

OEH Attachment A – Key Issues

Key Issues	OEH Comment	Extent & Timing	Artefact Response
1	Assessment for ACH is not finalised Recommended action: • There are issues that need to be addressed regarding ACH EIS, ACHAR and survey report (refer to Attachment B).	Pre-determination	These items have been addressed in ASR & ACHAR per tables below
2	Care Agreement for the management of salvaged Aboriginal Objects Recommended action: • If salvaged Aboriginal Objects are to be kept with an Aboriginal organisation, an Approved Care Agreement should be sought from OEH following project determination but prior to the salvage of artefacts.	Post determination and prior to salvage	Requirement for a Care Agreement is already in ACHAR recommendations but is now emphasised using OEH wording.
3	Aboriginal Site Impact Recording Forms Recommended action: • An Aboriginal Site Impact Recording Form must be completed and submitted to AHIMS following harm for each site salvaged destroyed from works.	Post determination and post salvage	Inserted to recommendations ASR & ACHAR

OEH Advice

Item	OEH Comment	Artefact Response
1.4	Does the proposal include all reasonably feasible mitigation options? Largely The management of Aboriginal sites proposed comprises three options: • avoidance and fencing of sites preventing harm, • collection of surface artefacts prior to construction works and reburial of artefacts in protected location on site” or • a care agreement be put in place for the salvaged artefacts to remain with the West Wyalong Local Aboriginal Land Council. There is a recommendation for a Heritage Interpretation Strategy in the ACHAR and EIS that does not relate to the rest of the report. Further consideration is required from the proponent on this (see Attachment B). A heritage interpretation strategy may be better incorporated into a cultural heritage management plan.	1) Avoidance of impacts to all identified surface lithic artefacts is not possible. Those artefacts that will not be impacted will be left in place within an enclosed No Go Zone with appropriate signage 2) Identified surface lithic artefacts that are to be impacted by the proposal will be collected following development consent and prior to construction. Our ASR (Artefact Heritage 2018a) had proposed reburial of these artefacts. RAP consultation strongly indicated a preference that these artefacts be kept under a Care agreement at the West Wyalong LALC. 3) The ACHAR recommendations provide for this Care Agreement 4) A Cultural Heritage Management Plan is under way and ACHAR recommendations have been changed to reflect this.
1.5	Is the assessed impact acceptable within OEH’s policy context? No The proponent is required to review OEH comments. Once these are considered and the BDAR, ACHAR and ACH Survey Report revised, OEH will review the responses and/or the reports again.	OEH comments have been addressed and all recommendations have been incorporated to the ACHAR.

Item	OEH Comment	Artefact Response
1.6 (a)	Confirmation of statements of fact “Aboriginal Places gazetted under the NPW Act are listed on the State Heritage Register established under the Heritage Act 1977” (Artefact, 2019a:3). This is not correct. • Aboriginal Places are declared by the minister under Section 84 of the NPW Act by order or publishing in the Government Gazette. Aboriginal Places are listed on the NSW Heritage Database also known as the NSW Heritage Inventory. Aboriginal Places are not listed on the State Heritage Register unless they have also been through a State Heritage Register nomination and listing process with the Heritage Council and Minister for Heritage. In reality because there is a different listing process, most Aboriginal Places gazetted under the NPW Act are not listed on the State Heritage Register.	ASR & ACHAR have been amended to reflect OEH provided text
1.6 (b)	“The West Wyalong Solar Farm has been designated SSD_ (18_9504) and under Part 4, Division 4.7, section 4.41 of the Environmental Planning and Assessment Act 1979 an AHIP is not required (Artefact, 2019a:4).” • This should be clarified that an AHIP is not required for SSD that is authorised by a development consent.	ASR & ACHAR have been amended to reflect OEH provided text

OEH Attachment B – Detailed comments

Aboriginal Cultural Heritage Assessment in EIS (URBIS)

This document was not authored by Artefact Heritage & should be edited to reflect changes by Artefact Heritage to the ASR & ACHAR

Page / Section	OEH Comment
x	Executive Summary: “Recommendations have been made but are yet to be ratified with the registered Aboriginal parties under the ACHAR process” (Urbis, 2019:x). • Please provide the outcome of consultation with RAPs on the management of ACH.
7.4.1	“Environment Protection and Diversity Conservation Act 1999” • Error, should read Environment Protection and Biodiversity Conservation Act 1999
7.4.4	“Pending endorsement by the RAPs it is intended that the salvaged items WWS IF01, WWSF IF02 and WWSF AS01 will be retained by the West Wyalong LALC under a Care Agreement.” • As above, please provide the outcome of consultation with RAPs on the management of ACH.
7.4.4	To include completion and submission of Aboriginal Site Impact Recording Forms (ASIRFs) to AHIMS for each site salvaged or harmed.

Aboriginal Archaeological Survey Report (Artefact Heritage)

Page / Section	OEH Comment	Inserted / changed text
Executive Summary:	To include completion and submission of ASIRFs to AHIMS for each site salvaged or harmed. Abbreviations • AHIMS is not written correctly, it should read Aboriginal Heritage Information Management System. • Not clear of relevance of Blacktown City Council to the current project.	• An Aboriginal Site Impact Recording Form (ASIRF) must be completed following any impacts to identified sites as a result of archaeological salvage or project construction. • AHIMS corrected • Reference to Blacktown removed
2.1.1	“Aboriginal Places gazetted under the NPW Act are listed on the State Heritage Register established under the Heritage Act 1977” (Artefact, 2019a:3). This is not correct. • Aboriginal Places are declared by the minister under Section 84 of the NPW Act by order of publishing in the Government Gazette. Aboriginal Places are listed on the NSW Heritage Database also known as the NSW Heritage Inventory. Aboriginal Places are not listed on the State Heritage Register unless they have also been through a State Heritage Register nomination and listing process with the Heritage Council and Minister for Heritage.	Text amended to read per OEH comment
2.1.1	“The West Wyalong Solar Farm has been designated SSD_ (18_9504) and under Part 4, Division 4.7, section 4.41 of the Environmental Planning and Assessment Act 1979 an AHIP is not required (Artefact, 2019a:4).” • This should be clarified to state that an AHIP is not required for SSD that is authorised by a development consent.	Text amended per OEH comment

Section	OEH Comment	
2.2.1	Environment Protection and Diversity Conservation Act 1999 • Error, should read Environment Protection and Biodiversity Conservation Act 1999	Corrected to 'Biodiversity'
8.3	Sec 8.3: says AHIMS ID pending (2019a:40). • AHIMS numbers are provided elsewhere in the report.	This comment relates to earlier drafts of the ASR. Current drafts contain this information
Sec 10.1.2	: Refers to the sponsor. • 'Sponsor' is the term is used in the Aboriginal Heritage Act 2006 (Vic) and not used in NSW. 'Proponent' is the correct term to be used for assessments under the NSW NPW Act and regulations.	Changed to read 'Proponent'
Sec 10.1:	• Reburial of artefacts is to be conducted in accordance with Requirement 26 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010:35-36)	Text inserted per OEH
Sec 11.0:	Sec 11.0: • Surface collection or salvage of surface artefacts may only occur following development consent for the West Wyalong Solar Farm • To include completion and submission of ASIRFs to AHIMS for each site salvaged or harmed.	Inserted to recommendations

Aboriginal Cultural Heritage Assessment Report (Artefact Heritage 2019b)

Section	OEH comment	Artefact response
Executive Summary	It states the artefacts salvaged from site will be held by West Wyalong LALC under a care agreement. The survey report states artefacts will be reburied on site. These are two different management arrangements. Please advise the proposed artefact management, ensuring RAPs have been consulted regarding the management and their responses have been considered and update reports as necessary.	Inserted to Exec summary: 'Recommendation had been made in the ASR (Artefact Heritage 2018a) for reburial of identified artefacts following salvage. Subsequent to the ASR and during consultation with RAPs at two AFG (Aboriginal Focus Groups), RAPs stated a strong preference for retention of such artefacts by the West Wyalong LALC. The recommendations below reflect this preference, and therefore differ from ASR recommendations.'
Executive Summary	To include completion and submission of ASIRFs to AHIMS for each site salvaged or harmed.	Inserted to recommendations: •Surface collection or salvage of surface artefacts may only occur following development consent for the West Wyalong Solar Farm •An Aboriginal Site Impact Recording Form (ASIRF) must be completed following any impacts to identified sites in the study area as a result of archaeological salvage or project construction.'
2.1.1	"Aboriginal Places gazetted under the NPW Act are listed on the State Heritage Register established under the Heritage Act 1977" (Artefact, 2019:3b). This is not correct. • See earlier comment regarding Aboriginal Places gazetted under the NPW Act are not listed on the SHR.	Inserted: 'Aboriginal Places are declared by the minister under Section 84 of the NPW Act by order of publishing in the Government Gazette. Aboriginal Places are listed on the NSW Heritage Database also known as the NSW Heritage Inventory. Aboriginal Places are not listed on the State Heritage Register unless they have also been through a State Heritage Register nomination and listing process with the Heritage Council and Minister for Heritage.'

Section	OEH Comment	Artefact response
2.1.1	"The West Wyalong Solar Farm has been designated SSD_ (18_9504) and under Part 4, Division 4.7, section 4.41 of the Environmental Planning and Assessment Act 1979 an AHIP is not required (Artefact, 2019b:4)." • This should be clarified to state that an AHIP is not required for SSD that is authorised by a development consent.	Changed to read: ' The West Wyalong Solar Farm has been designated SSD_ (18_9504) and under Part 4, Division 4.7, section 4.41 of the <i>Environmental Planning and Assessment Act 1979</i> an AHIP is not required for SSD that is authorised by a development consent (section Error! Reference source not found.).'
Sec 10.2:	To include completion and submission of ASIRFs to AHIMS for each site salvaged or harmed.	Inserted: 'Aboriginal Site Impact Recording Forms must be completed and submitted to OEH following impacts to these sites resulting from surface collection of artefacts.'
Sec10.5:	Sec 10.5: "Management of Aboriginal objects. At the time that this report was prepared, consultation with the RAPs regarding the long-term management of the collected material had not been completed." • Please provide outcomes of consultation with RAPs regarding the long term management of Aboriginal Objects. This must be done prior to project determination.	Inserted: 'Consultation with RAPs comprised two Aboriginal Focus Group meetings and a 28-day review by RAPs of the ASR and of this document. Through this process of consultation, RAPs stated a preference for lithic Aboriginal objects recovered during salvage of sites to be impacted by the proposal to be held as a teaching collection at the West Wyalong LALC. Lithic Aboriginal objects that will not be impacted by the proposal are to be fenced off from the proposed development. Lightsource Development Services Australia have amended the design of the solar farm to avoid direct impact to WWSF Bee Tree (AHIMS ID 45-4-0058). An arborist will determine an appropriate buffer around WWSF Bee Tree (AHIMS ID 45-4-0058), and this will also be fenced off from the proposed development.'

Section	OEH Comment
Sec11	Recommendations amended to: • Surface collection or salvage of surface artefacts may only occur following development consent for the West Wyalong Solar Farm. • To include completion and submission of ASIRFs to AHIMS for each site salvaged or harmed. • Site WWSF AS01 is referred to in the last two dot points as AHIMS ID 43-4-0058. Elsewhere in the report WWSF AS01 is AHIMS ID 43-4-0057.
Sec 11	Recommendation that “A Heritage Interpretation Strategy must be implemented. This strategy should seek to mitigate the physical and aesthetic changes that the proposed development will entail to the identified Aboriginal sites”. (2019b:45). • This recommendation does not appear to relate to any part of the three reports or consultation. It was not a raised by the RAPs through consultation nor in the notes on the outcomes from the Aboriginal Focus Group meetings. While a Heritage Interpretation Strategy can be an effective measure for mitigation for some projects, it is not a requirement of the SEARs and it is not clear how it relates to other aspects of the report or project. The SEARs state “where impacts are unavoidable, the EIS must outline measures proposed to mitigate impacts.” The mitigation measures have been proposed in the ACHAR and EIS. We ask the proponent to consider the purpose of a Heritage Interpretation Strategy in relation to the project and SEARs. An interpretation strategy could be part of a wider Cultural Heritage Management Plan which are commonplace for SSD.



Section	OEH Comment	
AFG Minutes	“Asked whether a section 42 permit was required for the surface collection of artefacts.” • Please clarify the reference to the section 42 permit. This does not sit within the NPW Act.	Noted. It is understood that this is the case. At the AFG it was not desirable to publicly inform the senior RAP who made this remark that they were in error. This was pointed out to them informally at a later occasion as stated in minutes. Nevertheless, the remark was left in minutes to provide an accurate record of conversation.

Section	OEH Comment	Artefact Response
Recommendations	Management of WWSF Bee Tree and part of WWSF AS01 The site WWSF Bee Tree (43-4-0058) and part of site WWSF AS01 (part of 43-4-0057) are to be conserved and protected through fencing and signage.	These are existing recommendation of the ACHAR
Recommendations	Management of Salvaged Aboriginal Objects If salvaged Aboriginal Objects from sites WWSF IF01 (43-4-0056) and WWSF IF02 (43-4-0071) and part of site WWSF AS01 (43-4-0057) are to go to an Aboriginal organisation, a Care Agreement under Section 85A of the NPW Act must be sought in advance. A Care Agreement application form, also known as an application for the transfer of Aboriginal objects for safekeeping can be found at the following link: https://www.environment.nsw.gov.au/resources/cultureheritage/140791trsobjectform.pdf If salvaged Aboriginal objects are reburied on site, this must be conducted in accordance with Requirement 26 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010).	Inserted to recommendations: 'Following development consent, and prior to the proposed salvage collection of artefacts from sites WWSF IF01 (43-4-0056) and WWSF IF02 (43-4-0071) and part of site WWSF AS01 (43-4-0057), a Care Agreement under Section 85A of the NPW Act must be sought for the retention of these artefacts by the West Wyalong LALC.'
Recommendations	Aboriginal Site Impact Recording Forms Aboriginal Site Impact Recording Forms must be completed and submitted to AHIMS for each site salvaged or harmed.	Inserted to recommendations
Recommendations	Discovery of Human Remains If human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must notify the NSW Police and OEH as soon as possible following the discovery, and work must not recommence in the area until this is authorised by OEH.	Inserted to recommendations

- Recommendations
- Unexpected Finds
- If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
- Not further harm the object;
 - Immediately cease all work at the particular location;
 - Secure the area so as to avoid further harm to the Aboriginal object;
 - Notify OEH as soon as practical on 131555, providing any details of the Aboriginal object and its location; and
 - Not recommence any work at the particular location unless authorised in writing by OEH