



Coffs Harbour & District Local Aboriginal Land Council

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Friday 9th June 2017

The Chair
NSW Coastal Panel
c/- Office of Environment and Heritage (OEH)
Levl 14, 59-61 Goulburn Street,
Sydney NSW 2000
PO Box A290 Sydney South NSW 1232

**Submission re - Development Application number: CP 16-001 (CP17-005) Coastal Protection
Works, 46 Arrawarra Beach Road, Arrawarra**

Dear Chair,

As required under Section 147 of the *Environmental Planning and Assessment Act 1979*, I would like to declare that the CH&D LALC has not received any reportable political donations in the past two years.

I would like to lodge our objection to the above development.

Arrawarra is in the north east portion of Gumbaynggirr country. The place name 'Arrawarra' comes from the Gumbaynggirr words Yee Warra, meaning meeting place. Arrawarra is a rich place with stories, traditions, and cultural knowledge relating to ceremony and resource use. There are three main places around Arrawarra where stories are told, one of which is the registered midden near the estuary. The Garby Elders are the custodians of this site and they should have been consulted on this development proposal. **Everick Heritage Consultants did not engage with the Garby Elders.**

In addition, CH&D LALC has a statutory mandate to assess/protect & preserve Aboriginal Cultural Heritage in our zone. In the event of DAs being made and works commencing that Aboriginal cultural heritage values are respected. And that CH&D LALC is included at the DA stage, including at the commencement of works. CH&D LALC is required to uphold its statutory requirements in respect of Aboriginal cultural heritage and its compliance with various legislative regimes.

CH&D LALC would like to point out that at any stage where evidence of Aboriginal cultural occupation or use is uncovered that work stop until an Aboriginal Cultural Heritage assessment is conducted in consultation with the CH&D LALC. Again, Everick Heritage Consultants did not engage with the CH&D LALC even after uncovering midden material at the surface in the north-east portion of the project area.

Consultation with our people is an integral part of the process of investigating and assessing our cultural heritage and knowledge holders must be given the opportunity to be consulted over their cultural heritage.

Neither, the Garby Elders or the CH&D LALC Cultural Heritage Officers were afforded such an opportunity.

The CH&D LALC does not believe the proponent has provided a comprehensive assessment of the impacts that the proposed rock revetment wall will have on our cultural heritage. Everick Heritage Consultants were asked to provide additional information to Coffs Harbour City Council in relation to Aboriginal cultural heritage. The following additional information and/or evidence was required:

- *List of known sites in the area and any relationship between those sites and the project area;*
- *Assessment of the potential for currently unidentified Aboriginal objects to be present subsurface within the project area;*
- *Assessment of the cultural significance of the project area; and*
- *Any correlation between the gee-technical investigations and the Aboriginal cultural heritage assessment.*

The additional information was provided to CHCC on 21st June 2016 as a response to the above issues raised by the OEH. Again, the CH&D LALC rejects the additional information provided by Everick Heritage consultants as being sufficient for the proposal to proceed. Everick Heritage does not, in fact can't, provide more than a scientific relationship between sites in the area. There is in fact a rich oral history of the Arrawarra area and there are custodians who know the connectedness of the sites in and around Arrawarra, they are the only ones who can describe the rich cultural landscape and provide the necessary cultural context of the sites in question.

Everick Heritage also fails to assess the potential for unidentified Aboriginal objects to be present. Everick Heritage concludes that a subsurface midden does not occur within the project area. This statement is in direct contrast to their statement in point 1 of the additional information provided to CHCC where a "surface midden was identified" in the north-eastern corner of the project area.

Everick Heritage has not assessed the cultural significance of the project area and instead focuses his response on only one tangible site. They also fail to make any correlation between the geo-technical investigation and the Aboriginal cultural heritage assessment instead they provide an excuse as to why test pitting was not carried out suggesting the need to bench out in deep sand deposits. In fact

test pits would only need to be dug down to approximately 1 meter at the most with the majority of test pits being 15 – 30cm deep. The presence of the surface midden in the north-eastern corner of the project area indicates that there is cultural material present and that test pitting is warranted.

Everick Heritage also suggest that harm to Aboriginal objects/sites can be easily mitigated. The impacts to the midden site from the seawall can't be mitigated by undertaking revegetation works for the simple fact this is a registered site and you can't break ground without an Aboriginal Heritage Impact Permit (AHIP).

Further, Everick Heritage consultants suggest that impacts will be mitigated by temporary fencing, placement of temporary fabric over the site to ensure fill can be easily removed and monitoring of machine movements. This means they are expecting impacts to the site will occur and yet no AHIP has been applied for. There seems to be a lot of uncertainty as to whether or not the proposed revetment wall could potentially harm Aboriginal objects. But, if we look at the impacts caused by the current gabion wall it is clear that there will indeed be negative impacts on our heritage.

The CH&D LALC strongly opposes the development based on the above and believes the proponent has not adhered to the requirements set out in clause 80c of the NPW Regulation where:

1. An application for an AHIP will be made, or
2. Undertaking test excavation according to OEH's *Code of practice for archaeological investigation of Aboriginal objects in NSW*.

Additionally, the Garby Elders have filed an injunction on the development based on the fact that no Aboriginal knowledge holders were invited to be consulted (see attached: the respective newspaper article dated March 19 2016 <http://www.coffscoastadvocate.com.au/news/elders-lodge-injunction-on-subdivision/2968784>)

The proposal should never have gone ahead without the input of local Aboriginal knowledge holders and Traditional Owners. This is a very sensitive matter that has been handled, to date, inappropriately by Everick Heritage Consultants. The land on which the park sits is sacred to Gumbaynggirr people yet it was not even considered important enough by Everick Heritage to warrant consultation with the local Gumbaynggirr knowledge holders.

The CH&D LALC appreciates the opportunity afforded to us to put in this submission outlining our **outright objection** to the proposed revetment wall.

Yours in Unity



Michelle Flanders

Elders lodge injunction on subdivision



david_barwell | 19th Mar 2016 6:15 AM Updated: 6:15 AM



Garby elders are opposing plans to see the Arrawarra Caravan Park redeveloped into a residential estate.

Trevor Veale

"OUR people have been here for thousands of years, that's why we have to stop this from going ahead."

That's the resolve of Garby elder Tony Dootson who fears sacred sites will be decimated if a proposed 24-lot subdivision of Arrawarra Beach Holiday Park goes ahead.

In a move to stop it, the Yarrawarra Aboriginal Corporation has submitted an injunction to Coffs Harbour City Council that is currently considering Astoria Group's plans.

Astoria's management says several studies have been undertaken by the Office of Environment and Heritage and the proposal satisfied cultural and environmental guidelines.

But Mr Dootson believes inspections failed to record scar trees, fish traps, and other sacred sites on the banks of the Arrawarra Creek that could be destroyed if a development, including the construction of new roads, goes ahead.

"We weren't consulted so there's no local knowledge that's gone into the proposal," he said.

"The park is a registered Aboriginal site and adjacent land is carbon-dated to over 2000 years."

"The DA should never have gone through. In my eyes money talks volumes."

Following the injunction, the council yesterday referred the development back to the OEH to re-examine the proposal's impact on cultural sites.

A copy of the application has also been sent to the Coffs Harbour and District Local Aboriginal Land Council.

Three Aboriginal sites were discovered by the OEH inspectors within 200m of the project site during initial studies of the park.

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