

Submission for the Raising of the Warragamba Dam Wall

EPBC ID Number: 2017/7940

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Dear Committee,

Thank you for the opportunity to address the final Environmental Impact Statement for the proposed project 'Raising of the Warragamba Dam Wall'. My submission will mainly focus on the aboriginal cultural landscape aspects of the report, as an interested party who has been an active part of the local government area where the dam exists but also as a person who was born and raised in Katoomba.

Firstly, I would like to acknowledge the traditional owners of the land on which the dam is built, the Gundangurra Nation, whose elders past, present and emerging have been, and remain the custodians of the land on which this project is being proposed.

Some immediate items of note to bring to notice for the committee.

1. *"The Insurance Council of Australia considers the Hawkesbury-Nepean Valley to have the highest single flood exposure in New South Wales, if not Australia".*

At this stage the Insurance Council of Australia has withdrawn its support of this project.

2. 4.1.2 Critical State Significant Infrastructure

"Any SSI may also be declared to be Critical State significant infrastructure if it is of a category that, in the opinion of the Minister, is essential for the State for economic, environmental or social reasons. WaterNSW will be seeking declaration of the Proposal as Critical State Significant Infrastructure on the basis that while the raising of the dam wall will significantly reduce the risk of all flooding in the Valley, the expected mitigation will provide significant social benefits to those living within the Valley as well as a key economic benefit for all of NSW".

A recent decision by NSW Planning Minister Rob Stokes declares he refuses to consider the project as Critical SSI ['Important UNESCO obligations': Minister refuses to declare Warragamba wall-raising critical \(smh.com.au\)](#)

3. 4.3.1 Commonwealth Legislation

"Native Title Act 1993

The Act provides for a national system for the recognition and protection of native title and its coexistence with the national land management system. One of the mechanisms provided for under the Act is an Indigenous Land Use Agreement (ILUA) entered into between a native title group and government agencies for the purpose of directing the use of land and waters. An ILUA was entered into between the Gundungurra People, Gundungurra Tribal Council Aboriginal

Corporation, Gundungurra Aboriginal Heritage Association Inc. and various NSW Government agencies in February 2015”.

Wollondilly Shire Council has also now entered into an ILUA and may contradict the State’s. I am not privy to its contents. Also, the final EIS says this ILUA is from 1997 and again in the final EIS as 2014. There are clear inconsistencies about the date of the current State ILUA in the report itself.

“Heritage Act 1977

The Act establishes a framework for seeking approval for actions that may impact on a heritage feature, including archaeological relics. Heritage features at the study area include parts of Warragamba Dam. Consideration of heritage features and impacts will be conducted as part of the EIA required under the EP&A Act (see above). The Warragamba Dam Supply System together with Haviland Park are listed under the Act and therefore would be the key items for consideration as part of a heritage impact assessment”.

There is a current review of the NSW Heritage Act that is yet to be finalised. It encompasses aspects of aboriginal cultural heritage and may change what is included in the definition and context of what is considered as important when assessing ACH. BY its own admission the Heritage Act Review states that the current Act is clearly outdated and in need updating.

The report has looked at other aspects other than tangible items but the weight of these in the overall assessment is questionable if the Act doesn’t back them. The EIS clearly only does what is required legislatively. No more.

[NSW Heritage Act review | Heritage NSW](#)

[Review of the Heritage Act 1977 \(nsw.gov.au\)](#)

“Threatened Species Conservation Act 1995

*Appendix B provides a list of threatened species and endangered ecological communities (EECs) expected to occur in the Construction Area and Operation Study Area based on a search of the Office of Environment and Heritage (OEH) register and previous ecological studies. The key species and EECs of note are: • Hakea dohertyi (Endangered), Gyrostemon thesiodes (Endangered), Solanum amourense (Endangered), **Eucalyptus benthamii (Vulnerable)**, Acacia clunies-rossiae (Vulnerable), Phyllota humifusa (Vulnerable), Epacris purpurascens var. purpurascens (Vulnerable) and Bossiaea oligosperma (Vulnerable). • White Box Yellow Box Blakely’s Red Gum Woodland, Cumberland Plain Shale Sandstone Transition Forest (Low Sandstone Influence) and (High Sandstone Influence), River-flat Eucalypt Forest on Coastal Floodplains, Shale Gravel Transition Forest, Western Sydney Dry Rainforest, Moist shale Woodland, Turpentine-Ironbark Forest, Cooks River Castlereagh Ironbark Forest, Elderslie Banksia Shrub Forest, Castlereagh Swamp Forest, Freshwater Wetlands on Coastal Floodplains of NSW and Agnes Banks Woodland. • Brown tree creeper (Vulnerable), diamond firetail (Vulnerable), hooded robin (Vulnerable), speckled warbler (Vulnerable), turquoise parrot (Vulnerable), swift parrot (Endangered), blackchinned honeyeater (Vulnerable), little lorikeet (Vulnerable), **regent honeyeater (Critically Endangered)**, green and golden bell frog (Endangered), stuttering frog (Endangered), large eared pied bat (Vulnerable), squirrel glider (Vulnerable), and brush-tailed rock-wallaby (Endangered)”.*

Eucalyptus benthamii and the Regent Honeyeater have long been considered as threatened and in need of conservation efforts. Under the State Minister for the Environment Matt Kean MP, the Camden White Box and Regent Honey Eater have not been included in a declaration of 'Assets of Intergenerational Significance'. It's an outstanding 'oversight' and perhaps shows either a lack of guidance or perhaps something more sinister. Ever the optimist, I'll go with option one 😊.

"Wilderness Act 1987

The Act provides for the declaration and management of wilderness areas. Development cannot occur in a wilderness area unless subject to written consent from the Minister administering the Act. Parts of the area upstream of Warragamba Dam form part of the Kanangra-Boyd and Nattai Wilderness Areas. While no development will occur within the footprint of these areas, the raising of Warragamba Dam will require the consent of the Minister to the extent it causes inundation within these areas. This will be sought as part of the EIA process under the EP&A Act (see above)".

It seems like semantics to say the actual development won't be occurring in a wilderness area when the actual output will clearly damage wilderness areas. Not to mention the World Heritage classification of the area and according to Appendix K of the report, the highly significant cultural landscapes within the areas upstream that will be flooded.

"Water Management Act 2000

"The Cultural Values Assessment involved background research and limited consultation with the RAPs (Registered Aboriginal Peoples), the majority of who were not willing to participate in the formal assessment process or nominate knowledge holders. The RAPs unwillingness to participate is the result of the legacy of dispossession and loss from the original Warragamba Dam project and distrust of NSW government and processes of assessment".

This assertion within the body of the EIS is absolutely at odds with the a number of Appendices attached to the report.

- Appendix D-Community Consultation-goes into detail about the amount of consultation carried out with the Registered Aboriginal Parties (RAP's) and shows clearly that consultation was carried out with the support and invitation of the Gundangurra peoples. In fact, being part of this campaign for over 2 years, I know that the consultants failed to consult with the Gundangurra sufficiently, so the RAP's took it on themselves to invite them and to assist them in the finding of sites and understanding the cultural landscape.
- Appendix K-Aboriginal Cultural Heritage Assessment Report-the context of the above comment (The RAP's unwillingness to participate...) in the EIS comes from this report. The full context is around the knowledge holders for the area, not around participation in the consultation. My understanding is that the lack of willingness was based around the comment on the draft report and the desire by the consultants to talk to knowledge holders. The RAP's response is based on protecting the landscape that is left and the unwillingness to trust processes that in the past have been disrespectful. The EIS supports their distrust.

Items to highlight from Appendix K- Aboriginal Cultural Heritage Assessment Report

From the assessment directly

Six strands of distinct but interrelated cultural values have been identified within the study area:

- *Gurrangatch-Mirrigan Dreaming Track.*
- *Buru (Kangaroo) Dreaming Story Places.*
- *Living Places (history of occupation and use).*
- *Cultural Places (ritual life).*
- *Archaeological Sites (tangible record of traditional occupation and use).*
- *Waterways (the Wollondilly, Nattai, Warragamba, and Coxs Rivers and their tributaries).*

The Archaeological Assessment involved background research, consultation with RAPs to agree on an appropriate methodology for assessment and 76 days of field survey covering a total area of 2,655 ha within the study area and adjoining lands. Approximately 33% survey coverage of the impact area was achieved within the Project Upstream Impact Area (PUIA), an area of 1,401 ha of which 464 ha were surveyed. The archaeological assessment found 334 cultural heritage sites within the study area and adjoining land.

Using a predictive model, it was estimated that there would be a total of 174 archaeological sites within the PUIA.

There were 32 cultural value places identified in the study area, 29 of which are already impacted and would be subject to partial impact Warragamba Dam Raising Project Aboriginal Cultural Heritage Assessment iv from the Project with the remaining three subject to infrequent inundation.

*****These locations of cultural value cannot be considered comprehensive. The study area sits within a cultural landscape that is rare in eastern Australia for its preservation of detailed Dreaming stories and a combination of associated sites and places, including sites of archaeological and historical value, existing in a visually striking “natural” environment that imbues a strong sense of place. *****

*****The cultural landscape is assessed to be of very high significance*****

Impacts from the proposal include:

- *Harm to the cultural landscape through the periodic temporary flooding of 43 known archaeological sites (and an additional predicted 131 archaeological sites) and 11 cultural places within the PUIA.*
- *Cumulative harm to the intangible values of the cultural landscape through extension of previously unmitigated impact on cultural values from the construction of the Warragamba Dam and flooding of the Burrorang Valley and its tributary valleys.*

A total of seventeen combined recommendations have been made in relation to Aboriginal cultural heritage values within the study area. The recommendations made here are all indirect mitigation measures, if the Project proceeds the limitations of the proposed activities mean that there is no

capacity for directly applied management measures for the avoidance or minimisation of harm. The recommendations relate to consultation, management, access to Country, site recording, cultural values recording and education.

These recommendations were shaped by feedback received from the RAPs during the consultation process, however, it has been clearly communicated by the RAPs that they do not support the Project. The Project is understood as a continuance of the dispossession and loss of cultural heritage initiated by the original development of the Warragamba Dam in the 1950s.

Community Consultation

It seems from the methodology used for community consultation that the consultants were not seeking to outline and educate groups and individuals about the possible impacts of the current environment in this study. By their own admission, they told people the impacts of the wall project not proceeding. That is not an Environmental Impact Study. That is Project Planning.

Summary

Understandably the State Government needs solutions to mitigate flooding below the wall especially with increased development in the valley. However, mitigating flooding in the valley at the expense of increased flooding upstream seems to 'take from Peter to give to Paul'. It is incredibly damaging and unfair (to say the very least) that the upstream wilderness's, World Heritage and highly significant cultural landscapes should be sacrificed in order for either the perception of dealing with flooding issues or to go head long into a project that can be better dealt with, at less cost, less construction and interference to the people in the local community.

Other options are being put forward with great research, by people who understand the flooding issues.

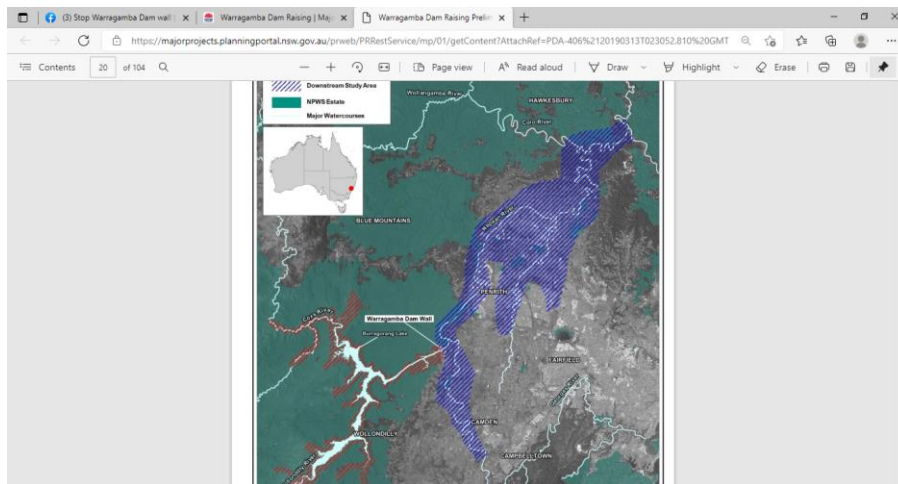
The only thing I thought of was to make any raising of the wall a permeable layer rather than a solid wall. Like a gabion wall. Slow penetration over a number of days that allows other flood waters to escape first before the dam water enters the valley. Maybe 3m at a slower level of permeability, 3m at a higher level and a last 3m at a faster pace. It may never get to that higher level. Perception plays an important role. A gabion wall that is solid gives people confidence and is actually doing something to minimise flooding in the valley and minimise flooding in the upstream catchment.

Thank you again for the opportunity to submit and respond to the EIS. I look forward to your consideration of all submission in the near future.

NB. This is discussed further in the Appendix D-Community Consultation. The RAPs were unwilling to share knowledge to protect it. They know that once knowledge is shared it will be vulnerable to people coming in and looking to find, relics or other 'tangible' items. It's the same reason they don't support the 300km trail. They want to protect whatever is left, not leave it further exposed. ****The Wollondilly Council Heritage Committee in 2020 under Toni Avery had Kazan talk at one meeting. Clr Lowry (and Clr Banasik were also) present. The minutes would have reflected the view about the 300km walk as this was discussed. **** It is true that there is a level of distrust but this came after the long battle so far in this campaign to be heard. The lack of initial consultation with the Gundangurra, which only occurred after they (RAP's) went to the consultants is one reason.

"The Cultural Values Assessment nevertheless documented the above six strands of cultural values that contribute to the cultural landscape which the Project is situated within. There were 32 cultural value places identified in the study area, 29 of which are already impacted and would be subject to partial impact Warragamba Dam Raising Project Aboriginal Cultural Heritage Assessment iv from the Project with the remaining three subject to infrequent inundation. These locations of cultural value cannot be considered comprehensive".

And perhaps the 29 sites that are already impacted by the current dam guided where they looked???



[‘Grossly under-playing’: Dam’s impact to UNESCO area differs from leaked report \(smh.com.au\)](https://www.smh.com.au/news/environment/grossly-under-playing-dam-s-impact-to-unesco-area-differs-from-leaked-report-20180718-p4981831.html)

EIS Chapter 6-Consultation

Discussion on Facebook has pointed out that the consultation for the EIS revolved around the outputs, not the existing environment. So, consultation was to show people what was being proposed and the preferred mode of getting there rather than what was at stake (that is the impact on the existing environment). It is clear that the consultation started at the end point and worked backwards. Which isn’t consultation. That is project planning. I have attached this Chapter for your consideration.

Chapter 18-Aboriginal Cultural Heritage Study

Some musings on this chapter.

As part of the background research the consultants (Niche Environment) have outlined a number of information sources. Number 2 is from an Aboriginal Place Nomination that is yet to be determined.

2 Aboriginal Place nomination

Most of the study area has been nominated by the Gundungurra Aboriginal Heritage Association Incorporated to be considered by the Minister for gazettal as an Aboriginal Place. The Aboriginal Place nomination was submitted to the then Office and Environment and Heritage on 18 July 2018. The ‘Journey of Guringatch and Mirrigan’ is the central focus for the nomination. In addition to the published account of the story, Mathews recorded other notes regarding this and other stories which he collected from Gundungurra people (Mathews n.d.). **A determination on this nomination has yet to be determined by the Minister for the Environment.** (Minister Keane)

The main EIS stated earlier that the RAP’s would not participate in the study citing the reasons discussed before. This chapter outlines that non-cooperation by the RAP’s only occurred after the draft report was published and was open for comment and specifically related to the knowledge keepers of the Gundangurra.

This chapter also shows clearly how the group participated and showed the consultants significant areas of heritage and this is backed by the consultants Chapter 6-Consultation-which says that they visited sites with RAP's at the RAP's invitation. In fact, the RAP's sort out the consultants and chased them to be able to make a contribution to participate. Not the other way round. (*Beryl* lol).

Survey Information

The survey information in the report is based largely on assumptions, Maybe a large enough sample area was not covered. The conclusion was that the area sampled was 'adequate'.

If the area was being sampled for threatened, endangered and critically endangered species I would imagine the sample size would *not be adequate*.*