

Our ref: HMS ID 7737

Drew Anderson
Senior Planning Officer
Department of Planning, Housing and Infrastructure
drew.anderson@dpie.nsw.gov.au

Letter uploaded to the Major Projects Planning Portal

Advice on Environmental Impact Statement – State Significant Infrastructure

Proposal: Billabong Creek Environmental Water Regulators

Major Project reference: SSI-50831979

Received: 31 October 2024

Dear Drew,

Thank you for your referral seeking advice on the above State Significant Infrastructure proposal. Heritage NSW understands that the project involves the replacement of two existing weirs along Billabong Creek with two new regulators.

In preparing this advice Heritage NSW has reviewed the following documents:

- Relevant Sections - Billabong Creek Regulators: Environmental Impact Statement- prepared by NSW Department of Climate Change, Energy, the Environment and Water, dated October 2024
- Appendix M – Aboriginal Cultural Heritage Assessment Report - prepared by Austral Archaeology, dated 23 October 2024

Following the review of the above documents, Heritage NSW requests additional information to inform its advice to the Department on whether the Aboriginal Cultural Heritage Assessment Report (ACHAR) adequately addresses the Secretary’s Environmental Assessment Requirements (SEARs) for the project, including the associated recommendations for the management of Aboriginal cultural heritage. Additional information is required as detailed in Attachment A. Following the submission of a revised ACHAR, Heritage NSW may have further comments and/or queries.

Please note that the comments provided relate only to Aboriginal cultural heritage regulation matters. If you have any questions about this correspondence, please contact Corey O’Driscoll, Senior Assessments Officer at Heritage NSW on (02) 9873 8500 or heritagemailbox@environment.nsw.gov.au

Yours sincerely,

Marika Low

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A/Practice Lead

Major Projects

Heritage NSW

Department of Climate Change, Energy, the Environment and Water

As Delegate under *National Parks and Wildlife Act 1974*

26 November 2024

Attachment A – Detailed Aboriginal cultural heritage advice

Consultation

1. Heritage NSW notes a gap in consultation with the Registered Aboriginal Parties (RAPs) between September 2022 and May 2023. Under our policy and guidelines, breaks in consultation of over six months may not constitute continuous consultation. In future, please ensure that consultation is kept continuous as such gaps may require new and/or additional consultation.
2. Please update Section 2 of the ACHAR to accurately reflect the consultation with the RAPs, including issues, comments, and concerns throughout the project and ensure that they have adequate responses. Heritage NSW notes several comments in Appendix A of the ACHAR that outlined issues with the consultation process.
 - a. Further, please reorganise Appendix A of the ACHAR as there are a number of documents that have been provided more than once.
3. Heritage NSW recommends additional targeted consultation on the impacts to several scarred trees within the project area. While adequate time for review was provided to the RAPs, Heritage NSW believes that additional consultation would be beneficial on these objects. The consultation, and the revised ACHAR, should include examples of scarred tree removal procedures, recording, and preservation. Providing this information to the RAPs and Heritage NSW prior to project approval would ensure greater certainty on the management of these Aboriginal cultural heritage sites.

Archaeological Assessment

4. Please provide Heritage NSW with an unredacted copy of the ACHAR.
5. 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. Once track logs have been included, additional mapping may be required to clearly outline the extent of the survey within each survey unit. Where survey has not been conducted (i.e., access tracks, electricity supply), additional surveys may be required prior to any project approvals.
 - a. Additionally, please include mapping that outlines the existing disturbance within each of the project areas.
6. As standard practice, Heritage NSW requires the identification of potential archaeological deposits (PADs) and the subsurface testing of those deposits to establish their archaeological significance. Further explication is required on the assessment that Hartwood Weir, Forest Creek Block Bank, and Wanganella Weir are considered to have moderate archaeological potential. It is unclear if this relates to the potential for subsurface deposits to be present in the vicinity of these areas and the potential depth of any deposit. If this is the case, further discussion is required on PADs in these areas and how these will be managed by the project. Testing upfront informs the potential of the project area to contain Aboriginal objects, define the extent of PADs whether future salvage excavation is required, and allow the proponent to redesign the project to avoid any significant objects or sites if necessary. Without the completion of test excavations, the scientific and cultural significance is yet to be established, meaning the RAPs could not have provided informed consent to their impact.

- a. Further description is required on how PAD boundaries were defined (i.e., landform, soil landscape) and the likelihood of additional PADs across the project area, notably in association with hearth sites (e.g., Hartwood Weir Hearth).
7. Please provide additional information on the determination of previously recorded hearth sites as being of non-Aboriginal origin.