Pathways in Southeast Queensland and the Richmond River*, Queensland University Press, 1984, p. 14.



As a result of the extensive use of the area surrounding and including Champions Quarry by so many people over a very long period, we are instructed that there are numerous burials on the site of the proposed expansion of the quarry. In particular, the existence of the caves on and adjacent to the quarry and the nearby Bora Ring indicates that the quarry site was a burial ground for the Clever-men and women. These are the ancestors of the Widjabul people. Unfortunately, all of the marking stones for the graves would have been removed. However, the NLALC maintains that there are burial sites at risk on the existing quarry and on the site of the proposed expansion and that those burial sites are very important to the Widjabul people and should never be disturbed.

The NLALC maintains that it is completely inappropriate for a quarry to be operating on what is effectively an Aboriginal cemetery, with the last tree burial occurring in the area after white settlement.

We are instructed that a full anthropological assessment of the area encompassing and surrounding the quarry is essential so that the true heritage significance of the area can be assessed.

We understand that a geotechnical study constitutes the full extent of ERM's inquiries into the use of the quarry site as an Aboriginal burial ground. As a result of this study, ERM has dismissed the possibility of burials on the site on the basis that the geotechnical conditions indicate that the area of the proposed quarry expansion is too shallow for sitting burials. However, we are instructed there are known to be a variety of burial customs which occurred in the area in addition to sitting burials. These included prone burials and the re-burial of bones after a set period.

The NLALC maintains that in the absence of a proper anthropological study, knowledge held by the Widjabul people is far more relevant than a geotechnical study.

Consultation

The NLALC is concerned about the appropriateness of the consultation with Aboriginal people conducted by ERM.

We are instructed that as the site of the proposed quarry expansion is located in the vicinity of a high level initiation site, consultation can only properly be undertaken with those elders of the Widjabul community who have received knowledge from their elders and have been properly authorised by those elders. We acknowledge that ERM carried out community consultation largely in accordance with the Interim Community Consultation Requirements for Applicants (DEC 2005/04) and consulted with Aboriginal groups and individuals who registered as stakeholders in response to a local press advertisement. However, the NLALC maintains that it is inappropriate to consult with Aboriginal people who are not Widjabul elders about matters affecting Widjabul country because they do not hold the relevant knowledge of the area.

In particular, we note that on page 10 of the Report, there is a record of a comment from Jenny Smith, who is a member of the NLALC stating "there is no concern for burials in the current study area". We are instructed that it is highly inappropriate to ask a young person who has not received relevant teachings and in this instance, consulting a female



in regard to sites that were male sites of significance. Information about where burials are located was held in great confidence by elder males of the clans.

In order to progress this matter, the NLALC would like to meet with you and the proponent, together with the consent authority to determine a way forward in dealing with the Aboriginal heritage impacts of this proposal.

We look forward to hearing from you.

Yours faithfully

Environmental Defender's Office (Northern Rivers) Ltd


Jessica Wood
Senior Solicitor





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Our Ref: Ltr to J Roberts kw 221009

12th October 2009

John Murray Roberts
Ngulingah Local Aboriginal Land Council
PO Box 98
LISMORE NSW 2480

Dear Mr Roberts,

RE: CHAMPIONS QUARRY PROJECT

Thank you for your letter of 6 October 2009 outlining a number of concerns that you and the Ngulingah Local Aboriginal Land Council hold with regards to the Aboriginal cultural heritage assessment undertaken as part of the proposed Champions Quarry expansion project.

The Champions Quarry expansion has been declared a Major Project by the Minister for Planning. Accordingly, the proponents of Champions Quarry with the assistance of Environmental Resources Management Australia Pty Ltd (ERM) are presently engaged in the preparation of an Environmental Assessment (EA) to fulfill the requirements of Part 3A of the *Environmental Planning and Assessment Act 1979*. It is intended to lodge the EA to the Department of Planning for assessment in the near future.

The Directors of Champions Quarry and ERM are committed to ensuring that adequate opportunity for consultation is provided and as such are prepared to meet with you to discuss the issues raised in your correspondence. We have contacted the Department of Planning who have informed us that they would not be available for such a meeting and we understand they have informed Ngulingah Local Aboriginal Land Council of this in a separate correspondence.

Champions Quarry understands that your recent unwillingness to walk over the land is due to "proper traditional behaviour". However, previously you have walked over the site. Could you provide details as to why you believe it inappropriate to inspect the site and, if required, please advise of a preferred mutually agreeable place and time to meet in the week commencing 2 November 2009.

In order to facilitate a structured meeting in which clear outcomes can be defined, Champions Quarry propose that to address the points raised within your correspondence that you confirm in writing that the thirteen points raised will be the subject of discussions. If you have any additional matters of concerns which you would like to raise in this meeting, please also provide these in writing prior to the meeting date, so that appropriate information can be made available.

We look forward to meeting with you to discuss the issues of your concerns that you have identified, along with any other issues you may have. As ERM is currently preparing the final Environmental Assessment for public exhibition we wish to have their Project Manager, Mr Will Weir, present at the meeting to discuss other relevant environmental and approvals process questions that may arise.

Yours faithfully,

Jeff Champion

William Weir

From: Jessica Wood [jessica.wood@edo.org.au]
Sent: Tuesday, October 27, 2009 4:46 PM
To: William Weir
Subject: Ngulingah Local Aboriginal Land Council submission in response to cultural heritage assessment for Champions Quarry

Dear Mr Weir,

The Ngulingah Local Aboriginal Land Council has instructed us that it does not wish to meet with Mr Champion without a representative of the Department of Planning being present at the meeting.

Yours faithfully,

Jessica Wood | Senior Solicitor | Environmental Defender's Office (NSW) | PO Box 212, Lismore, NSW, 2480 | ph: 1300 369 791 | fax: 02 6621 3355

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William Weir

From: William Weir
Sent: Tuesday, October 27, 2009 6:22 PM
To: 'Jessica Wood'
Subject: RE: Ngulingah Local Aboriginal Land Council submission in response to cultural heritage assessment for Champions Quarry

Dear Jessica,

Thankyou for advising ERM of the Ngulingah Local Aboriginal Land Council's position with regard to the proposed meeting in relation to the proposed upgrade of Champions Quarry.

We advise that the issues raised in the EDO submission dated 23 October 2009 will be considered for our final Cultural Heritage report as part of the consultation process, prior to submission to the Department of Planning for Public Exhibition.

Please do not hesitate to call and discuss the Project.

Kind regards,

Will Weir
 Senior Environmental Engineer
 ERM Australia Pty Ltd
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Please visit ERM's web site: <http://www.erm.com>

From: Jessica Wood [<mailto:jessica.wood@edo.org.au>]
Sent: Tuesday, October 27, 2009 4:46 PM
To: William Weir
Subject: Ngulingah Local Aboriginal Land Council submission in response to cultural heritage assessment for Champions Quarry

Dear Mr Weir,

The Ngulingah Local Aboriginal Land Council has instructed us that it does not wish to meet with Mr

11/18/2009

Champion without a representative of the Department of Planning being present at the meeting.

Yours faithfully,

Jessica Wood | Senior Solicitor | Environmental Defender's Office (NSW) | PO Box 212, Lismore, NSW,
2480 | ph: 1300 369 791 | fax: 02 6621 3355

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