



Nestor Tsambos
Senior Environmental Assessment Officer
Department of Planning & Environment
nestor.tsambos@dpie.nsw.gov.au

Your reference: SSD-29508870
Our reference: DOC23/935547

Dear Nestor,

Response to Submission Report – State Significant Development – Birriwa Solar and Battery Project – SSD-29508870

Thank you for your referral uploaded to the Major Projects Portal on 25 October 2023 seeking advice on the Response to Submission Report for the above State Significant Development (SSD) proposal. In preparing this advice Heritage NSW has reviewed the following documents:

- Relevant sections of Birriwa Solar and Battery Project: Submissions Report – prepared by EMM Pty Ltd, dated September 2023
- Appendix B – Revised Addendum Aboriginal Cultural Heritage Assessment and Historic Heritage Impact Assessment Report – prepared by OzArk Environment and Heritage Pty Ltd, January 2023

Heritage NSW provided comment on the Environmental Impact Statement (EIS), advising that there was insufficient information on whether the management recommendations were adequate and if the ACHAR substantially complied with the SEARs. Heritage NSW identified several points that required additional justification and made several recommendations, including:

- Updating the background information and predictive modelling with other relevant regional studies, including from the Ulan region and other projects within the Renewable Energy Zone.
- Addressing the request from a Registered Aboriginal Party (RAP) for additional survey.
- Aboriginal Heritage Information Management System (AHIMS) search required updating.
- Further information was required on the likelihood of subsurface archaeological material across the project area.
- Consideration of secondary impacts and long-term conservation of scarred trees in the Aboriginal Cultural Heritage Management Plan (ACHMP).
- Additional information on the significance assessment of the scarred tree and updating site recording to comply with the Code of Practice.
- Further information on the auxiliary infrastructure, creek crossing, and underground cabling.

The Submissions Report and Revised Aboriginal Cultural Heritage Assessment Report (ACHAR) addressed each of the above comments. Based on the information provided, along with evidence from surveys and test excavations undertaken for an adjacent project (SSI-48323210), Heritage NSW deems the responses as adequate. Heritage NSW concurs with the implementation of an (ACHMP) prior to any works associated with the project, be included in the Conditions of Approval (CoA). Draft CoAs have been provided in **Attachment A**. Heritage NSW reserve the right to modify the proposed salvage methodology presented in the Revised ACHAR (pg 77-81). Please ensure consultation is continued with the Registered Aboriginal Parties throughout the SSD submission process and the development of the ACHMP.

Please note that the above comments relate only to Aboriginal cultural heritage regulation matters. With respect to Aboriginal cultural heritage, Heritage NSW has no further comments on the proposal at this time. 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

Nicola Roche

Nicola Roche
A/Manager Assessments
Heritage NSW
Department of Planning and Environment
(As Delegate under National Parks and Wildlife Act 1974)
Date: 6 November 2023



ATTACHMENT A: 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 SSI.

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 Aboriginal Stakeholders and reviewed by Heritage NSW;
 - c) include a description of the measures that would be implemented for:
 - i) protecting the Aboriginal objects and sites identified within the project footprint or located outside the approved development footprint, including fencing of the Aboriginal heritage items prior to commencing construction;
 - ii) salvaging and relocating the Aboriginal objects and sites located within the approved development footprint;
 - iii) include updated baseline mapping of the Aboriginal objects and sites within and adjoining the development disturbance area;
 - iv) include updated mapping of all areas that have been and will be subject to monitoring and salvage excavations;
 - v) include conservation options for the mitigation and avoidance to impacts AHIMS registered sites situated within and outside the project footprint;
 - vi) prepare a methodology for ongoing consultation with Registered Aboriginal Parties, including consultation regarding changes to the Heritage Management Plan;
 - vii) include a procedure for assessing significance of Aboriginal objects identified during the monitoring 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;
 - viii) a strategy for the long-term management of any Aboriginal objects collected during the test excavation or salvage works;
 - ix) a contingency plan and reporting procedure for the management of Unexpected Heritage Finds and Human Remains that is prepared by suitably qualified and experienced heritage specialist in relation to Aboriginal cultural heritage, in consultation with the RAPs and in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2010). The relevant procedures must be submitted to the Planning Secretary for information no later than one (1) month before the commencement of construction. :



The Unexpected Heritage Finds and Human Remains Procedure, as submitted to the Planning Secretary, must be implemented for the duration of construction.

- x) 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
- d) 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).