



Our ref: DOC21/731942-10

Mr Mark Wisely
Senior Planning Officer
Infrastructure Assessments
Department of Planning, Industry & Environment
Via email: Mark.Wisely@planning.nsw.gov.au

Advice provided via the Major Project Portal

Dear Mr Wisely

Notice of Exhibition – Merimbula Sewage Treatment Plant Upgrade (STP) and Ocean Outfall (SSI-7614) (Bega Valley)

Thank you for your referral dated 23 August inviting comments from Heritage NSW on the exhibited Environmental Impact Statement (EIS) for the above State Significant Infrastructure (SSI) Application. We understand this project is to upgrade the existing STP with additional wastewater treatment processes and construct and operate a new 3.5km ocean outfall pipeline and diffuser in Merimbula Bay. Associated with the construction of these new facilities will be the decommissioning of the existing outline and decommissioning of existing exfiltration ponds.

Heritage NSW has reviewed the following documents as part of our assessment:

- Revised SEARs for SSI-7614, issued 14 May 2021;
- *Merimbula Sewage Treatment Plant Upgrade and Ocean Outfall: Environmental Impact Statement*, prepared by AECOM Pty Ltd and dated August 2021;
- Appendix A – SEARs Compliance Table; and
- Appendix I - *Aboriginal Cultural Heritage Assessment Report: Merimbula STP Upgrade and Ocean Outfall Project*, (ACHAR) prepared by AECOM Australia Pty Ltd and dated August 2021;

We provide the following comments in relation to Aboriginal cultural heritage regulation matters.

Aboriginal consultation process is non-compliant

We note that the process of Aboriginal consultation undertaken for this project does not comply with Clause 60(5) of the consultation requirements for proponents [National Parks and Wildlife Regulation 2019](#):

- Stages 1, 2 and 3 of the Aboriginal consultation process were condensed into a single stage. Stage 1 (notification of project proposal and registration of interest) must permit a 14 day registration period, after which time the project methodology must be sent to the registered parties for a 28 day review and comment period.
- In accordance with Clause 60(5) the proposed applicant must, within 28 days after the closing date for the registration of interests:
 - (a) make a record of the names of each Aboriginal person who registered such an interest (registered Aboriginal party), and

- (b) forward a copy of that record to the Department of Planning, Industry and Environment and the relevant Local Aboriginal Land Council

Heritage NSW did not receive a list of the Registered Aboriginal Parties (RAPs) for this project. We ask AECOM to remain mindful of the consultation requirements in future.

Aboriginal cultural heritage regulation review of EIS and associated reports

The ACHAR identified that Aboriginal burials have previously been recorded within the project area at a depth of 2m – 3m below the original ground surface (ACHAR Table 11 page 5-16). We note that the dune ridges and the backbarrier flats of the Merimbula Barrier sand mass have been identified as having high archaeological potential, and that the temporary beach access route has been selected because it avoids these landforms. The ocean outfall pipeline will traverse these landforms, but via a trenchless method.

The EIS states that all subsurface archaeological deposits will be avoided through the use of trenchless drilling methods (EIS section 9.3.4 page 9-24). However, section 9.3 of the ACHAR states that the upper limit of drilling depths within dune ridges and the backbarrier sand flat will be approximately 2m to 7.5m. We strongly recommend that trenchless drilling occur at a depth of at least 3.5m to ensure that all potential burials are avoided.

The majority of the project area has been highly disturbed through historical land use activities including sand mining, construction of the previous STP, construction of the golf course and vegetation clearance. There are two corridors with low to moderate disturbance: on the access track to the existing exfiltration ponds, and the footprint of the outfall pipe within the foredunes.

The ACHAR identified two previously recorded sites within the project area: an Aboriginal burial site containing 3 individuals (62-6-0173), and an artefact scatter (62-6-0133). Three representatives of the RAPs participated in an archaeological survey of the project area in October 2018 which attempted to relocate previously recorded sites and identify any new sites. Although the burial site is partially located within the project area, no evidence of it was identified during the survey. The two flakes comprising site 62-6-0133 were identified as having been salvaged in 1979. A previously recorded scarred tree was also relocated, and while the scars were assessed as being European in origin it will be managed as an Aboriginal site due to RAP concerns. Three new sites were also recorded: one shell midden, one shell midden with artefacts, and one isolated artefact. All three sites were identified in exposures on vehicle tracks within the Merimbula Barrier sand mass.

We note a program of archaeological test excavations was undertaken to inform the proposed location of geotechnical pits. Stone artefacts were identified in three of the pits on spur dunes within the Merimbula Barrier's backbarrier sand flat, overlooking a freshwater wetland. The greatest density of artefacts (N=63) occurred within test pit 6 at the location of bore hole BH002.

As a result of the archaeological survey and test excavations, it has been established that there are three Aboriginal sites located entirely within the Project Area, and another three located partially within the Project Area. These will all be avoided through project design.

Section 8.4 of the ACHAR (cultural values) does not adequately incorporate the cultural values provided by the RAPs during the consultation process as required by the [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW](#). This section should outline the cultural values within the project area and surrounds that the RAPs have identified as having high cultural significance and detail why. The cultural values should then be considered in conjunction with the scientific values to develop a comprehensive assessment of values and significance.

We note that the project area footprint was increased to contain an additional 2.5km of beach and part of the Merimbula golf course following the original archaeological survey and test excavations. AECOM consider that these areas contain low surface and subsurface archaeological potential and have recommended the inclusion of an unexpected finds procedure in the project's Aboriginal Cultural Heritage Management Plan to manage discovery of Aboriginal sites during works (AECOM letter dated 12 August 2021). We also make note that the RAPs do not appear to have been specifically consulted on the cultural values within these additional areas.

Aboriginal cultural heritage advice

Heritage NSW support AECOM's project recommendations in section 10.0 of the ACHAR as they will lead to avoidance of all Aboriginal cultural heritage sites. We suggest the recommendations be used to form conditions of the project consent should it be approved.

While the proposed development appears to have low potential to impact on Aboriginal cultural heritage, we provide the following recommendations:

- Section 8.4 of the ACHAR be revised to incorporate RAP feedback on cultural values, including in the areas where the footprint was increased after the archaeological survey and test excavations.
- AECOM contact AHIMS to:
 - Update the validity of site 62-6-0133 because the site was salvaged in 1979.
 - Correct the GPS coordinates of sites 62-6-0173 and 62-6-0475 through the submission of new site cards.
 - Update the polygon boundary for site 62-6-0809 via a new site card to include the approximate area of additional burials reported by Graham Moore. The updated boundary should be used on all project mapping.

If you have any questions regarding the above advice please contact Sarah Robertson, Archaeologist, Aboriginal Cultural Heritage Regulation – South, at Heritage NSW, on (02) 6229 7088 or via email at sarah.robertson@environment.nsw.gov.au.

Yours sincerely



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Heritage NSW
21 September 2021