

# CHANCE FINDS PROTOCOL

## Darlington Point Solar Farm

### Amendment Record

Date	Description	Prepared by	Reviewed by	Approved by
10/12/2018	Developed for Darlington Point Solar Farm	Chris Stewart (Signal Energy)	Andy Winter (Edify Energy)	Robbin Russell (Signal Energy)
07/02/2019	Updated to reflect OEH Comments received on 04/02/2019	Chris Stewart (Signal Energy)	Andy Winter (Edify Energy)	Robbin Russell (Signal Energy)
21/03/2019	Minor amendments from OEH Endorsement email	Chris Stewart (Signal Energy)	Robbin Russell (Signal Energy)	Robbin Russell (Signal Energy)

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## 1 Acronyms and Abbreviations

Acronym or Abbreviation	Meaning
EPC	Engineering, Procurement and Construction
CEMP	Construction Environmental Management Plan
COA	Conditions of Approval
DPE	NSW Department of Planning and Environment
DPSF	Darlington Point Solar Farm
EMS	Environmental Management Strategy
LALC	Local Aboriginal Land Councils
LGA	Local Government Area
OEH	Office of Environment and Heritage

## 2 Introduction

The Chance Finds Protocol is a Subplan to the Environmental Management Strategy (EMS) for the Darlington Point Solar Farm (the project).

This protocol has been prepared by Signal Energy Australia (Signal Energy) for the applicant (Edify Energy Pty Ltd) to meet the requirements set out in Item 20 (Schedule 3 - Environmental Conditions – General) of the Development Consent (Application # SSD 8392). Item 20 of the Development Consent states: -

*Prior to the commencement of construction, the Applicant must prepare a Chance Finds Protocol for the development in consultation with the Aboriginal stakeholders, and to the satisfaction of OEH.*

*Following OEH's approval, the Applicant must implement the Chance Finds Protocol.*

**Please Note: - This Protocol has been developed with information from Section 12 of the Aboriginal Cultural Heritage Report dated 18 July 2018 that was undertaken by Kelleher Nightingale Consulting Pty Ltd. This Protocol is replicated from section 12 which has been developed in consultation with Griffith LALC as identified in the "Record of Consultation and Consultation Log included in the Aboriginal Cultural Heritage Agreement, that shall be read in conjunction with this Protocol. The Protocol was reviewed by both OEH and the Heritage Council during Exhibition and comments were provided only by OEH on 8 February 2019.**

**Griffith LALC have reviewed this Chance Find Protocol and have no issues or comments regarding the protocol. The ACH Chance Find Protocol was issued to Griffith LALC on 8/02/19.**

**Dr Mathew Kelleher spoke with the CEO, Robert Carroll (26/02/19) who had no issues or comments.**

## 3 Signal Energy Overview

Signal Energy is an Australian Engineering, Procurement and Construction (EPC) Company specialising in the construction of renewable energy projects.

Headquartered in Sydney, Signal Energy has a highly experienced management team of energy infrastructure, engineering, procurement and construction professionals with specific experience in the construction of utility-scale renewable energy projects in Australia and internationally.

Signal Energy recognises the importance of conducting business operations in an environmentally responsible, sustainable and safe manner. Signal Energy are committed to health and safety, innovation  
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and service excellence, being a responsible business and supporting the communities in which we work.

## 4 Project Overview

Signal Energy have been engaged by Edify Energy to construct 275 megawatts of solar PV on land to the east of Donald Ross Drive, approximately 10 km south of the town of Darlington Point. The Darlington Point Solar Farm (DPSF) project area comprises the existing TransGrid Darlington Point Substation and the proposed DPSF site, which includes:

- Lot 160 of DP 821551 (referred to as 'Anderson property').
- Lots 41, 42 and 64 of DP 750903, Lot 2 of DP 542215, Lots 18, 35 and 36 of DP 750903 and Lot 3 of DP 1148975 (referred to as 'Tubbo Station').
- Lot 2 of DP 628785 (being the TransGrid substation site to which DPSF will connect, which is included within the DA in accordance with TransGrid's connection policy to facilitate any substation augmentation works that may be necessary as part of the development).

The DPSF site and surrounding lands are zoned as RU1 – Primary Production under the Murrumbidgee Local Environmental Plan 2013 (Murrumbidgee LEP), with adjacent properties accommodating farming, agribusiness, poultry farms and a small number of private residences. The DPSF site is used for livestock grazing. A 330 kV and two 132 kV TransGrid overhead transmission lines cross the site from west to east, and a 33 kV Essential Energy overhead transmission line runs north-south near the eastern boundary of the site. Key development and infrastructure components of the DPSF is proposed to include:

- Photovoltaic (PV) solar panels
- Steel mounting frames with piled foundations
- A single-axis tracking system
- Direct current (DC) / alternating current (AC) inverter stations
- Medium voltage (33kV) electrical reticulation network
- A 33/132kV switchyard, including an internal 33kV switch-room
- Internal access tracks for operational maintenance and housekeeping, to be largely located in bushfire set-back zones
- Security perimeter fencing
- Staff car park and small amenities building
- Battery energy storage system facility.

## 5 Aboriginal Cultural Heritage Assessment Report (CHAR)

Kelleher Nightingale Consulting Pty Ltd was engaged by Arup on behalf of Edify Energy to prepare an Aboriginal cultural heritage assessment report (CHAR) for the proposed development area. The CHAR was prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs), Office of Environment and Heritage (OEH) Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales and OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.

The Development of the CHAR included the consultation of the "Management Procedures" which are included in section 12 and are outlined below

Early identification of Aboriginal heritage and archaeological sensitive areas (remnant vegetation) during the archaeological assessment process resulted in the avoidance of impact to eight Aboriginal archaeological sites and one potential culturally modified tree. One Aboriginal archaeological site remains located within proposed impact area: Tubbo AFT 01/AHIMS 49-5-0152. Impact to this site is unavoidable due to the scale of the project and requirements for the proposal.

Archaeological significance of the identified Aboriginal sites was defined by the information exhibited by each site. The archaeological significance of Tubbo AFT 01/AHIMS 49-5-0152 was determined to be moderate due to the site's location. Due to the absence of subsurface archaeological deposit at Tubbo AFT 01/AHIMS 49-5-0152, a mitigation program comprising the collection of surface artefacts will be undertaken prior to any activities which may harm Aboriginal objects at the site location.

## **6 Roles and Responsibilities**

Detailed below are specific roles and responsibilities of the Darlington Point Solar Farm (DPSF) and its Contractors as these pertain to environmental controls during project implementation.

All site staff have responsibilities and authorities in relation to environmental management including:

- The right to stop work or refuse to work in a situation that may cause environmental harm;
- Duties and responsibilities to prevent pollution and environmental harm;
- Obligations to respond to environmental incidents, including their prevention, clean up and reporting.

These, and other general obligations, are included in the site induction. Persons with specific environmental responsibility are detailed below.

### **6.1 Project Manager**

The Project manager will be responsible for:

- Ensuring all relevant Management Plans are in place,
- Reviewing of this Protocol,
- Establishing a rigid management structure to implement and monitor this protocol,
- Ensuring compliance with this Protocol.

### **6.2 Construction Manager**

The Site Manager will be responsible for:

- Ensuring this Protocol is implemented and adhered to throughout the construction duration,
- Establishing measures to ensure that all conditions within this Protocol are met,
- Ensuring all areas of the construction site have been given clearance prior to works commencement.

### **6.3 Environmental Management representative/SHEQ Manager**

The Environmental Management representative/SHEQ Manager will be responsible for:

- Aiding and giving advice to the Construction Manager and All Workers in order for this Protocol to be implemented properly,
- Carrying out inspections, monitoring each condition and reporting any findings,

- Providing project-wide advice to ensure consistent approach and outcomes are achieved,
- Contacting the relevant Agencies prior to works commencing,
- Reviewing and updating this Protocol during construction as required.

## 6.4 All Employees/Contractors

All workers on the construction site are responsible for:

- Implementing and maintaining all applicable control measures,
- Reporting any potential and/or actual impact on Heritage Items

## 7 Environmental Requirements

### 7.1 Relevant Legislation and Guidelines

Legislation and Guidelines relevant to Heritage for this project includes:

Regulatory and Other Requirements	Description and Relevance
<i>National Parks &amp; Wildlife Act 1974 (NSW)</i>	The National Parks & Wildlife Act 1974 (NPW Act) protects Aboriginal heritage (places, sites and objects) within NSW. Protection of Aboriginal heritage is outlined in s86 of the Act, as follows: <ul style="list-style-type: none"> <li>• “A person must not harm or desecrate an object that the person knows is an Aboriginal object” s86(1),</li> <li>• “A person must not harm an Aboriginal object” s86(2)</li> <li>• “A person must not harm or desecrate an Aboriginal place” s86(4).</li> </ul>
<i>National Parks &amp; Wildlife Regulation 2009 (NSW)</i>	The National Parks and Wildlife Regulation 2009 (“NPW Regulation”) provides a framework for undertaking activities and exercising due diligence in respect to Aboriginal heritage. The NPW Regulation 2009 outlines the recognised due diligence codes of practice which are relevant to this report, but it also outlines procedures for Aboriginal Heritage Impact Permit (AHIP) applications and Aboriginal Cultural Heritage Consultation Requirements (ACHCRs); amongst other regulatory processes.
<i>Heritage Act 1977 (NSW)</i>	The NSW Heritage Act 1977 makes provisions to conserve the State’s historic heritage. It provides for; <ul style="list-style-type: none"> <li>• The identification and registration of items of State heritage significance;</li> <li>• The interim protection of items of State heritage significance; and</li> <li>• Constitutes the Heritage Council of New South Wales.</li> </ul>
Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)	The purpose of the guidelines is to establish the requirements for consultation with the registered Aboriginal parties as part of the heritage assessment process to determine potential impacts of proposed activities on Aboriginal objects and places and to inform decision making for any application for an Aboriginal Heritage Impact Permit (AHIP).
Code of Practice for Archaeological Investigations of Objects in NSW (2010)	The purpose of this Code of Practice is to: <ul style="list-style-type: none"> <li>• establish the requirements for undertaking test excavation as a part of archaeological investigation without an AHIP; and</li> <li>• establish the requirements that must be followed when carrying out archaeological investigation in NSW where an application for an AHIP is likely to be made.</li> </ul>

Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (2011)	The purpose of this document is to provide: • guidance on the process for investigating and assessing Aboriginal cultural heritage in NSW and • OEH's requirements for an Aboriginal cultural heritage assessment report.
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## 8 Management Procedures

### 8.1 Management Policy for Aboriginal Heritage

The policy for the management and conservation of Aboriginal heritage in relation to salvage activities and construction activities (or fencing, geotechnical investigations, minor clearing, establishing site compounds, adjustment to services/utilities etc.) is described below:

#### Responsibility for compliance with Management Policy

1. Signal Energy must ensure all of its employees, contractors and subcontractors and agents are made aware of and comply with this management policy.
2. Signal Energy must appoint a suitably qualified and experienced environmental manager who is responsible for overseeing the activities related to this management policy.
3. Edify Energy must appoint a suitably qualified and experienced Archaeologist who is responsible for overseeing, for and on behalf of the Proponent, the collection of archaeological artefacts relating to the project.

#### Operational Constraints

4. Where the surface collection of artefacts has been nominated for the impacted site, no construction activities (or fencing, geotechnical investigations, minor clearing, establishing site compounds, adjustment to services/utilities etc.) can occur on the lands to be investigated until the relevant surface collection at the nominated site has been completed.
5. Prior to the commencement of early works activity (e.g. fencing, minor clearing, establishing site compounds etc.) a construction heritage site map identifying the Aboriginal site requiring the collection of surface artefacts and the Aboriginal sites to be avoided (for all sites in proximity to the project boundary) must be prepared. The construction heritage site map should be prepared to the satisfaction of Edify Energy. (Please refer to Appendix 1)
6. All employees, contractors, subcontractors and agents carrying out early works activities (e.g. fencing, minor clearing, geotechnical investigations, establishing site compounds etc) must undertake a Project induction (including the distribution of a construction heritage site map) to ensure that they have an understanding and are aware of the Aboriginal heritage issues affecting the activity.

#### Areas of Aboriginal archaeological sites and objects to be impacted

7. The areas of archaeological sites and objects identified as being impacted by construction activities are listed in Table 1 of this report and are in accordance with the Project Approval.

**Table 1. Aboriginal site requiring mitigation (collection)**

Archaeological sites requiring mitigation (collection)	
Archaeological Sites (requiring the collection of surface artefacts)	Tubbo AFT 01/AHIMS 49-5-0152

#### Human Remains

8. This management policy does not authorise any damage of human remains.

9. If potential human remains are disturbed the Contractor must follow the procedures outlined in section 8.2 below.

**Involvement of Aboriginal groups and/or individuals**

10. Opportunity must be provided to the Griffith Local Aboriginal Land Council to be involved in the following activities:
  - o Assist with the surface collection.

**Conservation of salvaged Aboriginal objects**

11. Department of Planning and Environment (DP&E), as the approval authority, will be consulted;
12. Recovered Aboriginal objects will be transferred in accordance with a Care Agreement or similar agreement to the Griffith Local Aboriginal Land Council.

Please Note: - Kelleher Nightingale has been appointed to oversee the salvage, which is scheduled for w/c 17 December 2018. Kelleher Nightingale will also ensure compliance with the reporting requirements outlined below.

**Reporting requirements**

13. A written archaeological report documenting the salvage collection must be provided to Edify Energy within a reasonable time in accordance with the Project Approval following the completion of the archaeological program.
14. An Aboriginal Site Impact Recording Form (ASIRF) must be completed and lodged with OEHL for the archaeological sites listed in Table 1 within a reasonable time after the approved activities have been complete.

**Notification and reporting about incidents that breach this management policy**

15. Incident reporting requirements in accordance with the Project Approval is to include Aboriginal heritage.

## **8.2 Procedures for Handling Human Remains**

Please Note that Project Approvals do not include the destruction of Aboriginal remains

This section outlines the procedure for handling human remains in accordance with the Skeletal Remains – Guidelines for the Management of Human Skeletal Remains under the Heritage Act 1977 (NSW Heritage Office 1998) and the Aboriginal Cultural Heritage Standards and Guidelines Kit (NPWS 1997). In the event that construction activity reveals possible human skeletal material (remains), the following procedure is to be followed:

1. as soon as remains are exposed, all work is to halt at that location immediately and the Project SHEQ Manager on site is to be immediately notified to allow assessment and management;
  - o stop all activities immediately in the vicinity of the find (e.g. within 100m of the find); and
  - o secure the site immediately in the vicinity of the find.
2. contact police, the discovery of human remains triggers a process which assumes that they are associated with a crime. The NSW Police retain carriage of the process until such time as the remains are confirmed to be Aboriginal or historic;
3. DP&E, as the approval authority, will be notified when human remains are found;
4. Once the police process is complete and if remains are not associated with a contemporary crime contact DP&E. DP&E will determine the process, in consultation with OEHL and/or the Heritage Office as appropriate;



- If the remains are identified as Aboriginal, the site immediately in the vicinity of the find is to be secured and DP&E and all Aboriginal stakeholders are to be notified in writing. DP&E will act in consultation with OEH as appropriate. OEH will be notified in writing according to DP&E instructions; or
  - If the remains are identified as non-Aboriginal (historical) remains, the site is to be secured and the DP&E is to be contacted. DP&E will act in consultation with the Heritage Division as appropriate. The Heritage Division will be notified in writing according to DP&E instructions;
5. Once the police process is complete and if the remains are identified as not being human, work can recommence once the appropriate clearances have been given.

### 8.3 Procedures for Handling Unexpected Aboriginal Objects

This section outlines the procedure for handling unexpected archaeological sites and objects. In the event that construction activity reveals possible Aboriginal objects other than those identified in Table 2 below, the following procedure is to be followed:

1. All work is to halt at that location immediately and the Project SHEQ Manager on site is to be immediately notified to allow assessment and management;
  - stop all activities local to the find; and
  - secure the site in the immediate vicinity of the find.
2. Contact the project archaeologist to assess the find and determine if it is consistent with the Project Approval;
  - if the find is consistent, the archaeologist will allow work to continue
  - if the find is inconsistent, OEH will be notified as soon as practical on 131555 providing any details of the Aboriginal object and its location. Work cannot recommence unless authorised in writing by OEH.

**Table 2: Aboriginal Sites in the Project Area which cannot be harmed**

Site name	AHIMS ID	Site Feature	Type/ Degree of harm
Tubbo; Darlington Point	49-5-0027	Modified tree	None
Tubbo	49-5-0028	Earth mound/hearth and modified tree	None
Tubbo	49-5-0029	Earth mound/hearth	None
Tubbo	49-5-0030	Hearth and modified tree	None
Tubbo TRE 01	49-5-0148	Modified tree	None
Tubbo TRE 02	49-5-0149	Modified tree	None
Tubbo TRE 03	49-5-0150	Modified tree	None
Tubbo TRE 04	49-5-0151	Modified tree	None
Tubbo TRE 05	tbc	Modified tree	None

#### **8.4 Procedure for proposed changes to Approved Projects**

Signal Energy and Edify Energy recognises that during the construction of the project design alterations or other changes to the Approved Project may be required.

A proposed change to the Approved Project (such as an alteration of the current design, the location of ancillary facilities) within the project corridor may result in a:

- Reduced impact to Aboriginal cultural heritage; or an
- Increased impact to Aboriginal cultural heritage.

Please Note: the use of the word impact in this section is defined as an impact on the significance of Aboriginal cultural heritage rather than simply an increased physical impact.

To ensure consistency with the Approved Project and this document any change in the overall impact on Aboriginal cultural heritage will need to be considered. The process to determine consistency is outlined in section below.

Where a proposed change to the Approved Project occurs outside of the project boundary considered for the EIS further heritage assessment will be required to determine if there would be an impact on Aboriginal cultural heritage and whether this represents a modification to the Approved Project

#### **8.5 Changes in heritage impact**

Where Signal Energy or Edify Energy seeks to make a change to the design and construction of the Approved Project which changes the assessed impact on Aboriginal cultural heritage Signal Energy will need to prepare an assessment of the new impacts of this work in consultation with the appointed Archaeologist. The continued involvement of the Aboriginal stakeholders in this process is outlined in section 8.6

##### **New impacts consistent with previously identified impacts**

If a proposed change to the Approved Project is considered to have a neutral or lesser significant impact on Aboriginal cultural heritage than that identified in Aboriginal CHAR, it would be considered a consistent impact.

If the proposed change is considered to be consistent with the Approved Project Edify Energy may approve the change with no requirements to seek further approval. However, in certain circumstances, further consultation with Aboriginal stakeholders may still be required (see section 8.6 below).

##### **New impacts inconsistent with previously identified impacts**

If a proposed change to the Approved Project is considered to have a more significant impact on Aboriginal cultural heritage than that identified in the EIS it would be considered an inconsistent impact.

If the proposed change is considered inconsistent with the assessed impact on Aboriginal cultural heritage, as detailed in the Project Approval, Signal Energy/Edify Energy would require an amendment to the mitigation measures agreed in this report. If this proposed change is considered inconsistent with the Approved Project Signal Energy/Edify Energy would require a modification of the Approved Project. Further consultation with Aboriginal stakeholders will be undertaken (see 8.6 below).

#### **8.6 Process for continued consultation with Aboriginal stakeholders**

The extent to which Signal Energy will continue to consult with Aboriginal stakeholders is dependent upon the level of impact and whether the area was assessed as part of the EIS. The types of potential impacts are identified as reduced impacts, increased impacts or unknown impacts.

### **Reduced or neutral impact**

If as a result of alterations to the project design a previously identified impact to an Aboriginal heritage item is reduced or neutral, then no further consultation is required.

If as a result of alterations to the project design an impact to an Aboriginal heritage item is proposed that results in a reduced impact on the overall heritage significance of the project area (i.e. the cumulative impact is reduced), then further consultation with Aboriginal stakeholders will be undertaken. This consultation may entail a phone call and phone log of comments received or the provision of a report for comment (10 working days).

### **Increased Impact**

Where as a result of alterations to the project design an impact on Aboriginal heritage is considered to be greater than identified by the Approved Project further consultation will be undertaken. This consultation will either entail a phone call and phone log of comments received or the provision of a report for comment (10 working days).

### **Unknown impacts: Assessment process**

Where a proposed change is an area located outside of the project boundary assessed as part of the Approved Project the impact on Aboriginal cultural heritage is considered to be unknown. This area would require preliminary assessment to determine any impacts upon Aboriginal heritage. Should no impacts be identified then no consultation with Aboriginal stakeholders is required. Should potential impacts be identified consultation with Aboriginal stakeholders will be undertaken. This consultation will entail the provision of a report for stakeholder comment (10 working days) detailing the impacts and mitigation strategies proposed

## **9 Compliance Management**

### **9.1 Monitoring and Inspection**

Monitoring of the "Chance Finds Protocol" requirements will be performed by the SHEQ Adviser or another delegated person on a regular basis. Particular attention will be given to the implementation of the Management Procedures outlined in Section 8. Any non-compliances will constitute an incident and will be reported as per the Environmental Management Strategy (EMS) in accordance with Item 4 (Schedule 4 - Environmental Management and Reporting) of the Development Consent.

**10 Appendix 1 – DPSF Cultural Heritage Map**

