



Your reference: SSD-10461  
Our reference: DOC22/390123

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Dear Natasha

**Advice on EIS and recommended conditions – State Significant Development – Valley of the Winds Wind Farm (SSD-10461)**

Thank you for your referral uploaded to the Major Projects Portal on 19 May 2022 seeking advice on the above State Significance Development (SSD) application. We have prepared the following advice in relation to Aboriginal cultural heritage matters.

The Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs).

Overall, Heritage NSW agrees with the management recommendations outlined in the ACHAR. However, we suggest that some additional information on the ACHAR should be sought to inform the EIS.

In preparing this advice we have reviewed the following documents:

- Valley of the Winds: Environmental Impact Assessment – prepared by Ramboll Australia Pty Ltd, dated April 2022
- Appendix N: Aboriginal Cultural Heritage Assessment Report – prepared by OzArk Environment and Heritage Pty Ltd, dated April 2022.

***Recommended additional reporting and management measures***

We recommend that the ACHAR is revised to address the following:

- We are concerned that full archaeological survey has not been completed. We particularly note an area identified as having high potential for Aboriginal cultural heritage that is proposed for survey post-approval. We recommend that this area is surveyed to inform the EIS and ensure that there are no significant Aboriginal cultural heritage sites present that may require project redesign.
- The ACHAR needs to clarify whether archaeological test excavation is required. If test excavation is needed, we recommend this is conducted pre-approval to inform the EIS.
- Without this information there is a risk that additional, unrecorded Aboriginal cultural heritage sites and values are present in the project area. It is important that this information is provided to all parties, including the Registered Aboriginal Parties (RAPs), to inform this application.

Further detailed comments are provided at **Attachment A**.

***Recommended draft conditions***

Should this application be approved, we have provided recommended draft conditions of consent at **Attachment B**.



The ACHAR recommends developing an Aboriginal Cultural Heritage Management Plan (ACHMP). Heritage NSW recommends the ACHMP be included in any conditions of consent and be approved by Department of Planning and Environment prior to any development activities occurring within the project area.

If you have any questions regarding these comments, please contact Corey O'Driscoll, Senior Assessments Officer, at Heritage NSW on 6229 7079 and [corey.odriscoll@environment.nsw.gov.au](mailto:corey.odriscoll@environment.nsw.gov.au).

Yours sincerely,

**Rose O'Sullivan**

Acting Manager Assessments

Heritage NSW

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Enclosures:

Attachment A: Detailed recommendations in relation to the ACHAR

Attachment B: Recommended Draft Conditions for Aboriginal Cultural Heritage

## Attachment A: Detailed recommendations in relation to the ACHAR

We recommend that the applicant respond to the following items in a revised ACHAR to ensure a complete understanding of Aboriginal cultural heritage in the project area prior to this application being determined.

1. Archaeological survey extent needs to be clarified as follows:
  - a. Section 6 and Figure 6-1 of the ACHAR show large sections of the project area that have not been subject to survey or were only covered by vehicle transects. As per Requirement 5 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010), vehicle traverses are considered reconnaissance activities only and are not equivalent to survey by foot. Survey by vehicle is inadequate for informing the archaeological potential of the area.
  - b. Updated figures and tables that include only those areas surveyed by foot and the areas deemed unsafe to conduct survey need to be included in the ACHAR.
  - c. If, as Figure 6-1 of the ACHAR indicates, large sections of the project area have not been surveyed then Heritage NSW recommends that these areas are surveyed prior to any project approval.
  - d. Figure 6-2 of the ACHAR identifies an area that will be subject to survey post-approval. However, this area has been identified as having high potential for Aboriginal cultural heritage. Heritage NSW recommends that this area be subject to survey prior to any approvals to determine whether Aboriginal cultural heritage sites are present that may require project redesign.
  - e. If additional sites are identified, then subsurface testing may be required in areas where impacts cannot be avoided to ensure that the significance of those sites is known prior to impacts.
2. The ACHAR needs to clearly explain whether archaeological test excavation is required. Where archaeological test excavation is needed we recommend this is conducted as part of the EIS to ensure the Aboriginal cultural heritage values and potential impacts are understood prior to any project approval.
3. The impact assessment needs to consider if secondary impacts will impact any of the potential archaeological deposits recorded in the ACHAR adjacent to construction areas. Consideration of secondary impacts (e.g., road grading, road widening, compaction, erosion) on areas of potential archaeological deposit (PAD) at Orana OS-1 and Cainbil Creek OS-1 should be included in the ACHAR. While the ACHAR proposes that direct impacts to the PADs will be avoided, the PADs are within or directly adjoining the construction impact area. If there is potential for the PADs to be impacted and/or extend further into the construction impact area, then Heritage NSW recommends test excavations to identify the nature, extent, and significance of any subsurface deposit. This will ensure that further impacts can be avoided and the site appropriately managed.
4. Clarify whether there the project area contains a grinding groove with rock engravings as shown in Figure 5-2. No further details are provided on this site in the ACHAR.
5. Clarify why the *Mudgee Guardian* was chosen as the local newspaper for the advertisement as required for Stage 1 of *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010) rather than a newspaper from the Dubbo or Coonabarabran areas.



## **Attachment B: Recommended Draft Conditions of Consent**

Below are recommended draft conditions for the protection of Aboriginal cultural heritage and the implementation of an Aboriginal Cultural Heritage Management Plan.

### **Aboriginal Cultural Heritage**

- 1) All reasonable steps must be taken so as not to harm, modify or otherwise impact Aboriginal objects except as authorised by this approval.
- 2) The Registered Aboriginal Parties (RAPs) must be kept informed about the SSD. The RAPs must continue to be provided with the opportunity to be consulted about the Aboriginal cultural heritage management requirements of the SSD.

### **Aboriginal Cultural Heritage Management Plan**

- 3) Prior to carrying out any development, the Applicant must prepare a Heritage Management Plan for the development to the satisfaction of the Secretary. This plan must:
  - a) be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;
  - b) be prepared in consultation with Heritage NSW and the Registered Aboriginal Parties;
  - c) include a methodology for complete and thorough survey of all areas within the project footprint with participation of a representative or representatives of the Registered Aboriginal Parties;
  - d) include a methodology for a test excavation and salvage excavation program as required, with participation of a representative or representatives of the Registered Aboriginal Parties, of sites to be impacted with consideration to understanding site characteristics and local and regional archaeological record;
  - e) include a description of the measures that would be implemented for:
    - i) protecting the Aboriginal cultural heritage items identified within the project footprint or items located outside the approved development footprint, including fencing off the Aboriginal cultural heritage items prior to commencing construction;
    - ii) salvaging and relocating the Aboriginal cultural heritage items located within the approved development footprint;
    - iii) salvaging, relocating or avoiding any Aboriginal cultural heritage items located within the approved development footprint identified during test excavations of the site;
    - iv) include updated baseline mapping of the heritage items within and adjoining to the development disturbance area;
    - v) include updated mapping of all areas that have been and will be subject to monitoring, test excavations, and salvage excavations
    - vi) include conservation options for the mitigation and avoidance to impacts AHIMS registered sites situated within and outside the project footprint;
    - vii) prepare a methodology outlining when Registered Aboriginal Parties must be notified of changes to the Heritage Management Plan;

- viii) include a procedure for assessing significance of Aboriginal objects identified during the monitoring, test excavations, and salvage excavation and ensure that the management and mitigation measures are considered for all sites, and with special consideration for those of high significance;
- ix) a strategy for the long term management of any Aboriginal cultural heritage items or material collected during the test excavation or salvage works;
- x) a contingency plan and reporting procedure including:
  - (1) an Unexpected Heritage Finds and Human Remains Procedure must be prepared to manage unexpected heritage finds (heritage items and values) in accordance with any guidelines and standards prepared by Heritage NSW and in consultation with the Registered Aboriginal Parties.
  - (2) the Unexpected Heritage Finds and Human Remains Procedure must be prepared by a suitably qualified and experienced heritage specialist in relation to Aboriginal cultural heritage, in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010) and submitted to the Planning Secretary for information no later than one (1) month before the commencement of construction.
  - (3) the finalised Unexpected Heritage Finds and Human Remains Procedure must be implemented for the duration of construction.
- xi) ensuring workers on site receive suitable heritage inductions prior to carrying out any development on site, and that records are kept of these inductions; and
- xii) ongoing consultation with Aboriginal stakeholders during the implementation of the plan; and
- f) following the completion of Aboriginal cultural heritage archaeological excavations, an Aboriginal Cultural Heritage Excavation Report(s) must be prepared by a suitably qualified expert. The Aboriginal Cultural Heritage Excavation Report(s) must:
  - i) be prepared in accordance with the *Guide to Investigation, assessing and reporting on Aboriginal cultural heritage in NSW*, OEH 2011 and the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, DECCW 2010; and
  - ii) document the results of any archaeological test excavations and any subsequent salvage excavations (with artefact analysis and identification of a final repository for finds).
  - iii) The Registered Aboriginal Parties must be given a minimum of 28 days to consider the report and provide comments before the report is finalised. The final report must be provided to the Planning Secretary, Heritage NSW, the Registered Aboriginal Parties within 24 months of the completion of the Aboriginal archaeological excavations (both test and salvage).
- g) where previously unidentified Aboriginal objects are discovered, all work must immediately stop in the vicinity of the affected area. Works potentially affecting the previously unidentified objects must not recommence until Heritage NSW has been informed. The measures to consider and manage this process must be specified in the Unexpected Heritage Finds and Human Remains Procedure required by Condition and include registration of Aboriginal objects in the Aboriginal Heritage Information Management System (AHIMS).