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Gary Murphy
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Attention: Bruce Ronan, Strategic Planner, Local Planning and Policy
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Planning Proposal – Allow additional permitted uses on 49 Lots at Glenworth Valley and Calga

Dear Mr Murphy

Thank you for the opportunity to comment on the planning proposal to allow additional permitted uses on 49 Lots at Glenworth Valley and Calga. Heritage NSW has reviewed the planning proposal and provides advice in relation to Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974*.

Aboriginal Cultural Heritage under the *National Parks and Wildlife Act 1974*

Heritage NSW notes that, although the potential for items (Aboriginal objects) to be present within the subject land is observed, no assessment of Aboriginal cultural heritage has been provided in support of the planning proposal. Instead, the planning proposal addresses Local Planning Direction 2.3 (Heritage Conservation) in relation to Aboriginal cultural heritage by proposing to undertake detailed Aboriginal heritage investigations for the specific locations of future individual development applications.

Heritage NSW strongly encourages planning authorities to identify and conserve significant Aboriginal cultural heritage values up-front, at the planning proposal stage. This leads to better Aboriginal cultural heritage outcomes and gives greater certainty for stakeholders in any development assessment process. Accordingly, Heritage NSW provides the attached Aboriginal cultural heritage recommendations for this planning proposal.

Aboriginal Heritage and non-Aboriginal Heritage under the *Heritage Act 1977*

Heritage NSW's Heritage Programs team will provide separate comments on the planning proposal in relation to Aboriginal and non-Aboriginal heritage considerations under the *Heritage Act 1977*.

If you have any questions regarding the above advice, please contact Sam Gibbins at Heritage NSW on 9895 6586 or via email at samantha.gibbins@environment.nsw.gov.au.

Yours sincerely

Dr Samantha Higgs
Senior Team Leader
Aboriginal Cultural Heritage Regulation - North
Heritage NSW
21 December 2020

HERITAGE NSW – Aboriginal Cultural Heritage Recommendations

Planning Proposals

An Aboriginal cultural heritage assessment is needed to inform planning proposals to ensure they are consistent with Ministerial Directions issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), specifically Local Planning Direction 2.3 Heritage Conservation (former section 117(2) directions).

Direction 2.3 states that planning authorities must ensure that a planning proposal contains provisions that facilitate the conservation of Aboriginal objects and places protected under the *National Parks and Wildlife Act 1974* (NPW Act) (Direction 2.3(4)(b)), and Aboriginal areas, objects, places or landscapes identified as being of heritage significance to Aboriginal culture and people (Direction 2.3(4)(c)).

Considering Aboriginal cultural heritage values at the planning proposal stage provides planning authorities with the opportunity to meet their obligations under the EP&A Act as well as to their local Aboriginal community.

Heritage NSW supports the application of appropriate land-use zoning (such as E2 conservation) as a suitable mechanism to promote the conservation of significant Aboriginal cultural heritage values. Identifying and conserving significant Aboriginal cultural heritage at the planning proposal stage leads to better Aboriginal cultural heritage outcomes and gives greater certainty for stakeholders in any development assessment process. We strongly encourage planning authorities to meet these obligations.

To adequately assess the Aboriginal cultural heritage significance of the lands subject to the planning proposal, the proponent needs to clearly identify all potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people that may potentially constrain future land-use planning.

Heritage NSW recommends that identification of Aboriginal cultural heritage values and consultation with Aboriginal people be guided by the following documents:

- [Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales](#) (OEH 2011).
- Consultation with the Aboriginal community undertaken in accordance with the [Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010](#) (DECCW 2010).
- Satisfy the requirements of the [Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW](#) (DECCW 2010).

Please note that a due diligence process is not sufficient to support a planning proposal. Due diligence is inadequate to assess the potential impacts of planning proposals on potential areas, objects, places or landscapes of heritage significance to Aboriginal culture and people, as required by Local Planning Direction 2.3.