
Aboriginal Heritage Management Plan

BADGERYS CREEK QUARRY AND BRICK MAKING FACILITY

September 2013

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1. Introduction

1.1. Purpose

This Aboriginal Heritage Management Plan (AHMP) has been prepared in consultation with Office of Environment and Heritage (OEH) and in consideration of feedback from the Aboriginal community (during the environmental assessment process) to:

- detail a program for the recording, salvage and surface collection of any Aboriginal objects/sites that have been identified and may be encountered within the project area;
- describe measures that will be implemented to ensure Aboriginal objects in the area adjacent to Badgerys Creek are not impacted during regeneration operations;
- describe the measures that would be implemented if any Aboriginal skeletal remains are discovered during the project; and
- describe the protocol for ongoing consultation and involvement of the Aboriginal community in the conservation and management of the Aboriginal heritage of the objects/sites.

1.2. Scope and Application

This AHMP is applicable to the quarrying, rehabilitation, brickmaking, and product storage and dispatch of Boral in its Badgerys Creek operations.

The AHMP also applies to the shutdown or 'mothballed' period that commenced on 31 March 2012. This duration of this shutdown period is unknown at this time (refer EMS).

1.3. Interface with Environmental Strategy

In operational terms, the AHMP aims to minimise the risk of impacts to Aboriginal heritage from the quarrying and brickmaking activities at Boral's Badgerys Creek facility. In this way, the AHMP supports the Environmental Strategy of Badgerys Creek Quarry and Brick Making Facility by helping minimise harm to the environment.

1.4. Definitions and Abbreviations (from DECCW, 2010)

Aboriginal Heritage Impact Permit (AHIP)	The statutory instrument that the Director General of DECCW issues under s.87 and/or s.90 of the NPW Act: s.87 Aboriginal Heritage Impact Permits – required to disturb or move an Aboriginal object or disturb or excavate land for the purposes of discovering an Aboriginal object s.90 Aboriginal Heritage Impact Permits – required to destroy, damage or deface an Aboriginal object or Aboriginal place.
Aboriginal object	A statutory term, meaning: '... any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent

with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes 'Aboriginal remains' (s.5 NPW Act).

Aboriginal owners

Aboriginal owner is a term used under the Aboriginal Land Rights Act 1983 and the National Parks and Wildlife Act 1974. Aboriginal owners are defined as 'persons whose names are entered on the Register of Aboriginal Owners because of the persons' cultural association with particular land.'" (ALR Act 1983).

Registration as an Aboriginal owner under the Aboriginal Land Rights Act 1983 provides statutory recognition of an Aboriginal person's cultural associations with land. For more information about the ALR Act see section 2.2.4 of these requirements.

Aboriginal place

A statutory term, meaning any place declared to be an Aboriginal place (under s.84 of the NPW Act) by the Minister administering the NPW Act, by order published in the *NSW Government Gazette*, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal objects.

2. Aspects, Impacts and Risks

2.1. Environmental Context

Boral is operating an existing quarry in Badgerys Creek, extracting clay resources and using these to manufacture bricks for the construction industry. These quarrying and brick making activities have been undertaken on the site for the past 30 years. Boral has received development approval to continue operations on the site, including extracting from existing and future new pits and operating the existing brick making facility at a bigger throughput.

Quarrying is carried out in campaigns of two- to three-month periods per year with extracted clay stored in stockpiles for brick making operations which run the entire year. Finished products are stored within the site for dispatch by trucks. The site also receives other raw materials required for brick making.

The prevailing climate and the availability of permanent water from South Creek and Badgerys Creek indicate that the study area is likely to have had sufficient resources to support medium sized groups of Aboriginal peoples. Evidence of such occupation is usually found in proximity to water sources. Additionally, the composition of current flora and fauna species is suggestive of Aboriginal occupation of the area.

The conditions of the approval require Boral to collect and record the isolated find prior to any disturbance in the vicinity of Pit 5. Furthermore, the Proponent has committed to maintaining a buffer of at least 60 metres from Badgerys Creek to avoid any impact to potential archaeological deposits in the area.

In 2012, Boral reviewed its brick production capacity due to current uncertain economic conditions and downturn in residential housing activity. Boral determined that the reduced demand could be supplied by its Bringelly Brickworks and therefore decided to temporarily shut down production at its Badgerys Creek facility. Quarrying and brick production will be suspended during the shutdown period but ongoing facility and equipment maintenance will be carried out. Operation of the retail display facility and the occasional dispatch of bricks from the remaining inventory on-site will continue.

Boral has sought a Section 75W modification to the conditions of approval for the expansion of the Badgerys Creek operations so that relevant environmental management measures can be modified or deferred during the shutdown period.

2.2. Aspects and Impacts

The Badgerys Creek Quarry and Brickmaking facilities involve activities which may potentially impact Aboriginal heritage objects and places as shown in Table 1 below.

Table 1 Aspects and Impacts of Badgerys Creek Quarrying and Brickmaking Waste Operations on Aboriginal Heritage

Activity	Heritage Aspect	Potential Environmental Impacts
Removal of overburden (for Pits 3, 4 and 5)	Disturbance of ground which may contain previously unidentified Aboriginal items or sites	<ul style="list-style-type: none"> • Damage to previously unidentified Aboriginal items or site • Smothering or masking of previously unidentified Aboriginal items or site • Failure to consult with local Aboriginal communities about the significance of a discovery leading to incomplete assessment of significance
	Discovery of previously unidentified Aboriginal items or sites	
	Encroachment of earthmoving plant into exclusion zone along Badgerys Creek	
	Stockpiling of overburden by small dozer and dump trucks	
Raw material extraction (from Pits 3, 4 and 5)	Disturbance of ground which may contain previously unidentified Aboriginal items or sites	
	Stockpiling of raw material by smaller dozer and dump trucks	
Construction of Noise Berm	Disturbance of ground which may contain previously unidentified Aboriginal items or sites	<ul style="list-style-type: none"> • Damage to previously unidentified Aboriginal items or site • Smothering or masking of previously unidentified Aboriginal items or site • Failure to consult with local Aboriginal communities about the significance of a discovery leading to incomplete assessment of significance
Shutdown Period	Occasional vehicle movements and storage yard activities	As no ground disturbance is proposed, it is considered that potential impacts on Aboriginal heritage during the shutdown period will be highly unlikely.
	Minor maintenance activities	

2.3. Risk Assessment

The proposed quarrying would disturb the ground and therefore has the potential to impact upon unknown Aboriginal sites. However, the potential to disturb unknown intact sites is reduced by the previous agricultural use of the land. Additionally, areas of highest Aboriginal archaeological sensitivity within the region have been identified as occurring adjacent to Badgerys Creek and South Creek. Given that the proposed quarry plan does not encroach within 50 m of these creeks, impacts are not considered likely.

The potential location of Aboriginal artefacts in proximity to watercourses, previous disturbance of the ground and low significance of the one Aboriginal Site located within the study area indicates, that the potential for disturbance of artefacts is considered to be low.

The risks of inadvertently harming previously undiscovered Aboriginal objects will be mitigated by the management measures outlined in this AHMP.

3. Requirements and Performance Criteria

3.1. Relevant Legislation

- *Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984*
- *National Parks and Wildlife Act 1974*
- *National Parks and Wildlife Regulation 2009*
- *Environmental Planning and Assessment Act 1979*
- *Heritage Act 1977*
- Liverpool Local Environmental Plan 2008

3.2. Standards and Guidelines

- Burra Charter
- Cultural Heritage Standards and Guidelines (NPWS, 1997)
- Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010), replacing the Interim Community Consultation Requirements for applicants (2004)
- Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (2010)
- NSW Minerals Industry Due Diligence Code of Practice for the Protection of Aboriginal Objects (NSW Minerals Council Ltd , 13 September 2010)

3.3. Approval Requirements

- Project Approval (under Sec 75J and Sec 75W of the EP&A Act 1979)

3.4. Permits and Licences

- None required based on completed heritage assessment
- An Aboriginal Heritage Impact Permit (AHIP) may be required if harm to Aboriginal objects can not be avoided:
 - s.87 Aboriginal Heritage Impact Permits – required to disturb or move an Aboriginal object or disturb or excavate land for the purposes of discovering an Aboriginal object
 - s.90 Aboriginal Heritage Impact Permits – required to destroy, damage or deface an Aboriginal object or Aboriginal place.

4. Training and Resource Requirements

4.1. Training

The induction for all site personnel and contractors working on site will cover heritage management procedures. In particular, workers/contractors shall be informed of their obligations under the NPW Act, namely that it is illegal to disturb, damage or destroy a relic without the prior approval of the Director General of the OEH.

The HSE Manager will also familiarise with the relevant changes to Aboriginal heritage legislation in the light of recent and ongoing Aboriginal heritage law reform. These include recently released codes of practice that have been adopted under the NPW Regulation 2009.

4.2. Resource Requirements

The following contact details are provided for purposes of notifying unexpected finds:

- National Parks and Wildlife Service (for Aboriginal objects): (02) 9253 0880
- Department of Planning and Infrastructure (DoPI) Heritage Branch (for historical items): (02) 9873 8500
- Local police (for human remains): 02 9677 7499 (St Marys LAC, North West Metro Region)
- Office of Environment and Heritage (OEH) Environmental Line (for human remains): 131 555

5. Heritage Management

5.1. Shutdown Period Management Measures

In April 2012, the proponent, Boral Clay and Concrete (NSW) announced the temporary shutdown of the quarry and brick making facility with effect from 30 March 2012. As at April 2013, the facility remained shut down. Boral will review its operations at a future stage, considering market conditions and business needs to determine when operations will recommence. During the shutdown period, activities at the facility will be limited. Hence, the opportunity for interactions with the environment during this period is limited.

There will be no interaction with cultural heritage material during the shutdown period.

During the shutdown period, the site's Health Safety and Environment Manager will be based at Badgerys Creek and will maintain a weekly environmental inspection regime including:

- Property boundary integrity, internal dam levels and neighbouring creeks;
- Raw material quarry pits and access roads;
- Internal access roads (paved and unsealed);
- Water tanks - water recycling (empty) and fire-fighting supply tanks;
- Waste material areas and sewage treatment plant;
- Oil store, diesel tank and chemical store;
- Internal drainage from hardstands and access roads; and
- Factory buildings (internal and external).

The HSE Manager will also maintain regular contact with neighbouring residents to resolve any issues.

5.2. Management Measures

Item	Action	Responsible Staff	When
1	Avoid regeneration works in the area of archaeological deposit identified adjacent to Badgerys Creek (refer Appendix 4 of Project Approval), or otherwise minimise harm to Aboriginal objects	HSE Officer	During regeneration work adjacent to Badgerys Creek
2	Implement relevant measures described in the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales</i> (OEH, 2010) to ensure Aboriginal objects on the area adjacent to Badgerys Creek are not impacted during regeneration operations.	HSE Officer	During regeneration work adjacent to Badgerys Creek
3	Should relics be uncovered during the course of the approved works, works shall cease. In cases where historical items have been uncovered, the NSW DoPI's Heritage Branch shall be advised or should indigenous	All staff and contractors	At all times

Item	Action	Responsible Staff	When
	items be uncovered the NPWS shall be advised.		
4	Further to Item 2, if unanticipated Aboriginal artefacts are found, the site shall be assessed by an archaeologist in consultation with the relevant Aboriginal stakeholders, as identified during the Environmental Assessment. The Director General must also be notified as set out in Part 6 Section 89A Notification of sites of Aboriginal objects of the NPW Act 1974.	HSE Officer	At all times
5	Workers/contractors shall be informed of their obligations under the NPW Act 1974, namely that it is illegal to disturb, damage or destroy a relic without the prior approval of the Director General of OEH	Plant Manager	At all times
6	Should human remains be found in, on, or under the land during construction, the responsible party shall: <ul style="list-style-type: none"> - Contact the local police; - Not disturb or excavate the remains; - Immediately cease all work at the particular location; - Notify the OEH office as soon as practicable and provide any available details of the remains and their location; and - Not recommence any work at the particular location until authorised in writing by the OEH. 	All staff and contractors	At all times
7	Collect Isolated Find BC-01-09 prior to Pit 5 works commencing, as per the procedure described in the Section 5.2...	HSE Officer / Archaeological Consultant	Prior to works commencing
8.	Record, salvage and collect any Aboriginal objects that have been identified (BC-01-09) and may be encountered within the project area, as per the procedure described in the Section 5.2.	HSE Officer / Archaeological Consultant	At all times
9	Carry out consultation and involvement of the Aboriginal community in the conservation and management of the Aboriginal heritage of the objects/sites, as per the protocol described in the Section 5.3	HSE Officer	As required

5.3. Stone Artefact Disposition and Storage

Following the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010)*, salvaged heritage material will be returned to the location they originated from, using the following procedure:

- A full catalogue, including photographic and drawn records for diagnostic stone artefacts, must be made.
- The catalogue must be in printed form, but may also include an electronic database in the form of a table containing all records.
- All stone artefacts must be either individually bagged or bagged in appropriate and identifiable units (e.g. excavation or collection units) that can be referenced back to the catalogue.
- The stone artefacts must be stored in good quality, double-bagged plastic zip-lock bags.
- The bags must be externally labelled using permanent marker, and an 'independent' label on robust material (e.g. tyvek) written with permanent marker must be placed inside each bag.
- The collection must be placed in a suitable impervious and permanent container, which must be labelled as above, or engraved.
- A full record of the final location of the collection will be made, including:
 - grid coordinates derived as set out in Requirement 8
 - a site plan or mud map referring to permanent features
 - depth of burial, if buried
 - full photographic record of the disposition.
- The record will be submitted to AHIMS with a site update record card for the site(s) in question.

5.4. Protocol for Ongoing Aboriginal Community Involvement

Prior to the assessment, recording, salvage and surface collection of any previously unidentified Aboriginal objects, Aboriginal consultations will be carried out in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010)*. Consultation will involve the following Aboriginal stakeholder groups which have been identified from the process of registration of interest from Aboriginal groups carried out in 2009 as part of the environmental assessment process:

- Gandangara Local Aboriginal Land Council (GLALC);
- Darug Custodian Aboriginal Corporation (DCAC);
- Darug Tribal Aboriginal Corporation (DTAC);
- Darug Aboriginal Cultural Heritage Assessments (DACHA);
- Darug Land Observations (DLO); and
- Yarrawalk (YA).

In particular, the consultation of stakeholder groups will involve:

- providing them a draft copy of the field methodology for comment;
- providing them opportunities to participate in fieldwork and contribute information for the assessment of the cultural significance of Aboriginal objects found;
- seeking their views on potential management options; and
- documenting all feedback received for inclusion in a report on the assessment, recording, salvage and surface collection activity.

6. Monitoring

Monitoring of the implementation of the AHMP will be undertaken as part of regular site inspections by the HSE Officer, in particular of activities involving ground disturbance.

6.1. Reduced Scale of AHMP Monitoring Activities during the Shutdown Period

Due to the significantly reduced level of activities limited to facility maintenance, operation of the retail display and occasional dispatch of bricks from the inventory remaining on-site during the shutdown period, monitoring for compliance with the AHMP will not be required during the period of shutdown.

7. Reporting

7.1. Environmental Reporting

A summary report on compliance with this AHMP prepared by the HSE Officer will be included by the Plant Manager in the regular production reporting. Corrective actions will be formulated, implemented and reviewed for any significant non-compliance noted.

7.2. Regeneration Works

In accordance with CI 22 (b) of the Conditions of Approval, a report will be provided to the Director-General of DoPI demonstrating compliance with the said condition, i.e. regeneration works adjacent to Badgerys Creek have avoided or otherwise minimised harm to identified archaeological deposits in the zone.

8. AHMP Forms and Procedures

8.1. Forms

Nil.

8.2. Standard Procedures

Refer to Section 3.2 for relevant codes of practice and protocols.