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David Fitzgibbon
Precinct Project Manager
Strategies & Land Release
Department of Planning & Infrastructure
Level 5
10 Valentine Avenue
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Dear David,

**RE. MARSDEN PARK PRECINCT: ABORIGINAL HERITAGE ASSESSMENT
REVIEW AND RESPONSE TO SUBMISSIONS**

Thank you for providing the submissions made on Aboriginal heritage in the Marsden Park Precinct. The Department of Planning and Infrastructure (DoPI) received five submissions which specifically comment on the Aboriginal heritage of the precinct:

- i. Blacktown City Council (letter dated 10 January 2013);
- ii. Darug Aboriginal Cultural Heritage Assessments (Gordon Morton and Associates) (letter dated 12 December 2012);
- iii. Darug Custodian Aboriginal Corporation (letter dated 12 December 2012);
- iv. Heritage Council of NSW (letter dated 19 December 2012); and
- v. Office of Environment and Heritage (OEH) (letter dated 17 January 2013).

These submissions have been reviewed and the following information provided for the Department's consideration in relation to preparing a response to submissions.

BLACKTOWN CITY COUNCIL

Blacktown City Council prepared a submission on the Draft Precinct Plan for the Marsden Park Precinct (letter dated 10 January 2013) which outlined Council's support for the development of the precinct, confirmed Council's involvement in the precinct planning process and raised a few issues that Council considered should be addressed in a post exhibition review of the draft Plans. One of these related to Aboriginal heritage, specifically further consideration as to incorporating a reference to the requirement for due diligence in the DCP.

This is a good comment of Council and it is supported that a reference to the requirement for due diligence related to Aboriginal cultural heritage should be included in the DCP. In accordance with the *National Parks and Wildlife Act 1974*, anyone who may undertake activities that may harm Aboriginal objects is required to exercise due diligence.

The Office of Environment and Heritage (OEH) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* is designed to assist individuals and organisations exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they need to apply for an Aboriginal heritage impact permit (AHIP) under the *National Parks and Wildlife Act 1974*. A due diligence assessment is required for activities which have the potential to harm Aboriginal objects as defined under the Act. The Code of Practice outlines a five step assessment process.

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| Step 1 | establish whether the activity will disturb the ground surface or any culturally modified trees; |
| Step 2 | establish whether there are any (a) relevant confirmed site records on the OEH Aboriginal Heritage Information Management System (AHIMS) sites database or any other sources of information of which a person is already aware and (b) landscape features that are likely to indicate the presence of Aboriginal objects; |
| Step 3 | establish whether harm to any Aboriginal objects or landscape features identified in Step 2 can be avoided by the proposed activity; |
| Step 4 | undertake further desktop assessment and visual inspection to establish whether there are Aboriginal objects present or whether they are likely; and |
| Step 5 | further investigation and impact assessment if required. |

The Aboriginal heritage assessment undertaken for precinct planning can assist in meeting requirements for due diligence.

DARUG ABORIGINAL CULTURAL HERITAGE ASSESSMENTS (Gordon Morton and Associates) AND DARUG CUSTODIAN ABORIGINAL CORPORATION

Comparable submissions were made by the Darug Aboriginal Cultural Heritage Assessments (DACHA) (letter dated 12 December 2012) and Darug Custodian Aboriginal Corporation (DCAC) (letter dated 12 December 2012). Both submissions refer to the Marsden Park Precinct Planning Report on exhibition.

Both DACHA and DCAC were primary Aboriginal stakeholders for the precinct and participated in each step of the precinct planning process and development of the indicative layout plan. Both stakeholders provided positive input into and expressed support for the findings and recommendations of the Aboriginal heritage assessment for the precinct. The submissions specifically relate to the limited recognition of the Aboriginal cultural heritage values of the precinct in the Precinct Planning Report.

The submissions affirm that the area is highly significant to the Darug people and that the area is an Aboriginal landscape. These views were expressed during the Aboriginal cultural heritage assessment undertaken for the precinct and incorporated into the Aboriginal heritage assessment report. Written statements provided by DACHA and DCAC were incorporated and appended to the Aboriginal heritage assessment report.

The key issues in the DACHA and DCAC submissions appear to relate to:

1. the identified Aboriginal cultural heritage values not being incorporated into the precinct planning report itself;
2. there are no specific conservation outcomes for Aboriginal heritage (i.e. areas conserved solely for the purpose of conserving Aboriginal heritage); and
3. bigger picture limitations of the Sydney Growth Centres precinct planning process in meeting what was considered to be a key goal of the process (i.e. specific conservation areas for Aboriginal cultural heritage values).

The submissions acknowledge that some of the identified Aboriginal heritage will be conserved within the Marsden Park Precinct. It is understood that further investigations and assessment for detailed development planning will be undertaken in further consultation with DACHA and DCAC and as such, there is an opportunity to address these comments and incorporate further conservation areas into the detailed development layout plans.

Further investigation to be undertaken to support an application for an Aboriginal heritage impact permit (AHIP) under the *National Parks and Wildlife Act 1974* should:

- a) be undertaken in further consultation with Aboriginal stakeholders for the precinct (including DACHA and DCAC);
- b) identify opportunities for further conservation of Aboriginal heritage, including areas specifically set aside for Aboriginal cultural heritage values; and
- c) develop interpretive strategies and programs.

Requirements for further consultation, conservation and interpretation could be incorporated into the DCP for the precinct.

The comments should also be taken into consideration for ongoing precinct planning in the Growth Centres on the whole, specifically related to how the precinct planning process to date has or has not met the expectations of the Aboriginal community in relation to anticipated goals and outcomes. It is understood the precinct planning process is currently under review and the DACHA and DCAC comments could be taken into consideration as part of the review process.

HERITAGE COUNCIL OF NSW

The Heritage Council of NSW submission (letter dated 19 December 2012) expressed support for the conclusions and recommendations of the Aboriginal heritage assessment undertaken as part of the precinct planning process. The Heritage Council was actively involved in the agency workshops conducted during precinct planning and the submission reflects this involvement and understanding of the process.

The submission affirms:

- a) ongoing consultation with the Aboriginal community stakeholders should be undertaken for the precinct; and
- b) opportunities for active interpretation of Aboriginal heritage values within the precinct should be identified and implemented.

The requirement for ongoing consultation and interpretation opportunities could be incorporated into the appropriate planning documentation (e.g. DCP).

OFFICE OF ENVIRONMENT AND HERITAGE

The Office of Environment and Heritage (OEH) submission (letter dated 17 January 2013) identified its key concern as being related to the proposed measures to protect areas of native vegetation to ensure long term conservation. A number of comments were also made relating to biodiversity, Aboriginal cultural heritage, planning of the former Air Services Australia site and floodplain risk management.

A number of detailed comments were made specific to the assessment of Aboriginal heritage. The two key comments appear to relate to the applicability of the assessment and request for further detailed information.

The assessment was undertaken under the Precinct Acceleration Protocol and designed to meet the aims and approach of the Department's precinct assessment method while complying with the accelerated program. The assessment process met each defined step and complied with the requirements and timeframes for Aboriginal stakeholder consultation.

The comments and requests for further detailed information relate to information requirements applicable to seeking an Aboriginal heritage impact permit (AHIP) for Aboriginal objects in the precinct. The comments and further detailed information should be addressed as part of any future AHIP application made for Aboriginal objects in the precinct.

If you have any questions or require further information, please don't hesitate to contact us on 02 9232 5373.

Yours sincerely



Dr Matthew Kelleher
Director/Archaeologist



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