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Dear Mr Ng

ENVIRONMENTAL IMPACT ASSESSMENT – SYDNEY METRO WEST, SSI 10038

Thank you for referring the Environmental Impact Assessment (EIS) for the Sydney Metro West (SSI 10038) project to us for comment. We have prepared the following advice in relation to the Aboriginal cultural heritage component of the EIS.

Note: An Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by Artefact Heritage (AH), dated April 2020, that forms part of the EIS (Technical Paper 4) has been provided. Although this version of the report is redacted; we have reviewed the redacted ACHAR and considered how the assessment has addressed the SEARs and the relevant Aboriginal heritage management considerations.

Additional Aboriginal cultural heritage assessment is required to inform the EIS

Additional Aboriginal cultural heritage assessment is required to inform the EIS. We recommend that:

- Archaeological test excavation in Stage 1 be undertaken pre-approval to properly inform the identification of Aboriginal cultural heritage values that may be impacted by the proposed works, in accordance with the SEARs.
- A detailed archaeological test excavation methodology for Stage 1 be prepared and forwarded to us to assess the adequacy of the proposed test excavations. It is not appropriate to combine the test excavation and salvage excavation programs, as suggested in the ACHAR (AH 2020).
- The test excavation program includes sampling areas of predicted low archaeological potential to test and refine the predictive modeling and increase the reliability of the Aboriginal cultural heritage assessment for this project.
- The applicant demonstrates that the Registered Aboriginal Parties (RAPs) have been provided with an opportunity to comment on the draft ACHAR (AH 2020). Any comments received from the RAPs must be appropriately considered and addressed.
- The full length of the proposed Concept Plan alignment be subject to detailed Aboriginal cultural heritage assessment before being approved.
- The applicant supplies us with a non-redacted version of the ACHAR (AH 2020).

- An Aboriginal cultural heritage management plan be prepared to guide the Aboriginal cultural heritage management for the duration of this project.
- Planning and Assessment consider whether the required Aboriginal cultural heritage test excavations are covered by section 5.23(1)(d) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The SEARs required the impact on Aboriginal cultural heritage to be assessed

We consider that the ACHAR and EIS have not satisfactorily addressed the SEARs in the following ways:

- The impact of the construction on Aboriginal cultural heritage values is not known because test excavation has not been conducted. Statements of significance and cumulative impact are preliminary only and not based on evidence from the required test excavations.
- There is insufficient evidence of the consultation process in the ACHAR for us to determine whether the consultation process has met the requirements of the *Aboriginal Community Consultation Requirements for Proponents 2010* (DECCW 2010).
- Without the results of the test excavations it is not known if there are Aboriginal objects that require *in situ* conservation or detailed archaeological salvage excavation.
- Measures to avoid, minimise or mitigate potential impacts must be based on an accurate understanding of the Aboriginal cultural heritage values that are present. This can only be determined after the results of the test excavations have been analysed.

We recommend archaeological test excavation occurs pre-approval

We recommend archaeological test excavation, as recommended by AH (2020), occurs before Stage 1 and the Concept Plan are determined. This is to provide the decision maker with information on the extent of harm that will occur to Aboriginal objects. Without the results of the test excavation it is impossible to identify the Aboriginal heritage values that will be harmed by the proposed works.

The only way to make informed decisions about how to protect Aboriginal heritage is to conduct test excavation at an early stage of project design when there is flexibility to move elements to avoid harm if Aboriginal objects requiring conservation are identified. We note that two heritage listed buildings at Parramatta Station will be retained (AH 2020, p.14). A similar commitment to avoiding harm to Aboriginal heritage is required.

It is not appropriate for a combined test and salvage excavation program as appears to be proposed in the ACHAR (AH 2020). The results of the test excavations must be analysed before determining whether salvage excavation is needed and, if so, the extent and nature of that salvage.

Identified risks and limitations of the current level of Aboriginal Cultural Heritage assessment

In summary, we consider there are risks in proceeding with approval of Stage 1 and the Concept Plan based on the current level of ACH assessment:

- Test excavation as recommended by AH 2020 has not yet occurred. This means the presence, nature and significance of archaeological deposits are not yet known.

- Consultation with the RAPs on the draft ACHAR and recommendations has not been adequately documented. This means there may be Aboriginal cultural values that will be harmed that have not yet been identified.
- The requirements of the SEARs for an impact assessment and measures to avoid, minimise and mitigate impacts to Aboriginal heritage cannot be adequately addressed without the results of the test excavations.
- The overview of Aboriginal heritage provided for subsequent stages, namely the connection from The Bays to the CBD, in the EIS (section 8.7) lacks adequate detail to inform the impact assessment for this part of the Concept Plan.
- Some parts of the construction footprint have not been assessed, including the proposed services facility between Five Dock Station and The Bays Station.

Summary of recommendations

To address the risks identified above, we recommend that archaeological test excavation in Stage 1 is conducted pre-approval, the full extent of the Concept Plan is subject to detailed Aboriginal heritage assessment and evidence of the required Aboriginal community consultation process is provided. An Aboriginal heritage management plan should be prepared to guide the Aboriginal heritage management requirements of this project.

We have included detailed additional comments at Attachment A.

Aboriginal cultural heritage regulation is now part of Heritage NSW

Please note that on 1 July 2020 the Aboriginal cultural heritage regulation functions were transferred from the Department of Planning, Industry and Environment (DPIE) to Heritage NSW in the Department of Premier and Cabinet (DPC). Please be assured that both DPIE and DPC are committed to ensuring a smooth transition.

For future reference, the Aboriginal Cultural Heritage Regulation Branch can be contacted by email: heritagemailbox@environment.nsw.gov.au or telephone: 02 9873 8500.

We are available to meet and discuss our comments on the EIS if required. If you have any questions regarding the above advice, please contact Rose O'Sullivan, Archaeologist at Heritage NSW, on 4224 4177 or rose.osullivan@environment.nsw.gov.au.

Yours sincerely



21 July 2020

Jackie Taylor
Senior Team Leader
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ATTACHMENT A: ADDITIONAL ABORIGINAL CULTURAL HERITAGE ASSESSMENT COMMENTS FOR SYDNEY METRO WEST (SSI 10038) EIS

Proposed works

We understand this application is seeking approval to construct approximately 24km of metro line between Westmead and The Bays, near Rozelle. This includes construction of new metro stations, excavation of shafts for services, power supply route installation and ancillary works. The ACHAR (AH 2020, pp.9, 10) has assessed nine construction sites and four sections of power supply route, with the remaining length of the route being tunneled and considered below the depth of any potential archaeological deposits.

The proposed development is staged. This EIS relates to Stage 1 which includes both the Concept Plan approval for the entire project and construction works between Westmead and The Bays. Subsequent stages include construction of additional service areas and the link from The Bays to the CBD.

Some areas have not yet been subject to ACH assessment

The proposed services facility between Five Dock Station and The Bays Station and the connection from The Bays Station to the CBD have not yet been subject to an Aboriginal cultural heritage assessment. This limits the reliability of the EIS to accurately quantify the impact of this project on Aboriginal heritage.

The overview of Aboriginal heritage provided for the connection from The Bays to the CBD in the EIS (section 8.7) lacks adequate detail to inform the impact assessment for this part of the Concept Plan. We recommend the full length of the proposed alignment is subject to detailed Aboriginal cultural heritage assessment before the Concept Plan is approved.

The SEARs require the impact on Aboriginal cultural heritage to be assessed

In summary, the SEARs require the applicant to:

- Assess the impact of construction on Aboriginal heritage, including cumulative impact, with reference to the significance of the heritage values.
- Consult with the Aboriginal community about the proposed impacts in accordance with current guidelines.
- Consider options for *in situ* conservation and the need for archaeological test excavation and more detailed archaeological investigation.
- Measures to avoid, minimise or mitigate potential impacts.

The ACHAR and EIS have not satisfactorily addressed the SEARs in the following ways:

- The impact of the construction of Aboriginal heritage is not known because test excavation has not been conducted. Statements of significance and cumulative impact are preliminary only and not based on evidence from the results of the required test excavations.
- There is insufficient evidence of the consultation process in the version of the ACHAR provided to us to determine whether the consultation process has addressed the requirements of the Aboriginal Community Consultation Requirements for Proponents 2010 (DECCW 2010).
- Without the results of the test excavations it is not known if there are Aboriginal objects that require *in situ* conservation or archaeological salvage excavation.
- Measures to avoid, minimise or mitigate potential impacts must be based on an accurate understanding of the Aboriginal heritage values that are present. This can only be determined after the results of the test excavations have been analysed.

The Scoping Report commitments to protect Aboriginal heritage have not been met

We also note that Section 9.4.1 of the Scoping Report indicates that archaeological test excavation would be conducted to inform the EIS. The Scoping Report (p.121) commits to identifying Aboriginal heritage values that need to be conserved and measures to avoid, minimise or mitigate impacts to Aboriginal heritage. This has not been achieved in the EIS because the archaeological test excavation has not been conducted.

Additional information regarding the Aboriginal community consultation process is required

Consultation has identified cultural values within the Stage 1 area (AH 2020, p.25). The ACHAR (AH 2020, pp.102 and 104) notes that the cultural and historic values assessment will be confirmed with the RAPs through review of the draft ACHAR.

The applicant must clarify whether the ACHAR has been provided to the Registered Aboriginal Parties for comment as required under clause 60 of the National Parks and Wildlife Regulation 2019 and the *Aboriginal Community Consultation Requirements for Proponents 2010*. Evidence of this consultation must be provided. Any comments received from the RAPs must be appropriately addressed. (We note that a non-redacted version of the ACHAR may provide this information).

The archaeological test excavation methodology is inadequate

The archaeological test excavation methodology provided in the ACHAR is not adequate. Additional information on the location and extent of the test excavation and how this relates to the proposed non-Aboriginal test excavations is required.

Four areas of archaeological potential requiring test excavation have been identified (AH 2020, pp.104-105). Additional detail is required on the location of proposed test units, the extent of the proposed testing and proposed rationale for ceasing test excavation. The test excavation program must describe how the known disturbances have informed the proposed test excavation program and decisions about the location of the test excavation units.

Most of the Aboriginal archaeological assessment of the construction footprint is based on predictive modelling. While this is an established method, it carries the risk that there will be sites present that do not conform to these models. The ACHAR notes a lack of previous archaeological research in the vicinity of some of the construction areas (e.g. Westmead, AH 2020, p.52 and Silverwater, AH 2020, p.69). Given these limitations and the scale of this project, we recommend selected areas of low predicted archaeological potential are also subject to test excavation. This is to test and refine the modelling for this project and reduce the risk of harm to unrecorded Aboriginal heritage sites.

The ACHAR identifies potential for contact archaeology to be located in the Parramatta area (AH 2020, p.122). The test excavation methodology must therefore describe how any contact archaeological material identified during the test excavations will be managed. The Aboriginal archaeological test excavation program must clearly interact with the proposed historical archaeological test excavation program. This should include a comprehensive discussion and location map of the proposed historical archaeological test excavations and how these relate to the proposed Aboriginal archaeological test excavations.

Salvage excavation requirements will only be able to be determined after the test excavation results are known.