

Our Ref: 3558.000

20 February 2017

Jeremy Ellis
Tilt Renewables Australia Pty Ltd
PO Box 16080
Collins Street West
Melbourne VIC 8007

Re: Dundonnell Wind Farm Offsite Substation – Cultural Heritage Statutory Obligations

Dear Jeremy,

I am writing in response to your request for an investigation into the cultural heritage statutory obligations regarding the proposed location for the Dundonnell Wind Farm Offsite Substation at Allotment 3, Section 10 in the Parish of Connewarren, Connewarren Lane, Mortlake, 3272 (Map 1).

This summary focuses on the obligations required under the *Aboriginal Heritage Act 2006* and *Heritage Act 1995* (for historic heritage). It has also included a review of the Victorian Aboriginal Heritage Register (VAHR) and Heritage Victoria's Online Database (HERMES) for previously recorded sites and relevant reports.

The advice contained in this letter, which is based on our interpretation of the *Aboriginal Heritage Act 2006*, the *Aboriginal Heritage Regulations 2007* and the *Heritage Act 1995* is considered to be true and accurate. This letter is not legal advice.

Executive Summary

A mandatory CHMP is not required for the proposed substation. CHMP 12394 was prepared for the Dundonnell Wind Farm transmission line and substation. The proposed substation lies on land that was assessed under CHMP 12394 and the proposed activity is consistent with this CHMP. The Contingency Plan in CHMP 12394 will manage any potential issues if unexpected Aboriginal cultural heritage is discovered during the conduct of the activity. While it is considered unlikely that the proposed substation will harm any Aboriginal cultural heritage, any unexpected cultural heritage impacts will be managed appropriately.

Cultural Heritage Management Plan Triggers

A Cultural Heritage Management Plan must be prepared in circumstances involving **both**:

- 1) Activities to be completed on land within or partially within a legislated area of Aboriginal cultural heritage sensitivity, as described in the *Aboriginal Heritage Regulations 2007* (Part 2, Division 3), **and**
- 2) Activities considered to be high impact under the *Aboriginal Heritage Regulations 2007* (Part 2, Division 5).

If only one of these two conditions applies to the proposal, then the preparation of a mandatory Cultural Heritage Management Plan is not triggered.

A CHMP is also required if the Minister directs a CHMP to be prepared (s48, *Aboriginal Heritage Act 2006*) or if an Environmental Effects Statement is required (s49, *Aboriginal Heritage Act 2006*). Neither of these conditions are known to currently exist.

Culturally Sensitive Areas:

An examination of the Department of Premier and Cabinet culturally sensitive areas (Map 1) on ACHRIS (Aboriginal Cultural Heritage Register Information System) and in the *Aboriginal Heritage Regulations 2007* has shown that the proposed activity area is **not** situated within a legislated area of Aboriginal cultural heritage sensitivity. This means that there is **no** requirement to prepare a mandatory Cultural Heritage Management Plan.

High Impact Activities:

A substation is a high impact activity under the Regulation 43(1)(b)(xxiii) of the *Aboriginal Heritage Regulations 2007* being a utility installation. However, since the land is not a legislated area of Aboriginal cultural heritage sensitivity, there is no requirement to prepare a mandatory cultural heritage management plan.

Aboriginal Cultural Heritage Register and Information System (ACHRIS)

A search of the Aboriginal Cultural Heritage Register and Information System (ACHRIS) database has shown that there are **no** registered Aboriginal heritage places within the activity area or within 50m of its boundaries. The ACHRIS search also shows that the activity area has been previously subject to archaeological survey.

Previous Assessments

The land for the substation was previously assessed in CHMP 12394:

Murphy A & T Rymer 6 May 2016

Dundonnell Wind Farm Transmission Line. Approved CHMP 12394 prepared by Archaeology At Tardis for Trustpower Australia Holdings Pty Ltd.

The desktop assessment reviewed the relevant geographic region, registered Aboriginal places, reports and published works, history and ethnohistory, landforms and geomorphology, landuse history and strategic values. The desktop assessment concluded that:

- There were no registered Aboriginal cultural heritage places within the Activity Area.
- There were areas of Aboriginal cultural heritage sensitivity being land within 200m of Salt Creek and a former shallow freshwater marsh.
- Artefact scatters were the most likely place type to be present.
- Mounds may also be present.
- It was reasonably possible that Aboriginal cultural heritage was present.
- A standard assessment was required.

The standard assessment identified land within 50m of the edges of three former wetlands north of North Road having moderate potential for stone artefacts. The remainder of the activity area, including the proposed location for the offsite substation, was assessed as having low archaeological potential for stone artefacts and mounds. No archaeological potential for all other place-types was identified. Since the activity was designed to avoid areas assessed having moderate archaeological potential, no complex assessment was required pursuant to r.61(2) of the *Aboriginal Heritage Regulations 2007*.

The land parcel immediately to the west of the current activity area, which contains the Mortlake Power Station, was previously assessed in the following reports:

Schell P & J Howell-Meurs September 2005a

Mortlake Power Station: Cultural Heritage Assessment. Report prepared by Andrew Long & Associates for Framlingham Aboriginal Trust.

Schell P & J Howell-Meurs September 2005b

Mortlake Power Station Addendum: Water Supply Pipeline. Report prepared by Andrew Long & Associates for Framlingham Aboriginal Trust.

Schell P May 2007

Mortlake Gas Plan Addendum Report: Pipeline Variation. Report prepared by Ochre Imprints Pty Ltd for Origin Energy.

Schell P & D Wines 20 November 2008

Mortlake Power Station Project. Approved CHMP 10377 prepared by Ochre Imprints Pty Ltd for Origin Energy.

Schell and Wines (2008) prepared CHMP 10377 for the Mortlake Power Station Project and included previous assessments for the project (Schell & Howell-Meurs 2005a, 2005b; Schell 2007). A total of five places (VAHR 7520-0176, 7421-0196, 7421-0197, 7421-0198 & 7421-0199) were recorded. Two were found adjacent to major rivers, two adjacent to seasonal watercourses and one on a prominent ridgeline in the Port Campbell Plains. The latter was considered to be an area of sensitivity: the soil profile on the ridgeline was sandy and may have also provided a good vantage point.

No Aboriginal cultural heritage was found. Subsurface testing was conducted along Connewarren Lane (Table 4, p58; Transect 17 Figure 3, p59, p76). Since this area found no Aboriginal cultural heritage and no landforms with archaeological potential were identified, the Mortlake power station land was assessed having low archaeological sensitivity (Section 3.8 & 3.9, pp90-93).

The implication of the above assessments is that the location for the proposed Dundonnell Wind Farm Offsite Substation is considered unlikely to contain Aboriginal cultural heritage. In the unexpected event that Aboriginal cultural heritage is found during the conduct of the activity, cultural heritage must be managed according to the Contingency Plan in CHMP 12394.

Statutory Obligations under the *Aboriginal Heritage Act 2006*

The above checks demonstrate that, under conditions of the *Aboriginal Heritage Act 2006*, the Dundonnell Wind Farm Offsite Substation does **not** require the preparation of a mandatory CHMP because the activity area is **not** situated within an area of legislated cultural heritage sensitivity even though the activity is listed as high impact under Regulation 43(1)(b)(xxiii).

In addition, the change in the location of the offsite substation is within the activity area boundary of CHMP 12394. The activity is not inconsistent with approved CHMP 12394.

Statutory Obligations under the *Heritage Act 1995*

Additionally, all historic sites are protected under the *Heritage Act 1995* which states that appropriate Consents or Permits must be obtained before any historic site is disturbed and that all historic sites must be reported to the Executive Director of the Heritage Council. Any archaeological site older than 50 years is considered to have potential archaeological value under the *Heritage Act 1995*. A search of Heritage Victoria's Online Database (HERMES) (Map 2) has revealed that there are **no** previously recorded historical sites within the activity area.

There is **no** Moyne Shire Planning Scheme Heritage Overlay applicable to the activity area.

Summary

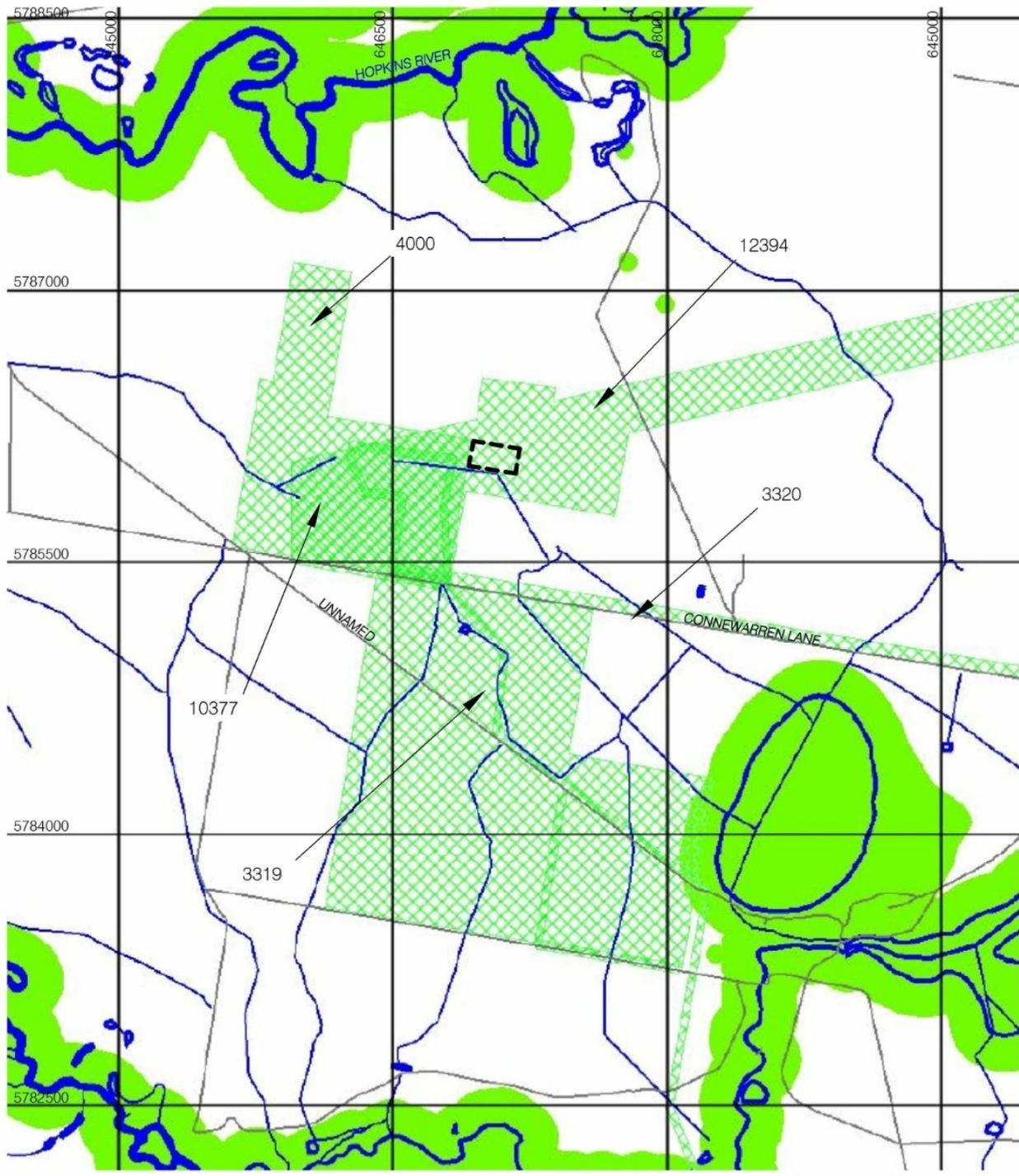
This investigation has reviewed the statutory obligations associated with both the *Aboriginal Heritage Act 2006* and the *Heritage Act 1995*. The proposed Dundonnell Wind Farm Offsite substation does **not** require the preparation of a mandatory CHMP because the activity area is **not** situated within an area of legislated cultural heritage sensitivity. It is also within the activity area of approved CHMP 12394 and is consistent with approved CHMP 12394.

We hope this assists with clarification of legal obligations in relation to the above-mentioned project.

Yours sincerely,

A handwritten signature in cursive script that reads "Thomas Rymer".

Tom Rymer
Project Archaeologist



Legend:

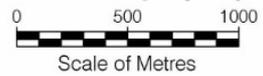
 Activity Area Boundary

Parish: *Mortlake*
LGA: *Moyne*

 Previous Reports

 Area of Aboriginal Cultural Heritage Sensitivity

Map Courtesy of DSE Website



Map 1 Legislated Area of Cultural Heritage Sensitivity (green)



Map 2 Map of Activity Area (HERMES)