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Mr Kane Winwood  
Team Leader  
Transport Assessments  
NSW Department of Planning and Environment  
320 Pitt Street  
SYDNEY 2000

Email: Toby Philp <Toby.philp@planning.nsw.gov.au>

Dear Mr Winwood,

**RE: Environmental Impact Statement Review – The Northern Road Upgrade: Mersey Road, Bringelly to Glenmore Parkway, Glenmore Park, State Significant Infrastructure Project (SSI 7127).**

I refer to your letter dated 16 June 2017 inviting the Heritage Council of NSW (Heritage Council) to comment and provide recommended conditions of consent on the above described State Significant Infrastructure project.

The Project seeks to upgrade 16 kilometres of The Northern Road between Glenmore Parkway, Glenmore Park and Mersey Road, Bringelly. No State Heritage Register items have been identified as being affected, however there are two historical archaeological sites, one s170 registered item and one item on the Commonwealth Heritage Register (CHL) will be impacted by these works. A number of 'potential' heritage items are also discussed, however it remains unclear what level of significance, if any, these sites may retain.

I note the previous advice dated 23 January 2017 regarding the adequacy of the draft Environmental Impact Statement (EIS). The Department was advised of the following elements that did not satisfy the SEARS for this project:

- an Excavation Methodology and research design to manage the historical archaeological sites impacted by the proposed upgrade works; and
- the assessment required additional assessment of significance for all of the items identified within the study area as likely to retain heritage significance and which would be impacted. This was particularly raised as a concern for potential state significant archaeological sites such as Lawson's Inn and Miss Lawson's Guest House.

Further comments are now provided in consideration of the following document:

**Appendix N – The Northern Road Upgrade Mersey Road, Bringelly to Glenmore Parkway, Glenmore Park, Technical working paper: Non-Aboriginal Heritage Assessment** prepared by Jacobs, June 2017

### ***Items of Environmental Heritage:***

#### ***The Warragamba Supply Scheme Pipeline***

The Heritage register searches within **Appendix N** do not consider state government agencies, such as WaterNSW, other than the Roads and Maritime Services. The Warragamba Supply Scheme (Warragamba to Prospect Reservoir Pipeline) is listed under s.170 of the Heritage Act 1977 by WaterNSW. The requirements of s.170 of the *Heritage Act 1977* still apply for items so listed, because the provisions of s89J of the *Environmental Planning and Assessment Act 1979* for State significant development do not suspend these portions of the *Heritage Act 1977*. Compliance with the State Government Agency's Total Asset Management System (TAMS) is required when changes are proposed to a heritage item listed on a s170 register. The EIS and Appendix N discuss compliance with relevant guidelines for development adjacent to the Warragamba Supply System pipeline as mitigation for the proposed impact but do not specify what the mitigation will be. It is therefore not possible to advise appropriate conditions of consent for mitigation. This should be included in the EIS so that appropriate conditions of consent can be included.

#### ***Orchard Hills Cumberland Plain Woodland, Commonwealth Heritage List (CHL)***

The Chaffey Brothers Irrigation Scheme canal (also associated with the Mulgoa Irrigation scheme) is assessed by GML Heritage as retaining high significance. This canal system is described as series of shallow depressions in poor condition with some wooden beams noted in association with them. It is unclear how the impacts on the canal, from the northern section of the proposed road upgrade, would be mitigated other than by proposed archival recording. This may be a suitable mitigation option however, the discussion has not stated what the Heritage Management Plan prepared by GML Heritage has advised about the section of the canal. It would be appropriate for the mitigation to reference this HMP to justify the approach proposed.

#### ***Historical Archaeological Sites and relics***

The EIS has identified two historical archaeological sites within the project impact zone, both have been assessed as being of local significance by Appendix N. These items include Lawson's Inn Site (Item 10) and Miss Lawson's Guesthouse, Luddenham (Item 9). The historical assessment for these two items failed to search the NSW Land Title system prior to 1963. This is a concerning gap in the site history without any explanation such as Crown Land ownership.

It is therefore considered that Appendix N does **not satisfy** the stated requirements of the SEARS in terms of its historical investigation, analysis and significance assessments for each of the items which have been identified as 'potential' through this investigation. Also the analysis and historical investigation presented does not meet the standards of the NSW Heritage Manual 1996 for investigating and assessment of significance of heritage items in NSW. Archaeological assessments should also consider comparative analysis in assessing significance and that has not been addressed in the assessment.

#### ***Assessment of Significance for item within the project area:***

Previous comments provided on 23 January 2017 raised concern with the insufficient assessment of heritage items and potential heritage items in the draft EIS. The current EIS raises the same concern. The identified items are either assessed as retaining heritage significance at a local or state level, and are to be avoided or mitigated by the project, or they are not significant and require no heritage management. The EIS must be clear in this argument.

The level of historical research needed to underpin and investigate significance is not demonstrated in the archaeological assessment. This is clear in the supporting assessments of significance for these items for example:

*Item 5: weatherboard house, slab hut and old dairy, Luddenham*, where no additional research was provided because the team had difficulty in searching Old System land titles in NSW. The information supporting the assessment of this item was provided by one source only. No additional historical analysis was undertaken to support this work. Inadequate investigation of historical land titles in NSW may have led to the same error for multiple items considered for this project. This is considered to be an inadequate submission against the requirements of the *Heritage Manual, 1996* for Investigating and Assessing significance.

*Item 9 (Miss Lawson's Guesthouse site)* was associated with Item 10 (Lawson's Inn Site) and dates from the same time, circa 1830s. It would be fully impacted by the proposed works; the proposed approach is open area salvage of this archaeological site. It is noted the site may retain a higher level of significance than local, however the supporting assessment has been inadequate in demonstrating detailed site specific historical research and comparative analysis to support the significance assessment. Archaeological sites may satisfy multiple values under the significance criteria other than just Criterion 'e' for research potential. The mitigation is considered to be inadequate because it does not provide the detailed response required by the SEARS.

*Item 10 (Lawson's Inn Site)* is a circa 1830s inn site, and has been assessed previously as being of state significance, however, it has been argued that the site is of local significance. There is no justification for this change in significance for this item. The mitigation proposed is also unclear because the EIS has argued in Section 7 that full archaeological sites for Items 9 and 10 will be salvaged. However, the executive summary of the Appendix (Table 2, page xvi) specifically states 'around a quarter of the site (Item 10) would be directly impacted by construction'. Partial excavation of this site is not supported where full impacts may occur through construction and other associated activities which would represent indirect impacts as well as direct impacts. It is recommended this is resolved in the EIS as either completely avoiding the site or fully salvaging the site within an appropriate excavation methodology. The excavation would need to include a methodology an Archaeological Research Design and the nomination of an Excavation Director who meets the Heritage Council Criteria.

### **Recommendations:**

It is recommended that the following additional information be sought from the applicant prior to determination of the application by the Department to address the management of the following heritage items: Orchard Hill Cumberland Plain Woodland (Chaffey Brothers Irrigation Scheme) and Warragamba Supply Scheme pipeline and the identified archaeological sites as follows:

#### **1. Warragamba Supply Scheme**

Information to clarify mitigation measures for the proposed impact to this item so that appropriate conditions of consent can be included, where appropriate.

#### **2. Orchard Hill Cumberland Plain Woodland (Chaffey Brothers Irrigation Scheme)**

Information to clarify how the proposed mitigation measure of archival recording complies with the advice in the Heritage Management Plan prepared by GML Heritage for management of this high significant item.

#### **3. Historical Archaeological Sites:**

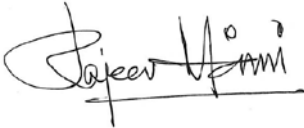
- A. A full detailed historical archaeological assessment that satisfies the guidelines 'Assessing Historical Archaeological Sites and Relics, 2009' and 'Archaeological Assessment 1996' shall be prepared by the Applicant for item 8 (Lawson's Inn site)

and Item 9 (Miss Lawson's Guesthouse site) by an historical archaeologist who has demonstrated experience in excavating and assessing sites of state heritage significance in the state of NSW.

- B. This assessment shall include a detailed excavation methodology and research design prepared by the nominated excavation director for the full mitigation of these sites, where the detailed design cannot avoid impact to them. The Excavation program must be undertaken by a person who can demonstrate open area salvage of local and potentially state significant sites in NSW under the Heritage Council of NSW Excavation Director criteria. These documents must be prepared and submitted for the review of the Heritage Council of NSW or its delegate and the approval of the Secretary of the Department of Environment and Planning.

If you have any questions regarding the above matter please contact Felicity Barry, Senior Archaeologist, at the Heritage Division, Office of Environment and Heritage on 9995 6914 or at [Felicity.Barry@environment.nsw.gov.au](mailto:Felicity.Barry@environment.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rajeev Maini', with a horizontal line underneath.

**Rajeev Maini**

Manager, Conservation

Heritage Division

Office of Environment & Heritage

**As Delegate of the NSW Heritage Council**

2 August 2017