



Mr. Iwan Davies
Director Energy Assessments
Department of Planning & Environment
Email: iwan.davies@planning.nsw.gov.au

Your reference: SSD-10471
Our reference: DOC22/1005666

Dear Iwan,

Heritage NSW - Advice on Environmental Impact Assessment (EIS) - State Significant Development (SSD-10471) - Winterbourne Wind Farm - Walcha, Uralla Shire

Thank you for your referral uploaded to the Major Projects Portal on 14 November 2022 seeking advice on the above State Significance Development (SSD) proposal. In preparing this advice I have reviewed the following documents:

- Winterbourne Wind Farm: Environmental Impact Assessment – prepared by Environmental Resources Management Australia Pty Ltd, dated October 2022.
- Appendix O – Aboriginal Cultural Heritage Assessment Report – prepared by OzArk Environment and Heritage Pty Ltd, dated September 2022.

Based on the Aboriginal Cultural Heritage Assessment Report (ACHAR), provided in support of the Environmental Impact Statement (EIS), there is insufficient information provided for Heritage NSW to advise the Department on whether the management recommendations are adequate and if the ACHAR substantially complies with the SEARs. In order to establish the nature and extent of the Aboriginal cultural heritage values proposed for impact by this development further investigations are required.

We have included detailed advice in **Attachment A** and recommended draft Conditions of Approval in **Attachment B**. 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: 12 December 2022



Attachment A – Detailed Aboriginal Cultural Heritage Advice

Consultation

- We recommend that additional documentation of the consultation process is requested. The applicant needs to provide evidence that consultation was kept continuous as the last consultation recorded in the ACHAR is dated November 2021, with an additional gap in 2021. Heritage NSW requires that consultation with Registered Aboriginal Parties (RAPs) is continuous. Under our guidelines, breaks in consultation of over six months may not constitute continuous consultation. If an unexpected break of greater than six months has occurred, the applicant may be required to restart the consultation process.
- Please clarify why the *Northern Daily Leader* 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 Armidale area.

Aboriginal Cultural Heritage Assessment Report (ACHAR)

- Section 5 of the ACHAR has presented limited number of case studies and predictive models for the New England region. 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 this updated assessment, the predictive model may require updating.
- 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*, that AHIMS searches are contemporaneous with the project. We consider that AHIMS searches of over 12 months old need to be updated. Please update the AHIMS search.
- Please provide detailed and thorough mapping which includes all survey track logs, as per Requirement 5 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (2010), to enable Heritage NSW to assess the efficacy of the survey coverage. The example provided in Figure 6-1 show limited survey coverage of the wind turbine generators, while the ACHAR notes that access tracks, underground reticulation, ETL alignments, ancillary infrastructure, and substations were only sampled. If the areas were not subject to survey, Heritage NSW recommends that a thorough survey occur prior to project approval.

Areas of Potential Archaeological Deposit (PAD) and Archaeological Investigation

- Further justification is required on the designation of Green Range OS-3 with PAD as being of moderate significance. The ACHAR states that it is an exemplar site that contains potential contact archaeology (i.e., knapped glass), a large number of artefacts, and potential archaeology deposit (PAD).
- The ACHAR recommends surface collection of artefacts at Green Range OS-3 with PAD and Ranch OS-01 with PAD if they are to be impacted through the development. Consideration must be given to the impacts, both direct and indirect, that the development may have of the subsurface deposit associated with these sites. As standard practice, Heritage NSW requires the identification of potential archaeological deposits and the subsurface testing of those deposits to establish their nature, extent, and archaeological significance. As test excavations have not been undertaken as part of the EIS, the impacts to ACH values remain unknown. Testing

upfront informs the potential of the project area to contain Aboriginal objects, whether future salvage excavation is required, and would allow the proponent to redesign the project to avoid any significant objects or sites if necessary. Without the completion of test excavations and significance yet to be established, the RAPs could not have provided informed consent.

Scarred Trees

- 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.
- Further explication is required on the determination of scarred trees as of low significance. Heritage NSW queries this determination owing to the rarity of such object across the region, its presence in largely cleared area, and as it is a non-renewable and dwindling aboriginal cultural heritage resource.
- Greater explication and justification on the proposed lopping, capping, and potential removal of the scarred trees before Heritage NSW can assess whether the proposal is appropriate for the conservation of the objects. This must include:
 - Please provide the details of other design options considered for the avoidance of harm and whether these were presented to the RAPs during consultation. If no alternatives were considered, justification is required as for why the only option for the development is for harm to this highly culturally significant Aboriginal object.
 - Justification for the felling and relocation of a scarred tree rather than a redesign of the development to leave the tree *in situ*.
 - Provide an assessment of relevant case studies that have employed similar methodologies for the conservation of scarred trees and the long-term effectiveness of these conservation measures.
 - Please provide detailed description of the long-term conservation and management of the scarred trees if they remain *in situ* or require removal.

Aboriginal Cultural Heritage Management Plan (ACHMP)

- The ACHAR recommends that an 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. Recommended conditions for an ACHMP have been included in **Attachment B**.
- The ACHAR and ACHMP must take into consideration secondary impacts (e.g., road grading, road widening, public road upgrades, compaction, erosion) and long-term conservation options to areas of PAD, artefact sites, quarry, and stone arrangement within and adjacent to the project area. Avoidance of ACH does not denote its long-term conservation and protection. Provisions should include regular (e.g., annual, bi-annual) monitoring of the sites and if secondary impacts are present (e.g., erosion) then PADs should be subject to test excavations so that areas of conservation value and moderate to high significance are adequately avoided and protected.
- 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 sites adequately conserved.



ATTACHMENT B: RECOMMENDED DRAFT CONDITIONS FOR ABORIGINAL CULTURAL HERITAGE

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

Aboriginal 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 an Aboriginal Cultural 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 Aboriginal Stakeholders;
 - c) include a methodology for a test excavation and salvage excavation program with Aboriginal Stakeholder participation of sites to be impacted with consideration to understanding site characteristics, and local and regional archaeological context;
 - d) include a description of the measures that would be implemented for:
 - i) protecting the Aboriginal heritage items identified within the project footprint or items located outside the approved development footprint, including fencing off the Aboriginal heritage items prior to commencing construction;
 - ii) salvaging and relocating the Aboriginal heritage items located within the approved development footprint;
 - iii) salvaging, relocating or avoiding any Aboriginal 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 heritage items or material collected during the test excavation or salvage works;
 - x) a contingency plan and reporting procedure if:
 - (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.

- (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* (2010) and submitted to the Planning Secretary for information no later than one (1) month before the commencement of construction.
- (3) the Unexpected Heritage Finds and Human Remains Procedure, as submitted to the Planning Secretary, 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
- e) include the completion of Aboriginal cultural heritage test and salvage excavations, an Aboriginal Cultural Heritage Excavation Report(s), prepared by a suitable 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*, 2011 and the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, 2010; and
 - ii) document the results of the archaeological test excavations and any subsequent salvage excavations (with artefact analysis and identification of a final repository for finds).
 - iii) The RAPs 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 relevant Councils, and the relevant Local Aboriginal Land Council, and the RAPs within 24 months of the completion of the Aboriginal archaeological collections and excavations (both test and salvage).
- f) 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 in the Aboriginal Heritage Information Management System (AHIMS).