

Department of Premier and Cabinet

Executive Building 15 Murray Street HOBART TAS 7000 Australia
GPO Box 123 HOBART TAS 7001 Australia
Ph: 1300 135 513 Fax: (03) 6233 5685
Web: www.dpac.tas.gov.au



Mr John Ramsay
Executive Commissioner
Tasmanian Planning Commission

By email: tpc@planning.tas.gov.au

Dear John

Assessment Requirement Notice – Whaleback Ridge Renewable Energy project

Thank you for your letter dated 13 March 2024 referring the Whaleback Ridge Major Project to the Department to determine if applicable matters should be included in the assessment criteria for the project.

As an identified Relevant Regulator under section 60Z of the *Land Use Planning and Approvals Act 1993*, the Department has determined that there are (or likely to be) applicable Aboriginal cultural heritage matters to be contained in the assessment criteria which the Major Project Impact Statement will be required to address.

Please find attached an Assessment Requirement Notice for the project.

Kind regards



Courtney Hurworth
Acting Deputy Secretary
Community Partnerships and Priorities

10 April 2024

Assessment Requirement Notice -

West Coast Renewable Energy – Whaleback Ridge Renewable Energy Project Proposal

Part One – DPAC (Aboriginal Heritage Tasmania) - Assessment Requirement Notice as a Relevant Regulator under the Land Use Planning and Approvals Act 1993 (the Act)

Justification for issuing an assessment requirement notice under Section 60ZA of the Act:

As stated in the Tasmanian Planning Commission's referral of the Whaleback Ridge Renewable Energy Project to the Department of Premier and Cabinet (DPAC);

"For the purposes of the major project, this organisation is a relevant regulator for the purposes of the *Aboriginal Heritage Act 1975*."

Matters to be addressed in the Assessment Criteria for the Major Project Impact Statement for the Whaleback Ridge Renewable Energy Project.

In order to satisfy section 60 (6) of the Act which specifies that the assessment criteria must be relevant to the regulator's final advice that it would give under section 60ZZF (1) in relation to the Whaleback Ridge Renewable Energy Project, Aboriginal Heritage Tasmania requests that the Major Project Impact Statement (MPIS) addresses the matters outlined below.

For the purposes of assessment of the Whaleback Ridge Renewable Energy Project, the development footprint for the Project is defined within the Major Project Proposal as the Project Site (the Land), as shown in Figures 1 and 2 of the Major Project Proposal.

Aboriginal Relics under the *Aboriginal Heritage Act 1975*

For the purposes of the *Aboriginal Heritage Act 1975* (the Act) Aboriginal heritage may be –

- (a) any artefact, painting, carving, engraving, arrangement of stones, midden, or other object, made or created by any of the original inhabitants of Australia or the descendants of any such inhabitants, which is of significance to the Aboriginal people of Tasmania; or
- (b) any object, site, or place that bears signs of the activities of any such original inhabitants or their descendants, which is of significance to the Aboriginal people of Tasmania; or

(c) the remains of the body of such an original inhabitant or of a descendant of such an inhabitant that are not interred in–

- (i) any land that is or has been held, set aside, reserved, or used for the purposes of a burial-ground or cemetery pursuant to any Act, deed, or other instrument; or
- (ii) a marked grave in any other land.

The Major Project is located in a culturally rich and sensitive landscape, which is of immense scientific and social significance to the Aboriginal community. Significant Aboriginal heritage has been recorded across the broader landscape within the vicinity of Trial and Granville Harbours. The National Heritage listing in 2013 of the nearby Western Tasmania Aboriginal Cultural Landscape (WTACL) recognises the cultural importance of this landscape at the national level. Cultural landscape modelling suggests the most intensive occupation would have occurred along the coastline and coastal hinterland. The inland areas would also have been occupied, particularly at the transition zone between forests and button grass plains, as well as valleys and along major creeks and rivers, such as the Pieman River.

There have been relatively few Aboriginal heritage assessments carried out within the Project Site. These have been undertaken for other purposes and are not contemporary. Accordingly, the nine currently registered Aboriginal heritage artefacts or sites do not reflect the full potential scope and scale of Aboriginal heritage present within the potential project footprint. It is expected that further research and more widespread on-ground survey and Aboriginal community consultation effort will identify further Aboriginal heritage. It is unlikely that the Major Project will be able to completely avoid Aboriginal heritage, in which case, approvals in accordance with the Act will be required.

It is noted that the Major Project Proposal states that a desktop level Aboriginal heritage assessment has commenced, including initial consultation with the Tasmanian Aboriginal community. This cultural heritage assessment and consultation process is anticipated to be lengthy and complex, potentially requiring several phases as the project progresses to more defined infrastructure siting. Until this process is completed it remains unclear the full extent to which the project or its related infrastructure will impact Aboriginal heritage.

A comprehensive Aboriginal heritage assessment is necessary to identify how the proposed project and related infrastructure will impact on Aboriginal heritage and to offer avoidance, mitigation, and

management advice. This assessment must be undertaken jointly by a consulting Archaeologist and Aboriginal Heritage Officer.

To ensure that the Aboriginal heritage assessment/s and Major Project Impact Statement adequately identify and define all potential impacts or mitigation strategies for Aboriginal heritage, assessments must meet the minimum requirements for survey, recording and reporting as laid out in the *Aboriginal Heritage Standards and Procedures* (AHT, July 2023).

The Standards and Procedures are an Adopted document issued by the Minister under section 21A AHA1975 - Guidelines. The Standards and Procedures provide information on compliance with AHA1975 as well as requirements for consultation and engagement with Aboriginal people.

The Standards and Procedures can be found at:

<https://www.aboriginalheritage.tas.gov.au/Documents/Aboriginal%20Heritage%20Standards%20and%20Procedures.pdf>

The Assessment Criteria must include:

- An assessment of Aboriginal heritage (relics) occurring within the Project Site, based on the results of detailed on-ground assessments and consultation with the Aboriginal community;
- Mapping of all Aboriginal heritage sites and potential areas of sensitivity, overlaid with the proposed project footprint;
- A detailed assessment of proposed impacts to Aboriginal heritage, including measures to avoid or mitigate impacts;
- Evidence of Aboriginal community consultation commensurate to the scale and scope of the project, the outcomes of that consultation and discussion of how any concerns will be addressed.

Part Two - Relevant State Service Agency – DPAC (Aboriginal Heritage Tasmania) - Request for Additional Assessment Criteria under Section 60ZJ of the Land Use Planning and Approvals Act 1993 (the Act)

Justification for requesting additional assessment criteria under Section 60ZJ(1)(e) of the Act:

In accordance with Section 60ZJ(1)(e) of the Act, DPAC recommends further assessment criteria to be addressed in the Major Project Impact Statement (MPIS). Please note that these matters are not part of DPACs' section 60ZA notice as a relevant regulator.

Additional criteria to be included in the Major Project Impact Statement for the Whaleback Ridge Renewable Energy Project

The following assessment criteria are requested for inclusion in the MPIS to enable DPAC as a relevant State Service Agency to assess and provide specialist advice regarding impacts to Aboriginal values from the Whaleback Ridge Renewable Energy Project.

Cultural Heritage Values

Given the cultural significance of the west coast of Tasmania, it is expected that the Major Project will draw broad attention from within the Aboriginal community. Given the national heritage listing of the adjacent WTACL, the Commonwealth are likely to have an interest in potential impacts of the Major Project on that cultural landscape.

Accordingly, DPAC recommends that the MPIS includes a cultural values assessment which extends beyond the tangible Aboriginal heritage values defined by the Act to consider landscape and intangible heritage values for the Project Site. The Assessment Criteria could include, as a minimum:

- Assessment of potential impacts to the ongoing connectivity between Aboriginal people and areas of cultural significance, as well as visual impacts to the cultural landscape.
- Detail of measures to avoid or mitigate impacts;
- Evidence of Aboriginal community consultation commensurate to the scale and scope of the project, the outcomes of that consultation and discussion of how any concerns will be addressed.

To support a comprehensive assessment of Aboriginal cultural values and potential impacts, DPAC refer to the national guidebook for developers and land managers - *Ask First: A guide to respecting Indigenous heritage places and values* (Australian Heritage Commission). This best practice guide

defines Indigenous heritage as “tangible and intangible expressions of culture that link generations of Indigenous people over time. Indigenous people express their cultural heritage through ‘the person’, their relationships with country, people, beliefs, knowledge, law, language, symbols, ways of living, sea, land, and objects all of which arise from Indigenous spirituality.”