



S90 CONSENT # 2836

CONSENT**CONSENT TO CARRY OUT THE DESTRUCTION OF AN ABORIGINAL OBJECT/PLACE****Background**

An application has been made to the Director-General of the Department of Environment and Climate Change by:

Brickworks Limited

of (address in full):

738-780 Wallgrove Road, Horsely Park, NSW 2175

for a consent pursuant to section 90 of the *National Parks and Wildlife Act 1974* ("the Act") to destroy, damage or deface Aboriginal objects in the course of development activities associated with **extraction of shale**.

Permit and consent granted subject to conditions

NOW I, Lou Ewins, Manager Planning & Aboriginal Heritage Section, Metropolitan Branch of the Department of Environment and Climate Change, grant to **Brickworks Limited** ("the proponent"):

(a) pursuant to Section 90 of the Act, CONSENT to destroy, damage or deface the remaining Aboriginal objects identified in Schedule A on the land described in Schedule B;

but only in accordance with all of the conditions of this consent.

TERMS AND CONDITIONS OF THIS CONSENT

This Consent is issued subject to the conditions specified below.

DATED at Sydney this 13th day of December 2007

A handwritten signature in blue ink, appearing to read 'Lou Ewins'.

Lou Ewins
Manager Planning & Aboriginal Heritage
Climate Change & Environment Protection Group
Department of Environment & Climate Change
(by delegation)

SCHEDULE A: Aboriginal Objects to which this consent applies include the following registered sites and all objects within the Eastern Pit application area as indicated on Fig.1 attached to this consent.

AHIMS No.	Name	Description	Approximate eastings	Approximate northings
45-5-2861	DTAC3	Isolated find/campsite	2988460	6255200
45-5-2862	HP2	Two artefacts	298155	6255131
45-5-3381	Oakdale IF1	One artefact	298365	6255179

SCHEDULE B: Land to which this permit and consent apply ("the land")

Old Wallgrove Road, Horsely Park, Fairfield LGA (see Fig. 1)

Lot 2 in DP 102673.

CONDITIONS APPLYING TO THE CONSENT

Commencement

1. This consent commenced on the date this document was signed.

Duration of the consent

2. This consent remains in force for five (5) years from the date this document was signed.

Protection of human remains

3. To avoid any doubt, this consent does not authorise damage to any human remains in, on or under the land.

If any human remains are located in, on or under the land, the proponent must:

- (a) contact the local police;
- (b) not disturb or excavate these remains;
- (c) immediately cease all work at the particular location;
- (d) notify the DECC office as soon as practicable and provide any available details of the remains and their location; and
- (e) not recommence any work at the particular location until authorised in writing by the DECC.

GENERAL TERMS AND CONDITIONS APPLYING TO THE CONSENT

1. This consent is not transferable.
2. This consent may be revoked at any time at the discretion of the Director-General.
3. The terms and conditions of this consent may be varied at any time at the discretion of the Director-General.
4. The proponent must ensure that all of its employees, contractors, sub-contractors and agents are made aware of the conditions of this consent and the corresponding offence provisions and obligations contained in the Act.
5. The proponent must notify the DECC office in writing as soon as practicable after becoming aware of any failure to comply with Part 6 of the Act or any condition of this consent.

6. Where a DECC officer reasonably suspects that an incident which may have breached Part 6 of the Act has occurred, the officer may request in writing that the proponent prepare a written report as soon as practicable about the incident.
7. The proponent agrees to indemnify and keep indemnified, the Crown in right of NSW (DECC), the Minister administering the Act, the Director-General, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from and against all actions, demands, claims, proceedings, losses, damages, costs (including legal costs) charges or expenses suffered or incurred by them resulting from any damage or destruction to any real or personal property and injury suffered or sustained (including death) by any persons arising out of or in connection with the activities undertaken pursuant to this consent.
8. The proponent agrees to release to the full extent permitted by law, the Crown in right of NSW (DECC), the Minister administering the Act, the Director-General, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from all suits, actions, demands and claims of every kind resulting from any damage or destruction to any real or personal property and injury suffered or sustained (including death) by any persons arising out of or in connection with the works undertaken pursuant to this consent.
9. DECC is entitled to make copies of any reports provided to DECC under this consent. The proponent must ensure that any culturally sensitive information that should be accessed subject to conditions (eg. gender related cultural reasons) be identified in a separate letter accompanying the report.

Note: DECC may be required to produce a copy of a report provided to it in response to a lawful requirement. This request may occur, for example, as part of court proceedings or under freedom of information legislation. In providing a copy of any report which contains culturally sensitive information to which access is restricted, DECC will provide a copy of the letter setting out the restrictions and request that any person receiving a copy of the report take all reasonable precautions to comply with the specified access restrictions.
10. Where a condition of this consent specifies either an event or due date by which something must be done or cease to be done, the proponent has a continuing obligation to comply with that condition after that date (subject to any written variation of that condition).

DICTIONARY

Aboriginal Community means those Aboriginal groups or individuals in the local area including those which registered an interest to be consulted during the community consultation undertaken for the project and any other Aboriginal group or individual which notifies the proponent of a wish to be consulted about the activities referred to in this permit and consent.

Aboriginal objects has the same meaning as in the Act

Act means the *National Parks and Wildlife Act 1974*

Consent means this consent issued pursuant to s.90 of the Act

Damage in relation to an Aboriginal object, means to knowingly damage, deface or destroy, or knowingly cause or permit the destruction or defacement of, or damage to, the Aboriginal object (unless otherwise specified)

DECC means the Department of Environment and Climate Change

DECC office means the Parramatta office; contact Lou Ewins, Manager Planning & Aboriginal Heritage Section, Metropolitan Region ph: (02) 9995 6802 fax: (02) 995 6900

Disturb, when used in relation to land, includes causing land to be disturbed

Human remains includes any remains that are reasonably suspected to be human remains, regardless of their origin

Land means the land described in Schedule B

Proponent means **Brickworks Limited**

INFORMATION ABOUT THIS PERMIT AND CONSENT

Responsibility for obtaining all approvals and compliance with applicable laws

The proponent is responsible for obtaining and complying with all approvals necessary to lawfully carry out the work referred to in this permit and consent, including but not limited to development consents and any permits required under Part 3A of the *Rivers and Foreshores Improvement Act 1948* to carry out excavation near watercourses.

Exercise of investigation and compliance powers

Officers appointed or authorised under the Act may exercise certain powers and functions, including the power to enter land.

Entry to the land only with permission of owner or occupier

A consent does not authorise the holder to enter or work on the land. Permission must be obtained from the owner or occupier.

Obligation to report newly identified Aboriginal objects

Nothing in this consent affects the proponent's responsibility under s.91 of the Act to report newly identified Aboriginal objects.

Obligation to report Aboriginal remains

The proponent may have additional obligations to report any discovery of Aboriginal remains under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Commonwealth).

