



Office of
Environment
& Heritage

Mr Paul Hickey
Ballina Shire Council General Manager
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Cc: Cheyne.Willebrands@ballina.nsw.gov.au

Our reference: CIRaM I07867-2018
SF18/52068
DOC18/482875
Contact: Emma Kirsner (02) 8289 6328
Date: 12 July 2018

By Registered Post and Email

Dear Mr Hickey

Thank you for co-operating with requests from the Office Environment and Heritage (OEH) to provide information regarding Aboriginal Cultural Heritage (ACH) Due Diligence procedures undertaken by Ballina Shire Council (Council) prior to Council granting approval for the removal of a fig tree located in Castle Drive Lennox Head, NSW 2478 (the location).

As you are aware the OEH is responsible for assuring compliance with the *National Parks and Wildlife Act 1974* (NPW Act) with the aim of preventing unlawful harm or desecration to Aboriginal object/s or Aboriginal places.

After making inquiries with Council's Manager Open Spaces Officer Cheyne Willebrands on 8 and 13 June 2018, and receiving Council's reply in writing to OEH on the 15 June 2018, OEH reviewed the documents and information provided by Council that was relevant to the application of ACH due diligence prior to Council authorising the removal of the fig tree located in Castle Drive Lennox Head. OEH understands that Council actions included the following:

- A review of Council's Aboriginal Cultural Heritage Mapping Project (ACHMP) - Predictive site mapping;
- Consultation with the Local Aboriginal Community representatives and Jali Local Aboriginal Land Council (LALC) during the ACHMP process;
- A search of the Aboriginal Heritage Mapping System Database (AHIMS); and
- Council staff are trained to recognise ACH markings on trees.

Following a review of the responses and documentation provided by Council, and resulting from enquiries made with Jali Local Aboriginal Land Council representatives, Aboriginal Community representatives and participants in the ACHMP, OEH can advise Council that unless further information comes to hand OEH will not be pursuing the investigation into the claims that the location was registered during the ACHMP process or meets the requirements to be registered as an AHIMS site.

Please note that during our enquiries it became clear that a thorough Aboriginal cultural heritage assessment of the location was not conducted when the subdivision was first planned or since that time and that any further impact or disturbance to the location has the potential to disturb Aboriginal objects or Potential

Aboriginal Deposits (PADs) located within the area. If any objects are disturbed the location will be subject to an Aboriginal Heritage Impact Permit (AHIP) application and subsequent requirements and/or further investigations by OEH. Further, I trust that by working co-operatively with the local Aboriginal community in protecting and managing Aboriginal cultural heritage values, any escalation of regulatory action can be avoided.

It is highly advisable that all work conducted at the location in the future is supervised by suitably qualified persons able to monitor and to recognise Aboriginal objects or PADs that potentially may be uncovered.

Council is also reminded that high penalties apply for impacting or harming Aboriginal objects. Please ensure you are familiar with the requirements of the NPW Act during any future works at the location. Further advice regarding Aboriginal cultural heritage can be found on OEH's web-site at: www.environment.nsw.gov.au/cultureandheritage.htm.

OEH can also advise Council that a request for an Interim Heritage Order for the tree has been received under the Heritage Act 1977 (NSW). However, before consideration can be given to the request, OEH has advised the applicant that further information about the likely significance of tree will be required. Council is advised that the Interim Heritage Order request cannot be accepted or assessed in its current form and that OEH will not be taking action under the Heritage Act 1977 (NSW) at this time.

Should you have any inquiries concerning the Interim Heritage Order request, please contact Lucy Hampton, Senior Heritage Operations Officer at the Heritage Division of the Office of Environment and Heritage on (02) 9873 8535 or lucy.hampton@environment.nsw.gov.au.

Should you have any inquiries concerning the above matter please contact Troy Northey on (02) 6659 8255 troy.northey@environment.nsw.gov.au.

Yours sincerely



Troy Northey
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