



Office of  
Environment  
& Heritage

Your reference: SSD 8835  
Our reference: DOC18/250578  
Contact: Miranda Kerr  
Ph 02 6022 0607  
Date: 21 May 2018

Meghna D'Souza  
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GPO Box 39  
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Via email: [meghna.dsouza@planning.nsw.gov.au](mailto:meghna.dsouza@planning.nsw.gov.au)

Dear Ms D'Souza

**RE: Bomen Solar Farm (SSD 8835) – Exhibition of Environmental Impact Statement**

I refer to your email dated 19 April 2018 seeking comment from the Office of Environment and Heritage (OEH) about the Environmental Impact Statement (EIS) for the Bomen Solar Project at Trahairs Road, Bomen, in the Wagga Wagga Local Government Area.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) provided by the Department of Planning and Environment (DPE) to the proponent on 21 November 2017.

OEH considers that the EIS **does** meet the Secretary's requirements for biodiversity, contingent on the applicant addressing issue 2 identified in Attachment A.

The EIS **does not** meet the Secretary's requirements for Aboriginal cultural heritage assessment (ACH). The Aboriginal Cultural Heritage Assessment Report (ACHAR) is incomplete and should be finalised before development consent is granted.

A summary of our assessment, advice and recommended conditions of approval is provided in **Attachment A**. Detailed comments are in **Attachment B**.

All plans required as a Condition of Approval that relate to biodiversity or ACH should be developed in consultation and to the satisfaction of OEH, to ensure that issues identified in this submission are adequately addressed.

If you have any questions regarding this matter, please contact Miranda Kerr on (02) 6022 0607 or email [miranda.kerr@environment.nsw.gov.au](mailto:miranda.kerr@environment.nsw.gov.au).

Yours sincerely

**ANDREW FISHER**  
**A/Senior Team Leader Planning**  
**South West Branch**  
**Regional Operations**  
**Office of Environment & Heritage**

Copy to: Anthony Ko (Senior Environmental Assessment Officer) [anthony.ko@planning.nsw.gov.au](mailto:anthony.ko@planning.nsw.gov.au)

ATTACHMENT A – OEH Assessment Summary for Bomen Solar Farm Environmental Impact Statement (SSD 8835)

ATTACHMENT B – Detailed comments for Bomen Solar Farm Environmental Impact Statement (SSD 8835)

## ATTACHMENT A OEH Assessment Summary for Bomen Solar Project Environmental Impact Statement (SSD 8835)

### Key Issues

1	<i>Issue</i>	<p>The Aboriginal Cultural Heritage Assessment Report (ACHAR) is incomplete and must be completed prior to project approval to meet requirements of the SEARs.</p> <p>In summary:</p> <ol style="list-style-type: none"> <li>1. Test excavation must be conducted in the investigation stage of the project to understand the presence, nature, extent and significance of the archaeological resource.</li> <li>2. Aboriginal consultation in accordance with the consultation requirements (OEH 2010) is ongoing. The assessment must demonstrate that RAPs have been given opportunity and been involved in identifying heritage values and assessing significance.</li> <li>3. The ACH Significance Assessment contains only 9 of the 22 known Aboriginal sites within the project area. The significance assessment is to be completed and to include all sites within the project area and consideration and assessment of all heritage values (cultural, scientific/archaeological, aesthetic and historic).</li> <li>4. An assessment of harm in accordance with the Code of Practice has not been completed.</li> <li>5. Potential indirect impacts of the proposal on the Bomen Axe Quarry Aboriginal Place have not been considered. The Bomen Axe Quarry management plan report and site assessment and statement of significance report should be utilised to develop strategies to avoid and minimise harm</li> <li>6. Mitigation measures must be fully developed and articulated in the EIS and ACHAR and not left for a post approval management plan.</li> </ol>
	<i>Extent and Timing</i>	Pre-determination

2	<i>Issue</i>	Any vegetation clearing additional to that identified in the EIS must be in accordance with the Wagga Wagga Development Control Plan. It is critical to the 'maintain and improve' outcome of the Wagga Wagga biodiversity certification that native vegetation identified for protection in the Biodiversity Certification Report (DECCW 2009) is protected and appropriately managed.
	<i>Extent and Timing</i>	Pre-construction
	<i>Recommended Condition of Approval</i>	<ul style="list-style-type: none"> <li>– To comply with the maintain and improve outcome for the Wagga Wagga biodiversity certification, any vegetation clearing additional to that identified in the EIS must be in accordance with the Wagga Wagga Development Control Plan 2010.</li> <li>– The Flora and Fauna Management Plan will include requirements for management of remnant vegetation patches as specified in the Wagga Wagga Development Control Plan 2010 for the Bomen Urban Release Area.</li> </ul>

## **OEH Advice**

- 1.1 Is the 'baseline' for impact assessment reasonable? No (ACH)**

The baseline assessment for ACH is not reasonable because it is incomplete

- 1.2 Are predictions of impact robust (and conservative) with suitable sensitivity testing? Yes/No**

The predictions regarding the distribution of ACH are reasonably robust but testing has not been completed and further testing and investigation is necessary

- 1.3 Has the assessment considered how to avoid and minimise impacts? No (ACH)**

- 1.4 Does the proposal include all reasonably feasible mitigation options? No (ACH)**

Section 10 of the report and the EIS discusses some mitigation options – cultural heritage awareness training and salvage of sites. The mitigation measures need to be developed further in the assessment report prior to project approval. It is not appropriate to propose mitigation measures in a post approval management plan.

- 2. Is the assessed impact acceptable within OEH's policy context? No (ACH)**

- 3. Confirmation of statements of fact**

The Biodiversity Assessment is factually correct.

Statements in the Aboriginal cultural heritage assessment are generally correct but incomplete.

- 4. Elements of the project design that could be improved**

Measures to avoid and minimise harm to Aboriginal cultural heritage values need to be further developed, including avoiding harm to the values of the Bomen Axe Quarry Aboriginal Place

## **ATTACHMENT B Detailed comments for Bomen Solar Project Environmental Impact Statement (SSD 8835)**

### **Aboriginal cultural heritage**

#### **The EIS does not meet the Secretary's requirements for Aboriginal cultural heritage.**

OEH has reviewed the 'DRAFT Bomen Solar Farm Aboriginal Archaeological and Cultural Heritage Impact Assessment' report (AECOM 2017). We note that the report is a draft and the assessment and Aboriginal community consultation is ongoing.

Points 1 to 6 below must be completed prior to development approval, if granted. OEH request another opportunity to review the assessment report after the proponent has addressed the following points and the report is finalised.

#### **Further investigation prior to project determination**

1. The development of the research design for test excavation and the test excavation for the transmission line must be conducted in the investigation stage of the project and prior to project approval. The purpose of test excavation as an investigative tool is to understand the presence, nature, extent and significance of the archaeological resource to inform management options.

#### **Consultation**

2. It is noted that Aboriginal consultation in accordance with the consultation requirements (OEH 2010) is ongoing. Stage 4 of the consultation requirements is still to be completed. The assessment is to include submissions received from the Registered Aboriginal Parties (RAPs) through the consultation process (Stages 1-4) and a response demonstrating how RAP views have been considered. The assessment is to demonstrate that RAPs have been given opportunity and been involved in identifying heritage values and assessing significance. The assessment is to demonstrate evidence of input of RAPs has been considered when determining real or potential harm.

#### **Significance Assessment**

3. Section 8.0 the Significance Assessment is incomplete. It contains only 9 of the sites recorded in the project area. Table 35 indicates there are 22 known Aboriginal sites within the project area. There is no assessment of aesthetic or historic significance and the cultural significance is blank as the draft report is currently out for comment with the Registered Aboriginal Parties.

#### **Assessment of Harm**

4. An assessment of harm in accordance with the Code of Practice has not been completed. There is no consideration of indirect impacts documented in the report. A table should be prepared in the impact assessment as shown on page 21 of the CoP: with each site within the project area and include site number, type of harm (direct / indirect / none), degree of harm (total / partial / none) and consequence of harm (total loss of value / partial loss of value / no loss of value).
5. The report needs to assess potential indirect impacts of the proposal on the Bomen Axe Quarry Aboriginal Place. The following reports should be reviewed to assess potential impacts of the proposal on the heritage values of the Bomen Axe Quarry and develop strategies to avoid and minimise harm:
  - a) OEH November 2016, 'Management Plan Wollundry Lagoon & Tony Ireland Park, Wiradjuri Reserve & Gobba Beach, Flowerdale Lagoon, Bomen Lagoon, Bomen Axe Quarry Aboriginal Places'.
  - b) Go Green Services, Wagga Wagga June 2011, 'Bomen Axe Quarry and Manufacturing Site Assessment and Statement of Significance for an Aboriginal Place Declaration'.

## Mitigation measures to be developed

6. Some mitigation measures are mentioned in section 10, while it also states, “In addition, the ACHMP will include details of proposed mitigation and management strategies of all Aboriginal sites” (AECOM Australia, 2018:89). As per OEH correspondence to DPE regarding the SEARS, mitigation measures are to be fully developed and articulated in the EIS and ACHAR and not left for a post approval management plan.

## General reporting

7. Section 1.5 Objectives could be expanded to include the requirements of OEH in the letter attached to the SEARS.
8. Include search results of the State Heritage Inventory in the assessment to meet the requirement 1 of the ‘Code of Practice of Archaeological Investigation of Aboriginal Objects in New South Wales’ (Code of Practice).
9. To make it clear to the reader, a map should be prepared to indicate Aboriginal sites that are proposed to be harmed by the development and sites that will not be harmed by the proposal. The map could be linked to a table (e.g. Table 35). Zoomed in maps may be necessary to shown sites near the boundaries of the project area.
10. Include copies of sites cards that are proposed to be harmed by the development.
11. There is an inconsistency in the assessment report as to where the advertisement was placed. Section 3.1.1 states the public notice was placed in the Wagga Daily Advertiser on 14 November 2017. Appendix D states the advertisement was in the Bungendore Weekly. Bungendore is more than 250 kilometres to the east of the project area.
12. A management of human remains protocol is to be developed.
13. An unanticipated finds protocol is to be developed. We recommend the following protocol be included to ensure compliance with legislation in place to protect ACH in NSW and to ensure no additional harm is caused if Aboriginal sites and objects are encountered during proposed works:

*If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:*

1. *Not further harm the object*
2. *Immediately cease all work at the particular location*
3. *Secure the area to avoid further harm to the Aboriginal object*
4. *Notify OEH as soon as practical on 131555, providing any details of the Aboriginal object and its location*
5. *Not recommence any work at the particular location unless authorised in writing by OEH.*

*If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and OEH contacted.*

## Historic Heritage

We are unable to comment on the Historic Heritage Assessment provided within the EIS. OEH’s Heritage Division are the appropriate contact for historic cultural heritage. Please forward the relevant sections to [heritage@heritage.nsw.gov.au](mailto:heritage@heritage.nsw.gov.au), if a copy of the assessment has not already been provided.

## **Biodiversity**

### **The EIS meets the Secretary's requirements for biodiversity.**

The proposed development is within the Wagga Wagga Biodiversity Certification area. This means that this development is taken to not be likely to have a significant impact on any threatened species, population, or ecological community or its habitat.

However, the Wagga Wagga Biodiversity Certification Order also relies on the Wagga Wagga Development Control Plan (DCP) that requires the retention and management of low conservation value remnant patches in Bomen, including the patch of woodland on Trahairs Road abutting the eastern boundary of the proposal.

### **Biodiversity Assessment**

#### *Section 1.7.2 Construction Activities (page 7)*

This section states that no vegetation removal is required for Trahairs Road to be used for access to the site during construction.

Any vegetation clearing additional to that identified in the EIS must be in accordance with the DCP. It is critical to the 'maintain and improve' outcome of the Wagga Wagga biodiversity certification that native vegetation identified for protection in the Biodiversity Certification Report (DECCW 2009) is protected and appropriately managed.

#### *Table 5.1 Safeguards and management measures (page 30)*

The DCP requires that a development application for the patch of vegetation abutting the eastern boundary of the proposal site on Trahairs Road is accompanied by a draft management plan. While the patch is not on the proposal site, the Biodiversity Assessment Report commits the proponent to preparation of a Flora and Fauna Management Plan (page 30) including maps of the protected vegetation as part of the Construction Environmental Management Plan.

Requirements for protected native vegetation management plans are specified in Part E, Section 13 – Bomen Release Area, Natural Resource Management Control C1 (page 23) of the DCP. The management plan is to *"provide for protection and revegetation of the perimeter areas of the Bomen industrial zone with the multiple objectives of management for visual impact mitigation, assistance in the management of surface water runoff, acoustic protection and biodiversity offsetting and enhancement."*

### **Recommended actions prior to project approval:**

- The **Fauna Rescue Protocol** (page 30) should also include "ensuring that local wildlife rescue organisations are aware in advance that construction is starting and that rescued fauna may need assistance".

### **Recommended conditions of development consent:**

- *To comply with the maintain and improve outcome for the Wagga Wagga biodiversity certification, any vegetation clearing additional to that identified in the EIS must be in accordance with the Wagga Wagga Development Control Plan 2010.*
- *The Flora and Fauna Management Plan will include requirements for management of remnant vegetation patches as specified in the Wagga Wagga Development Control Plan 2010 for the Bomen Urban Release Area.*

## **References**

DECCW (2009) *Proposed Biodiversity Certification for the Wagga Wagga Local Environment Plan*. Department of Climate Change and Water, Queanbeyan.

WWCC (2010) *Wagga Wagga Development Control Plan 2010*. Wagga Wagga City Council. <http://www.wagga.nsw.gov.au/city-of-wagga-wagga/planning-dev/plans.-policies-and-controls/wagga-wagga-planning-documents>