

Our Ref: EV54

6 August 2010

Mr Cameron Binney
Assistant Development Manager
Leighton Properties
Level 11, Waterfront Place, 1 Eagle St
Brisbane QLD 4000

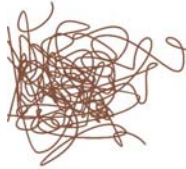
Dear Cameron,

**RE: CULTURAL HERITAGE ASSESSMENT OF LOT 490 KINGSCLIFF
RESPONSE TO AGENCY SUBMISSIONS DATED 23 MAY 2010**

We refer to the DECCW Agency response dated 23 May 2010 and recommend the following future actions:

AGENCY SUBMISSIONS – LOT 490 KINGSCLIFF

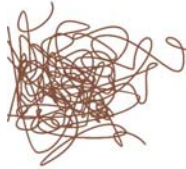
AGENCY RESPONSE	COMMENTS
ATTACHMENT 1 – DECCW STATEMENTS OF COMMITMENT AND RECOMMENDED CONDITIONS	
A) ADDITIONAL STATEMENTS OF COMMITMENTS	
DECCW recommends that the following be incorporated by the Department of Planning as Conditions of Approval in relation to this proposal: 1. If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the object(s). The site is to be registered in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representative for this purpose.	We agree. This requirement was incorporated into the initial recommendations of the Everick assessment, and should be incorporated into the Riparian Management Plan (RPM) for the Project.



AGENCY RESPONSE	COMMENTS
<p>2. If human remains are located during the project, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police, the Aboriginal community and DECCW are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, DECCW should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by DECCW. In the event that a criminal investigation ensues, works are not to resume in the designated area until approval in writing from NSW Police and DECCW.</p>	<p>We agree. This requirement was incorporated into the initial recommendations of the Everick assessment, and should be incorporated into the RPM for the Project.</p>
<p>3. All reasonable efforts must be made to avoid impact to Aboriginal cultural heritage values at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Aboriginal community and DECCW.</p>	<p>We agree. This requirement was incorporated into the initial recommendations of the Everick assessment, and should be incorporated into the RPM for the Project.</p>
<p>4. The applicant must continue to consult with and involve Aboriginal representatives in the ongoing management of the Aboriginal cultural heritage values for the project.</p>	<p>A thorough approach to ongoing consultation has been proposed through the Aboriginal Participation Plan (APP) for the Project.</p>
<p>5. It is recommended an Aboriginal Cultural Heritage Education Program be developed for the induction of personnel and contractors involved in the construction activities on site. The program should be developed in collaboration with the Aboriginal community.</p>	<p>An appropriately knowledgeable Aboriginal person, for example the Tweed Byron LALC Sites Officer, should be engaged to run an induction for key personnel (including construction management staff) involved in initial clearing and construction works. Everick will offer the Inductor any assistance he/she requires. Cultural heritage, including protocols surrounding the Cultural Heritage Protection Zone (CHPZ), should be incorporated into the standard OH&S induction for all new workers coming onto the site.</p>



AGENCY RESPONSE	COMMENTS
ATTACHMENT 2 – DECCW ASSESSMENT OF THE PROPOSAL	
<p>Aboriginal Community Consultation:</p> <p>1. Lack of response from stakeholders to assessment report. DECCW recommends that final comments / evidence is sought from the Stakeholders.</p> <p>2. DECCW encourages proponents to continue to engage with the Aboriginal Stakeholders in planning for the Development.</p>	<p>Everick has provided DECCW and DOP with a community consultation file documenting all consultation, including:</p> <ol style="list-style-type: none"> 1. meeting minutes demonstrating support for the proposed CHPZ; and 2. repeated requests (written and oral) for written responses to the assessment and proposed management strategies. <p>Consultation will continue in accordance with the APP, and Everick will endeavor to seek written responses from the Stakeholders.</p> <p>Consultation should continue in accordance with the APP.</p>
<p>Potential Aboriginal Sites:</p> <p>1. Low surface visibility, extremely dense ground cover and the presence of numerous Aboriginal sites in the immediate vicinity means there is a likelihood of finding further evidence of Aboriginal occupation.</p> <p>2. Custodial arrangements (keeping place) should be determined prior to the Projects commencement.</p>	<p>Almost all of the Project Area has been sand mined, as is demonstrated by the 1966 aerial photograph shown in Everick's assessment report. The 1944 historic aerial photograph is evidence that much of the south western portion of the Project Area is manmade, likely from the tailings of sand mining activities. The only area with a reasonable likelihood of containing significant cultural heritage is the Cultural Heritage Protection Zone.</p> <p>Past projects in the region have demonstrated significant differences in opinion between Aboriginal groups over what constitutes an appropriate keeping place. Everick will continue consultation in an attempt to find an acceptable option to all groups.</p>
<p>Protection Zone:</p> <p>1. Evidence of support from Stakeholders is required.</p>	<p>The minutes for the site meeting document the support of the Stakeholders for the proposed Protection Zone. At no stage has any Stakeholder expressed concerns about this proposal. Everick will seek further evidence of the Stakeholders opinions on the Protection Zone.</p>



<p>2. Long term management plan recommended.</p> <p>3. Proponent should provide further details to confirm the mechanism which will be used to ensure</p>	<p>The long term management principles of the CHPZ should be incorporated into the RMP for the Project.</p> <p>Everick understand that the Protection Zone is within lands owned by the New South Wales Land and Property Management Authority, not the Proponent. The Proponent has a lease over the eastern portion of Lot 490 with an obligation to maintain the surrounding Lot 490 Plan of Management area (within which the Protection Zone is located). This maintenance obligation will be met through the production and implementation of the RMP. The RMP therefore provides an effective, enduring mechanism for ensuring the CHPZ is managed appropriately into the future. Everick has provided the Proponent with the appropriate management protocols, in accordance with the <i>National Parks and Wildlife Amendment Act 2010</i> (NSW).</p>
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Regards,

Tim Robins
Project Manager/ Archaeologist
Everick Heritage Consultants