

Our ref: HMS ID 10096 & HMS ID 10108

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Advice on Response to Submissions Report and Amendment Report – State Significant Development

Proposal: Bullawah Wind Farm

Major Project reference: SSD-50505215

Received: 16 April 2025

Dear Lauren,

Thank you for your referral seeking advice on the Response to Submissions Report and Amendment Report for the above State Significant Development proposal.

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

- Relevant sections of the Submissions Report: Bullawah Wind Farm Project – prepared by Umwelt (Australia) Pty Ltd, dated 15 April 2025
- Appendix 11: Revised Aboriginal Cultural Heritage Assessment Report – Bullawah Wind Farm Project – prepared by Umwelt (Australia) Pty Ltd, dated 13 December 2024
- Relevant sections of the Amendment Report: Bullawah Wind Farm Project – prepared by Umwelt (Australia) Pty Ltd, dated 8 April 2025
- Appendix 6: Addendum Aboriginal Cultural Heritage Assessment Report – Bullawah Wind Farm Project, Offsite Road Works, prepared by – prepared by Umwelt (Australia) Pty Ltd, dated 7 March 2025

Response to Submissions

Our previous advice on the Environmental Impact Statement (EIS) requested additional documentation of the Aboriginal community consultation undertaken for the project, additional information on landform mapping and predictive modelling, clarification regarding the assessment of Aboriginal cultural heritage including the presented significance assessment and the assessment of

off-site road works, and updates to the proposed management measures and recommendations. The responses provided in the Submission Report, including the additional information and documentation provided in the revised Aboriginal Cultural Heritage Assessment Report (Revised ACHAR) have largely addressed our prior comments relating to Aboriginal cultural heritage. However, as outlined in **Attachment A**, several outstanding matters remain that must be addressed.

Amendment Report

Heritage NSW understands that several amendments are now proposed for the Project in response to public submissions and agency advice received on the Project EIS during the exhibition period, along with technical advancements to the design of the Project. The amendments include changes to the construction staging, transport routes, Wind Turbine Generators (WTG) with respect to dimensions, obstacle lighting and project design refinements which include the removal of two (2) WTGs from the Project design.

Most of the amendments including the design refinements are understood to have a neutral impact with respect to Aboriginal cultural heritage values. The removal of the two (2) WTGs from the Project design, for example, are in areas of the disturbance footprint where impacts to Aboriginal sites were already planned for avoidance. In contrast, it is understood that several areas along the proposed amended Port to Hay Transport Routes have been identified where road modifications would be required involving ground disturbance outside of the existing road pavement. An Addendum Aboriginal Cultural Heritage Assessment Report (Addendum ACHAR) covering the assessment of three (3) discrete Port to Hay off site road work areas located in Euston, Balranald and Hay, has therefore been prepared and submitted in support of the Amendment.

Heritage NSW notes that the Addendum ACHAR does not appear to have been provided to Registered Aboriginal Parties (RAPs) for review and comment as required by the Secretary's Environmental Assessment Requirements (SEARs). Until such time as consultation requirements have been met and the document updated to reflect this, Heritage NSW cannot provide endorsement of the Addendum ACHAR. Nevertheless, Heritage NSW has completed a provisional review of the Addendum ACHAR, Amendment Report and Updated Mitigation Measures (Appendix 3 of Amendment Report) and has identified several matters, as outlined in **Attachment A**, that must be addressed to ensure compliance with the SEARs.

General concluding comments

Based on the assessments completed in relation to Aboriginal cultural heritage for the project to date (including the revised ACHAR and the Addendum ACHAR), Heritage NSW understands that:

- The project has the potential to directly impact 27 Aboriginal sites located within the Development Corridor resulting in complete or partial loss. Where possible, BWF will seek to avoid or minimise harm to the 27 potentially impacted Aboriginal sites through micro-siting. Where impacts cannot be avoided, BWF will implement a surface collection program prior to any ground clearance works.
- BWF has committed to total avoidance of 19 Aboriginal sites within the Development Corridor and its surrounds, in addition to avoidance of all hearths within identified Aboriginal site complexes within the Project Area.
- Provisional review of the Addendum ACHAR indicates that no Aboriginal sites or areas of potential were identified within the off-site road work areas and on this basis concludes that the Amendment will not result in any additional impacts to Aboriginal cultural heritage.

Heritage NSW provisionally supports the proposed management recommendations developed for the project (Section 10 of the Revised ACHAR and Section 7 of the Addendum ACHAR), which includes the development of an Aboriginal cultural heritage management plan for the project in consultation with project RAPs.

Based on the understanding that the Aboriginal cultural heritage matters outlined in **Attachment A** are adequately addressed, recommendations in relation to Draft Conditions of Consent are included in **Attachment B**.

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

Yours sincerely,

Alison Lamond

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As Delegate under *National Parks and Wildlife Act 1974*

30 April 2025

Attachment A – Detailed Aboriginal cultural heritage advice

Response to submissions: Outstanding ACH matters

1. Our previous advice requested provision of additional documentation of the Aboriginal community consultation undertaken for the project, comprising all correspondence sent, and comments received in relation to Stage 1, Stage 2/3 and Stage 4 (and any project updates as sent to maintain active consultation) (comment #1). The response provided indicated that all available Registered Aboriginal Party (RAP) correspondence has been included in Appendix E of the revised ACHAR, however this Appendix E (RAP responses to Draft ACHAR) only contains a single email thread and the documentation in Appendix C (Consultation Records) is incomplete. Heritage NSW therefore reiterates our request that the applicant provide evidence to demonstrate complete and adequate consultation. Specifically, please provide the following:
 - a. Evidence that the draft assessment methodology (Stage 2/3) was provided to all fourteen RAPs and copies of any responses received.
 - b. Evidence that the draft ACHAR (Stage 4) was provided to all fourteen RAPs and copies of any responses received.
 - c. Evidence that the revised ACHAR was provided to all fourteen RAPs and any copies of any responses received.

Please note that this documentation can comprise of copies of dated email records with all relevant email addresses shown and/or delivery / read receipts of the correspondence and may be provided to Heritage NSW separately for our review and records.

2. Heritage NSW understands that twelve (12) previously recorded Aboriginal sites that fell within or near the Disturbance Corridor (i.e. within 500m) were reinspected during the survey completed for the project. Please confirm that site card updates have been submitted to the Aboriginal Heritage Information Management System (AHIMS) as a record of the current condition of these sites.
3. Our previous advice requested justification for why PEC-E-PAD25 (AHIMS ID #48-6-0230) was not subject to test excavations and stated that where adequate justification could not be provided, additional investigation / test excavations would be required (comment #8). The revised ACHAR refers to the results of test excavations completed within the boundaries of PEC-E-PAD25 (AHIMS ID #48-6-0230) by Navin Officer Heritage Consultants (Navin Officer) as part of the assessment completed for Project EnergyConnect Eastern Section (SSI-9172452), concluding that additional test excavations were therefore not required as part of the current project. The conclusion that additional test excavations are not required, however, is not consistent with information presented in the Revised ACHAR prepared by Navin Officer (2022). The testing completed by Navin Officer, for example, was limited to the location of the proposed tower/s and was not designed to investigate the nature and extent of the PAD beyond their project impact area. We further note that in relation to the site Navin Officer (2022: 151) concluded that: *"The remaining area of PEC-E-PAD25 must still be regarded as having potential to contain Aboriginal cultural objects/deposits, therefore any adjustment to the tower location outside of the tested area, and within the remaining PEC-E-PAD25 would require further archaeological test excavation."* Please clarify this discrepancy and provide justification for why additional assessment and investigation of PEC E PAD 25 (and also likely PEC-E PAD24) is not warranted to inform the impact assessment for the current project. Where adequate justification cannot be provided additional investigation or management measures must be developed in relation to these sites.

4. Please update Figure 9.1B to include the boundaries of PEC-E PAD24 (AHIMS #48-6-0233) and PEC E PAD 25 (AHIMS #48-6-0230).
5. The Revised ACHAR contains discrepancies in the assessed scientific significance of PEC-E PAD24 (AHIMS #48-6-0233) and PEC E PAD 25 (AHIMS #48-6-0230). Table 8.2, for example, states that they are both of 'Moderate' scientific significance, while Table 9.2 lists their scientific significance as 'low'. Please clarify this discrepancy and update for accuracy/consistency.
6. Please clarify whether the proposed management measures for PEC-E PAD24 (AHIMS #48-6-0233) and PEC E PAD 25 (AHIMS #48-6-0230) are consistent with any management requirements for these sites as identified in the Navin Officer assessments and confirm how these (and any other sites that may be subject to other project approvals) will be managed. This should include identification of the interaction and/or administrative management requirements as relevant (e.g., management commitments for sites covered by other ACHMPs/approvals such as Project EnergyConnect - Eastern Section - SSI-9172452, alignment of management plan commitments, discrepancies in proposed management, procedures for notification of works where a site is also covered by other approvals, and so on).
7. Our previous advice requested that the survey results be presented in a format that allows for an assessment of the effectiveness of the survey for each landform unit and then for the study area as a whole as per Requirements 9 and 10 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* ('the Code of Practice'; comment #10). The response provided by the applicant states that the 'subject area boundary' is appropriate to use as the basis for defining survey transects as permitted by Requirement 5c of the Code of Practice. While this is true, the issue raised by Heritage NSW was not in relation to the definition of survey units but rather how survey results have been presented and analysed. We note that regardless of how a survey unit or transect is defined (e.g. whether by subject area boundary, landform, or other arbitrary termination as permitted by Requirement 5c), the Code of Practice still requires that landform data be recorded for each survey unit (Requirement 5b) and that analysis of survey coverage be presented in terms of landform units (Requirement 10). We request that the consultant please be aware of this distinction for future projects.
8. Our previous advice requested clarification regarding which newly recorded Aboriginal sites contained "ground-edge" and "grinding" lithic objects and "grinding implements" (comment # 14). We note that, while the Section 1.1.2.3 of the Archaeological Report (Appendix A of the revised ACHAR) has been updated to state that there were approximately nineteen (19) of such artefact types identified and that they were present at eight (8) sites, it is still unclear which sites they occur at. We note that the presence of such artefacts has implications for understanding past human behaviour and the types of activities that occurred within the landscape. Further, as the response indicates that "*opportunities for further analysis (e.g. residue) of these objects may be available following surface collection*", it is important to establish which Aboriginal sites contain this artefact class. To address this, Heritage NSW requests that a list or table of the Aboriginal sites containing these artefact types be provided, noting that this should also be incorporated later into the proposed ACHMP along with related research questions and methods to address them.

Amendment – additional ACH advice

9. Section 2.0 of the Addendum ACHAR states that *“additional consultation was not undertaken specific to the assessment of the off-site road work areas, given the negligible likelihood of impacts to Aboriginal cultural heritage values.”* This is not supported by Heritage NSW as Aboriginal cultural heritage values continue to exist in disturbed landscapes and Aboriginal cultural heritage values cannot be identified, described or assessed without input from Aboriginal people. To address this matter, and ensure compliance with the requirements of the SEARs, please provide a copy of the Addendum ACHAR to all RAPs. Evidence of this consultation and any responses received must be provided to Heritage NSW for our review/records.
10. Section 4.1 of the Addendum ACHAR indicates that preliminary desktop review of the off-site road works areas consisted of a review of historical and contemporary aerial photography and mapping, however, this has not been presented in the report. As this desktop review informed the predictions and conclusions of the assessment, please update the report to include this assessment incorporating figures of the aerial imagery that have been analysed as part of this desktop review.
11. We note that Mitigation Measure ACH02 in Appendix 3 (Updated Mitigation Measures) of the Amendment Report refers to surface collection of 29 Aboriginal sites. In contrast, the updated assessment for the project (as per the revised ACHAR and Addendum ACHAR) indicate that surface collection is to occur at 27 Aboriginal sites if they cannot be avoided through micro-sitting. Please clarify this discrepancy and update for accuracy as required.
12. Please update management measure ACH07 in Appendix 3 (Updated Mitigation Measures) of the Amendment Report to refer to Table 9.4 of the Revised ACHAR as the most up-to-date table that identifies the Aboriginal sites to which BWF has committed to avoiding and protecting from impact.

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 (ACHMP).

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 ACHMP for the development to the satisfaction of the Secretary. This plan must:
 - a. be prepared by a suitably qualified and experienced person;
 - b. be prepared in consultation with the RAPs and reviewed by Heritage NSW;
 - c. include a description of the measures (and associated methodologies) that would be implemented for:
 - i. protecting the Aboriginal heritage items identified within the project footprint or items located outside the approved disturbance footprint (as identified in Table 9.4 of the Revised Aboriginal cultural heritage assessment report, dated 13 December 2024), including fencing off the Aboriginal heritage items prior to commencing construction;
 - ii. ensuring the avoidance and protection of all hearths from Aboriginal sites within the approved disturbance footprint prior to any works (including works associated with the management of Aboriginal cultural heritage such as surface collection);
 - iii. undertaking additional assessment, consultation and/or obtaining approval/s should it be determined at any stage of the project that any hearths from Aboriginal sites within the disturbance footprint can no longer be avoided;
 - iv. surface collection of Aboriginal objects (in the form of Aboriginal stone artefacts) from Aboriginal sites approved for impact within the approved disturbance footprint;
 - v. a strategy for the short-term and long-term management of any Aboriginal objects salvaged under approval (including those collected during previous test excavations);
 - vi. include updated mapping of all areas that have been and will be subject to mitigation measures such as surface collection or protective fencing. Mapping of Aboriginal sites must be based on data obtained from the Aboriginal Heritage Information Management System (AHIMS) within the last 12 months;
 - vii. ensuring workers on site receive suitable heritage inductions prior to carrying out any development on site, and that records are kept of these inductions;
 - viii. ongoing consultation with RAPs during the implementation of the ACHMP;

- ix. preparing Aboriginal Site Impact Recording Form/s (ASIRFs) for all Aboriginal heritage sites following construction activities with ASIRFs to be submitted to the Aboriginal Heritage Information Management System (AHIMS) registrar.
- d. include a contingency plan and reporting procedure including:
 - i. an Unexpected Heritage Finds and Human Remains Procedure prepared in relation to Aboriginal cultural heritage, with these measures to be prepared in accordance with the guidelines and standards specified by Heritage NSW, be implemented for the duration of the project and to include the requirement to register any newly identified Aboriginal objects or sites in the AHIMS database.
- e. include provision for the preparation of an Aboriginal Cultural Heritage Salvage Report(s) where additional salvage works have been completed. The Aboriginal Cultural Heritage Salvage Report(s), must:
 - i. be prepared by a suitable qualified expert;
 - ii. 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;
 - iii. document the results of the salvage (with artefact analysis, results of any specialist assessments such as residue and use-wear studies, and identification of a final repository for finds); and
 - iv. be provided to the RAPs who 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 salvage works.
- f. include a program to monitor and report on the effectiveness of these measures and any heritage impacts of the project.

Following the Planning Secretary's approval, the Applicant must implement the ACHMP.