

## **INQUIRY INTO PROPOSAL TO RAISE THE WARRAGAMBA DAM WALL**

**Organisation:** Australia ICOMOS

**Date Received:** 7 November 2021

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7 November 2021

The Hon Justin Field, MLC  
Chair  
Legislative Council Select Committee on the Proposal to Raise the Warragamba Dam Wall  
Parliament House  
Sydney NSW 2000

By email: [warragamba.dam@parliament.nsw.gov.au](mailto:warragamba.dam@parliament.nsw.gov.au)

Dear Mr Field,

## **Legislative Council Select Committee on the Proposal to Raise the Warragamba Dam Wall: Submission regarding the Environmental Impact Statement**

Australia ICOMOS is writing in relation to the abovementioned Legislative Council Inquiry and is grateful for a second opportunity to submit and take part in the public hearing following the release of the Environmental Impact Statement (EIS) of the proposal to raise the Dam wall.

Australia ICOMOS is concerned by the proposal to raise the Warragamba Dam wall by 14 metres, thereby allowing for periodic inundation of parts of the Greater Blue Mountains World Heritage Area (GBMWhA) and adjacent areas and remains critical of the EIS process relating to cultural heritage. Australia ICOMOS will make a formal submission to the public exhibition of the EIS.

Australia ICOMOS (International Council on Monuments and Sites) is a non-government, not-for-profit organisation of cultural heritage professionals formed as a national chapter of ICOMOS International in 1976. Our mission is to lead cultural heritage conservation in Australia by raising standards, encouraging debate and generating innovative ideas. ICOMOS is also an Advisory Body to the UNESCO World Heritage Committee under the World Heritage Convention.

Australia ICOMOS strongly endorses recommendations contained in the Interim Report, October 2021, of the Select Committee on the Proposal to Raise the Warragamba Dam Wall. In particular, four recommendations from the Interim Report are highlighted in our submission below in relation to the EIS. We also strongly reiterate our concerns in relation to obligations under the World Heritage Convention.

### **Impact on Outstanding Universal Value of World Heritage Property**

The areas that are affected by the proposal include a World Heritage property, a National Heritage place, two national parks, a declared Wilderness area, a declared Wild River, and the Warragamba Special Catchment Area. The subject area is recognised globally for its biodiversity and rare species and was also originally nominated to the World Heritage List by Australia, with the support of the NSW Government, for cultural as well as natural values in the 1990s. Parts of the area are currently on the Australian Heritage Council's Priority Assessment List and are being evaluated for a range of potential cultural National Heritage values.

Australia ICOMOS re-iterates its previous advice that the proposed raising of the Warragamba Dam wall has the potential to affect the integrity of the GBMWhA and therefore to impact adversely upon the Outstanding Universal Value of this World Heritage property.

The proposal is within the GBMWhA and while this inscription was for natural values, there are also important cultural sites and values affected, which are explicitly part of the 'integrity' of the property as expressed in its Statement of Outstanding Universal Value:

*An understanding of the cultural context of the GBMA is fundamental to the protection of its integrity. Aboriginal people from six language groups, through ongoing practices that reflect both traditional and contemporary presence, continue to have a custodial relationship with the area. Occupation sites and rock art provide physical evidence of the longevity of the strong Aboriginal cultural connections with the land. The conservation of these associations, together with the elements of the property's natural beauty, contributes to its integrity. (<https://whc.unesco.org/en/list/917/>)*

Under Article 4 of the *World Heritage Convention*, Australia is obliged (among other things) to do all it can, using the utmost of its own resources, (emphasis added) to identify, protect, and conserve the cultural and natural heritage of the GBMWhA. In this regard, Australia ICOMOS highlights Decision 40 COM 7 of the World Heritage Committee in 2016, in which it considered the construction of dams with large reservoirs within the boundaries of World Heritage properties to be incompatible with their World Heritage status, and urged States Parties to 'ensure that the impacts from dams that could affect properties located upstream or downstream within the same river basin are rigorously assessed in order to avoid impacts on the OUV' (Outstanding Universal Value).

In relation to the proposal considered by the EIS, the World Heritage Committee, by Decision 43 COM 7B/2 advised that that the inundation of areas within the property resulting from the raising of the dam wall are:

*likely to have an impact on the Outstanding Universal Value [ . . . ] of the Greater Blue Mountains World Heritage Area.*

By the same Decision the Committee urged that the:

*process to prepare an Environmental Impact Statement (EIS) for the proposal fully assesses all potential impacts on the OUV of the property and its other values, including Aboriginal cultural heritage (emphasis added).*

As outlined below, the EIS does not 'fully assess' 'all potential impacts' because it does not provide adequate identification, investigation or assessment of the potential impacts of the proposed action on the Indigenous cultural values of the GBMWhA, which are attributes that contribute to the integrity that underpins the property's Outstanding Universal Value.

#### **Recommendation 9 of the Interim Report, October 2021**

*That the NSW Government:*

- *not proceed with the Warragamba Dam wall raising project, if the proposal cannot maintain or improve the current and future integrity of the Greater Blue Mountains World Heritage Area, and*
- *pursue alternative floodplain management strategies instead.*

Adverse heritage impacts should be avoided, to the fullest practical extent in the GBMWhA. The area that is affected by this project and assessed in the EIS is inscribed on the World Heritage List and is invaluable to present and future generations.

The Aboriginal Cultural Heritage Assessment Report (ACHAR), Appendix K of the EIS, states in relation to Aboriginal Cultural Heritage that if the project proceeds, 'there is no capacity for directly applied management measures for the avoidance or minimisation of harm'. (ACHAR p iv)

Mitigation and management measures considered in the EIS (EIS Exec Summary p39) are unacceptable. The EIS proposes 'an Aboriginal cultural heritage management plan to address intergenerational equity including recording of Aboriginal cultural heritage'. Recording is insufficient. The focus should be on avoidance of harm.

The EIS states that 'to compensate for and offset the assessed impact, the Warragamba Offset Strategy focuses on purchasing and managing additional and appropriate land containing the values of the Greater Blue Mountains World Heritage Area to achieve no net loss'. (EIS Exec Summary p 32) The GBMWhA is

a mapped extent inscribed in the World Heritage List - it cannot be replaced by purchasing alternate land.

Australia ICOMOS restates its view that every effort should be made to pursue alternative solutions to the reported downstream flood risk, rather than pursuing a simplistic solution of raising the dam wall. Possibilities might include dredging works and filling of the dam to a lower level, or downstream flood mitigation activities which might better address dangers from tributaries that flow into the Hawkesbury-Nepean system downstream of Warragamba Dam. These alternatives do not appear to have been thoroughly considered in the EIS.

***Recommendation 11 of the Interim Report, October 2021***

*That the NSW Government not proceed with the Warragamba Dam wall raising project should Registered Aboriginal Parties not give free, prior and informed consent for the project to proceed, as required in advice provided to the NSW Government by the Commonwealth Department of Agriculture, Water and Environment.*

The EIS states that there has been further consultation with the Registered Aboriginal Parties (RAPs) during review and revision of the ACHAR. The ACHAR states 'it has been clearly communicated by the RAPs that they do not support the Project'. (ACHAR p iv)

***Recommendation 12 of the Interim Report, October 2021***

*That Water NSW conduct further Aboriginal Cultural Heritage Assessment, including additional field surveys, to address the concerns raised by stakeholders and agencies, particularly in relation to the adequacy of field surveys, and post fire assessment, as well as demonstrating the agreement of RAPs in the significance assessment of sites, and the need for a broader cultural impact assessment of the project.*

The ACHAR states that for the Archaeological Assessment, approximately 33% survey coverage of the impact area was achieved within the Project Upstream Impact Area (PUIA). Using a predictive model, it was estimated that there would be a total of 174 archaeological sites within the PUIA. (ACHAR p iii) Australia ICOMOS rejects the sampling and predictive model in the GBMWH where inundation may result in loss of cultural heritage.

The ACHAR notes that the Cultural Values Assessment involved limited consultation with the RAPs, 'the majority of who were not willing to participate in the formal assessment process or nominate knowledge holders'. (ACHAR p iii) Despite these limitations and the admission that 'locations of cultural value cannot be considered comprehensive,' the cultural landscape was assessed to be 'of very high significance.' (ACHAR p iv)

The ACHAR found that the impacts from the proposal include:

- *Harm to the cultural landscape through the periodic temporary flooding of 43 known archaeological sites (and an additional predicted 131 archaeological sites) and 11 cultural places within the PUIA.*
- *Cumulative harm to the intangible values of the cultural landscape through extension of previously unmitigated impact on cultural values from the construction of the Warragamba Dam and flooding of the Burrangorang Valley and its tributary valleys. (ACHAR p iv)*

The EIS acknowledges the 2019-2020 bushfires and notes that greater than 81% of the GBMWH was impacted. It notes that fieldwork was completed prior to the fires and 'it was not possible to conduct further survey after the fires'. (ACHAR p34) Further, 'it is not possible to quantify the effects of the 2019-2020 wildfires on Aboriginal heritage values or individual sites or places in the study area.' (ACHAR p34) This is completely unacceptable and an abrogation of due process.

Bushfires can cause damage to Aboriginal cultural heritage sites, such as cracking and exfoliation of rock art surfaces from intense heat, burning of Scarred trees and damage to stone artefacts or remnants at historical sites. Fire can also reveal scatters or previously unlocated remnants.

While the ACHAR hypothesises that 'the resilience of the cultural landscape suggest the latest fires have

not had an impact that would result in a material effect to this assessment,' (ACHAR p34) the impact of the fires is unknown because further fieldwork was not undertaken. The extent of field survey and the lack of survey post the 2019-2020 fires is a serious and unacceptable shortcoming of the EIS.

***Recommendation 13 of the Interim Report, October 2021***

*That the NSW Government, in the final Environmental Impact Statement, clearly demonstrate how the Aboriginal Cultural Heritage Assessment for the Warragamba Dam wall raising project complies with all current guidelines identified in the SEARs, including the:*

- *Burra Charter.....*

Best practice heritage practice, including the *Burra Charter*, (the *Australia ICOMOS Charter for Places of Cultural Significance*), requires that the values of a place of cultural significance should be identified prior to decisions which affect those values, and that, while considering and managing other factors, a primary objective should be conservation of those values. As outlined above, the EIS has not undertaken adequate consultation or survey work in relation to the Aboriginal Cultural Heritage assessment. There would also appear to be insufficient consideration of alternatives to the proposal to avoid harm. Therefore the EIS does not appear to meet *Burra Charter* standards and is fundamentally flawed.

In conclusion, Australia ICOMOS is concerned that the EIS is fundamentally deficient and that the very nature of the project is at odds with both appropriate cultural heritage practice and obligations that arise from the World Heritage Convention.

Yours faithfully

**HELEN LARDNER**  
**President, Australia ICOMOS**