

Submission on the referral

Energy North Pty Ltd – Project Ares

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Aboriginal Areas Protection Authority

Section of Referral	Theme or issue	Comment
Main report – section 5.6 Culture and heritage.	People/ Culture and Heritage	- The Authority is an independent statutory authority established under the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> (the Act). The Authority is responsible for the protection and registration of Aboriginal sacred sites throughout the Northern Territory. - The Authority's submission is confined to those aspects of the Referral that apply, or may apply, to Aboriginal sacred sites. - The Authority confirms that it issued an Abstract of Records relevant to Murrnji Station on 3 September 2025. - An Abstract of Records provides information regarding sacred sites recorded or registered by the Authority within the relevant area and may assist proponents to identify known sacred site constraints and undertake an informed risk assessment at an early stage of project planning. - Applicants are advised that the information contained within an Abstract of Records is provided for information purposes only and cannot be relied upon as an exhaustive list of sacred sites in the relevant area. This is because there may be other sacred sites within the area of which the Authority is not yet aware, or which have not yet been recorded or registered by the Authority. - The existence of a sacred site is a question of fact and is not dependent upon the site being recorded or registered by the Authority. Accordingly, the absence of a sacred site from an Abstract of Records should not be taken as confirmation that no sacred sites exist within the relevant area. For proponents seeking greater certainty regarding sacred site constraints associated with a particular proposal, the Act provides a process for applying for an Authority Certificate. - The Authority notes the proponent's approach to date in respect of sacred sites and acknowledges the following matters identified in the Referral: - the proponent's awareness that sacred sites are protected under the Act due to their cultural significance; - the proponent's preparation of initial plans for Project Ares that have apparently avoided known recorded or registered sacred sites identified in the Abstract of Records relevant to Murrnji Station; - the proponent's acknowledgement and acceptance of the limitations of the Abstract of Records it has reviewed in relation to Murrnji Station; - the proponent's confirmation that it intends to apply to the Authority for an Authority Certificate; - the proponent's acceptance that gaps in knowledge remain regarding Aboriginal sacred sites; and

		○ the proponent's commitment to liaise with Traditional Owners regarding Project Ares (through the appropriate channels). ● Having regard to Regulation 79 of the <i>Environment Protection Regulations 2020</i> and to the NT EPA's Environmental factors and objectives dated 17 March 2025, the Authority submits that any assessment of Project Ares in relation to culture and heritage, should have regard to the potential presence of Aboriginal sacred sites, including both recorded and unrecorded sacred sites. ● While Authority Certificates are not mandatory under the Act (other than in relation to certain petroleum activities), they provide an effective mechanism for identifying and avoiding impacts to sacred sites. An Authority Certificate also provides proponents with greater certainty regarding sacred site constraints associated with a particular proposal and may afford a defence to prosecution under section 34(1) of the Act, provided its conditions are complied with. ● The Authority notes the proponent's stated intention to apply for an Authority Certificate. The Authority Certificate process may identify sacred sites or sacred site constraints that are not apparent from an Abstract of Records and may assist the proponent to refine project design, avoidance measures and other risk management measures. ● The Authority Certificate process also enables the proposed works to be assessed against identified sacred site constraints. Where sacred sites are identified, the process may determine whether and how particular activities can occur without resulting in damage to, or interference with, a sacred site. Consequently, the identification of a sacred site does not necessarily prevent access to, or use of, land. Rather, the Authority Certificate process may provide proponents with greater certainty regarding sacred site constraints associated with a proposal and the circumstances in which activities can lawfully proceed. ● Whether an Abstract of Records provides sufficient information for a particular proposal, or whether additional certainty should be sought through the Authority Certificate process, is ultimately a matter for the proponent. Sacred sites remain protected under the Act regardless of whether an Authority Certificate has been obtained. ● Should the proponent proceed with an Authority Certificate application, the outcomes of that process may provide information relevant to the NT EPA's assessment of impacts on people, culture and heritage. Depending on the outcome of the assessment, the Authority Certificate process may provide greater certainty regarding sacred site constraints associated with the proposal and may identify whether, and if so how, particular activities can occur without resulting in damage to, or interference with, a sacred site. In some circumstances, this may provide proponents with greater flexibility in project design and implementation while ensuring the protection of sacred sites.
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