



Javier Canon
Senior Environmental Assessment Officer
Department of Planning & Environment
Email: Javier.Canon@planning.nsw.gov.au

Your reference: SSD-29508870
Our reference: DOC22/908232

Dear Javier,

**Advice on Environmental Impact Assessment – State Significant Development – Birriwa
Solar Farm – SSD-29508870**

Thank you for your referral uploaded to the Major Projects Portal on 12 October 2022 seeking advice on the above State Significance Development (SSD) proposal. In preparing this advice I have reviewed the following documents:

- Birriwa Solar – Birriwa Solar and Battery Project: Environmental Impact Assessment – prepared by EMM Consulting Pty Ltd for ACEN Australia Pty Ltd, dated September 2022
- Appendix I – Aboriginal Cultural Heritage Assessment Report – prepared by OzArk Environment and Heritage Pty Ltd, dated July 2022

The Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared in reference to the relevant guidelines as required by the SEARs. Based on the current state of the archaeological investigation, Heritage NSW agrees with the management recommendations outlined in the ACHAR. However, clarification is required within the ACHAR to determine if additional works are required to ensure Aboriginal cultural heritage has been thoroughly assessed and conserved.

We have included detailed advice in relation to recommended revisions of the ACHAR and further investigation in **Attachment A**. Heritage NSW is available to provide further advice on any additional assessment work conducted. Please note that the above comments relate only to Aboriginal cultural heritage regulation matters. Heritage NSW may provide separate comments in relation to environmental heritage considerations.

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

Yours sincerely

Nicole Davis
Manager Assessments
Heritage NSW
Department of Planning and Environment
(As Delegate under National Parks and Wildlife Act 1974)
Date: 9 November 2022



Attachment A – Detailed Aboriginal Cultural Heritage Advice

Heritage NSW recommends that the ACHAR is revised, and further investigations undertaken to address the following points:

Aboriginal Cultural Heritage Assessment Report (ACHAR)

- Section 5 of the ACHAR chose to use data from the Dubbo area, rather than more recent archaeological data from the Mudgee and Ulan areas, which have been subject to extensive archaeological investigations. In accordance with Requirement 1a of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010) please provide a more detailed and up to date synthesis of the archaeological and ethnohistory of the region and describe and evaluate the existing predictive models for the region. Following an assessment of reports from the Ulan area, please update the predictive model and assess any update to the model to the results of the survey. If the predictive model indicates a greater potential for sub-surface deposit than currently envisioned, then additional work may be required.
- One of the project's Registered Aboriginal Parties (RAPs) requested that additional survey of the project area be conducted prior to construction activities commencing owing to low visibility during initial surveys. In response, the ACHAR outlined that additional survey is not required as the predictive model anticipates that much of the project area has low potential for Aboriginal objects. This response may require adjustment based on the outcomes of the re-evaluation of the predictive model.
- Heritage NSW notes that the Aboriginal Heritage Information Management System (AHIMS) search is greater than 12 months old at the time of submission. Heritage NSW requires, as per Requirement 1b of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010), that AHIMS searches be less than 12 months old. In future, please ensure that AHIMS searches are kept up to date.

Areas of Potential Archaeological Deposit

- Section 6.6 of the ACHAR outlines that there is limited potential for *in situ* subsurface archaeological deposit owing to disturbances caused by farming activities. However, there are extensive number of cases where such disturbances have not removed the potential for *in situ* archaeological deposit. The *Birriwa Solar and Battery Project: Land use, Soils and Erosion Assessment*, dated July 2022, notes that within the project area A horizon soils present to varying depths (≥ 50 cm). The identification of surface artefacts across the project area with very low surface visibility, coupled with varying depths of A horizon soils indicate that there may be greater potential for further archaeological material than identified in the ACHAR. Please provide greater explication on the potential archaeological deposit (PAD) across the project area and along Brown and White Creeks, and justification on why test excavations should not occur prior to construction across the project area. If adequate justification is not provided, Heritage NSW recommends that test excavations occur prior to any construction impacts in the project area.

Management and Mitigation measures

- The ACHAR recommends that an Aboriginal Heritage Management Plan (ACHMP) be developed and implemented for the project. Heritage NSW recommends the ACHMP should be included in the Conditions of Approval and that an ACHMP be created and approved by Department of Planning and Environment prior to any development activities occurring within the project area.
- The ACHAR and EIS must take into consideration secondary impacts (e.g., road grading, road widening, public road upgrades, compaction, erosion) to areas of PAD, artefact

sites, and scarred trees within and adjacent to the project area. While the ACHAR notes that direct impacts to all but one site will be avoided, long-term conservation options must be taken into account and included in the Management and Mitigation options. Avoidance of ACH does not denote its long-term conservation and protection. Included in the conservation measures should be details of the protection measures put in place for Barneys Reef Road ST-1.

- 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 adequately conserved.
- Please clarify whether Mangarlowe IF-1 will be subject to direct or indirect impacts through the construction of the BESS and its connection point.

Barneys Reef Road ST-1 (scarred tree)

- Further explication is required on the determination of Barneys Reef Road ST-1 (scarred tree) as of low significance. Heritage NSW queries this determination owing to the rarity of such object across the region, its presence in a largely cleared area, and as it is a non-renewable and dwindling aboriginal cultural heritage resource.
- As per Requirement 23 of *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010) the recording of the site must be consistent with *Aboriginal scarred trees in New South Wales, a field manual* (DEC and Andrew Long 2005). As such, please provide a sketch of the tree and scar that includes the location and shape of scar, location of features (e.g., tool marks), and overall condition of the tree and scar.

Additional information

- Please outline the proposed location of the temporary construction compound and operational infrastructure, including details of the proposed ground disturbance impacts associated with the infrastructure.
- Please clarify the extent to which underground cabling will be used and the extent of ground disturbance impacts associated with its implementation.
- Please clarify the nature of the creek crossings that will be implemented for the lifetime of the project and whether these crossings have the potential to impact subsurface archaeological material associated with the watercourses.