

APA Technical Note - Western Outer Ring Main - Environment Effects Statement

TECHNICAL NOTE NUMBER: TN14

DATE: 22 September 2021

SUBJECT: Specialist area: Cultural Heritage
Response to Inquiry RFI 100 and 103.

SUMMARY This Technical Note provides responses to the request for information queries raised in relation to Technical Report I *Cultural heritage* and Chapter 13 *Cultural heritage* of the Western Outer Ring Main (WORM) Environment Effects Statement (EES) and provides an update on the status and progress of Cultural Heritage Management Plan (CHMPs 16593 and 16594) and the Cultural Values Recording.

REQUEST: 100. Provide an update on the status and progress with completing the Cultural Heritage Management Plans.
103. Explain how cultural heritage matters have been considered in the options assessment and the ability to adapt the route alignment if significant cultural heritage is identified in the Cultural Heritage Management Plans being undertaken.

NOTE:

Response to RFI 100 – Update on the status and progress of the Cultural Heritage Management Plans

Background

- 1 In EES Technical Report I *Cultural Heritage* and Chapter 13 of the WORM EES, several sections regarding Aboriginal cultural heritage make reference to, and contain assessments based on, the level of assessment completed at the time of issuing the report. Section 5.8 of the EES Technical Report I *Cultural Heritage* outlines limitations and assumptions to the assessment.
- 2 This technical note sets out the additional assessment works that have been completed following exhibition and provides general updates to the exhibited version of the EES chapter as of 23 August 2021.

General Changes and Updates

- 3 Since the exhibition of the EES, the part of the Department of Premier and Cabinet (**DPC**) department previously known and referenced as Aboriginal Victoria (**AV**) is now known as First People – State Relations (**FP-SR**).
- 4 Since the exhibition of the EES a change in the Registered Aboriginal Party (**RAP**) boundaries has been announced by the Victoria Aboriginal Heritage Council (**VAHC**). The change has since come into effect (on 1 July 2021), meaning that the section of the Project Area that was formally in a non-RAP area (KP 0-8.29) is now in the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (**WWCHAC**) RAP boundary.
- 5 The CHMP that was formally in the non-RAP area (CHMP 16594) is now within the WWCHAC RAP boundary. The CHMP however, will still be evaluated by FP-SR (formally

Aboriginal Victoria) as pre-existing arrangements remain in place for all projects which commenced before the change of RAP boundaries on 1 July 2021.

Updates to the Cultural Heritage Management Plan (CHMP 16594)

- 6 Since the exhibition of the EES, the level of assessment that has been completed as part of CHMP 16594 has changed.
- 7 *Section 5.4.2 CHMP Summaries* of the EES Technical Report I *Cultural Heritage* makes reference to the status of the assessment at the time of the EES exhibition.
- 8 Since the exhibition of the EES the following level of assessment has been completed:
 - The additions to the Project Area as part of Revision 10 of the pipeline design have been assessed. Additional Standard Assessment has taken place.
 - No additional Complex Assessment was deemed necessary.
 - A conditions meeting has taken place with FP-SR on 16 September 2021 in order to confirm the drafted conditions are acceptable prior to submission of the CHMP. The draft conditions will also be forwarded to WWCHAC for review, given they are now the RAP for this area.

Updates to the Cultural Heritage Management Plan (CHMP 16593)

- 9 Since the exhibition of the EES, the level of assessment that has been completed as part of CHMP 16593 has changed.
- 10 *Section 5.4.2 CHMP Summaries* of the EES Technical Report I *Cultural Heritage* makes reference to the status of the assessment at the time of the EES exhibition.
- 11 Since the exhibition of the EES the following level of assessment has been completed:
 - The Standard Assessment has been completed for the additions to the Project Area as part of Revision 10 of the pipeline design.
 - 74% of the properties requiring Complex Assessment have been completed, with 13% ongoing and 13% not started.
 - Extent testing¹ has been completed at 56% of the areas of archaeological potential that have currently been determined as requiring extent testing, with 17% ongoing and 28% not started.
 - Additional Complex Assessment and extent testing is currently being undertaken (23 August – 1 October) with a final three weeks of fieldwork booked for 6 December to 24 December 2021. Additional fieldwork bookings with the RAP will be secured at earlier dates if possible.
 - At the completion of fieldwork, the artefacts recovered will be analysed and the required Record Edits² and new Aboriginal places will be submitted for approval to the Victorian Aboriginal Heritage Register (VAHR), this process is currently taking up to 16 weeks. CHMP 16593 can be finalised prior to the registration of any Record Edits and new Aboriginal places. However, the Record Edits and new

¹ Extent testing describes the further testing required, where an initial test pit or shovel test pit has identified Aboriginal cultural heritage, this is done in order to establish the extent, nature and significance of the place in order to aid in the registration of Aboriginal places.

² A Record Edit describes where an Aboriginal place has been previously registered, however further assessment has been conducted and the Aboriginal place record on the Aboriginal Cultural Heritage Register and Information System (ACHRIS) must be updated regarding the findings as a result of the further assessment

Aboriginal place registrations must be submitted and approved prior to the submission of CHMP 16593 for approval.

- Complex Assessment results meetings are scheduled for the 18th of October and 23rd December 2021. At which time the results of the Complex Assessment as well as the extent, nature and significance of the Aboriginal places, as well as harm avoidance, mitigation and/or management measures will be discussed and determined.
 - Once the Aboriginal places have been registered and any harm avoidance, mitigation and/or management measures have been determined, the CHMP will be submitted to the RAP for evaluation.
- 12 As of 20 September 2021, a total of 65 surface artefacts have been identified within the Project Area. As of 20 September 2021, a total of 427 subsurface artefacts have been identified within the Project Area as a result of the Complex Assessment and extent testing for CHMP 16593.
- 13 The artefacts will be registered as Aboriginal places. The Aboriginal places that will be registered as part of the assessment are likely to be low – moderate densities of artefact.
- 14 Consultation with the WWCHAC RAP is ongoing as part of the CHMP (in both the form of fieldwork and meetings, as required by the *Aboriginal Heritage Act 2006*). A Complex Assessment meeting is scheduled for October 18 and 23rd December 2021, during which time the significance of the Aboriginal places, as well as harm avoidance, mitigation and/or management measures will be discussed and determined.

Updates to the Cultural Values Recording

- 15 At the time of exhibition of the EES the Cultural Values Recording was proposed.
- 16 With the changes in RAP boundary, a Cultural Values Recording has been undertaken with WWCHAC for the entirety of the Project Area, given the entirety of the Project Area is now within the WWCHAC RAP boundary.
- 17 An on-country Cultural Values Recording was undertaken on 15 June 2021 which included a site visit to two locations (determined in consultation with the RAP). A follow up workshop was completed on 26 August 2021 and the report is currently in for review with the RAP.
- 18 Intangible values were identified associated with the two locations, including a creation story associated with the Merri Creek.
- 19 A report has since been produced that details the values identified as well as the recommendations put forward by the WWCHAC Elders. The recommendations associated with the Cultural Values Assessment include the ongoing engagement of the WWCHAC Narrap Team to manage weeds within the Project Area and the management of natural resources including removed trees. The recommendations also specified that waterways should be disturbed as little as possible, including the use of directional drilling where the underlying geology allows. The report is currently with the RAP for review. These recommendations will be included in the CHMP where deemed appropriate through consultation with the RAP.

Update to Impact Assessment

- 20 *Section 8.1 of the EES Technical Report I Cultural Heritage* details the impacts to Aboriginal cultural heritage.

- 21 Since the exhibition of the EES the level of assessment that has been completed as part of CHMP 16593 has changed and the number of Aboriginal places impacted by the Project has increased (as summarised in paragraph 12 above).
- 22 As Complex Assessment is yet to be complete and the Aboriginal places are yet to be registered, it is unknown how many additional Aboriginal places will be impacted by the Project. The final number of Aboriginal places to be registered will be known at the conclusion of the Complex Assessment for CHMP 16593 when registrations of the Aboriginal places are submitted to VAHR.
- 23 The Aboriginal places that are still to be registered as part of the CHMP are likely to be of low-moderate scientific significance. This conclusion is based on the scientific significance of previously registered Aboriginal places within, and within proximity to, the Project Area, and the nature of new Aboriginal places currently identified as part of the ongoing fieldwork for CHMP 16593.
- 24 Through consultation with WWCHAC, harm to the Aboriginal places will aim to be avoided or minimised, including the newly identified Aboriginal places. This is in accordance with Section 61 of the *Aboriginal Heritage Act 2006*, in which a CHMP must consider whether the activity will be conducted in a way that avoids harm to Aboriginal cultural heritage and, if harm cannot be avoided, whether the activity will be conducted in a way that minimises harm to Aboriginal cultural heritage. Where harm cannot be avoided or minimised then harm will be mitigated through mitigation measures such as archaeological salvage. In accordance with Section 61 of the Act, a CHMP must consider any specific measures required for the management of Aboriginal cultural heritage likely to be affected by the activity, before, during and after the activity.
- 25 The impacts to the newly identified intangible values are considered to be moderate given the open cut nature of the works at Merri and Jacksons Creek. However, the impacts may be re-evaluated as low if the recommendations for reinstatement and weed management at the locations associated with the intangible values (Merri and Jacksons Creeks) are met. EMMs included in EES Technical Report A *Biodiversity* and EES Technical Report BAA *Surface water* address site rehabilitation of Merri and Jacksons Creek. Once implemented, these measures may lower the impacts to intangible values. WWCHAC have not been consulted regarding whether the implementation of specific measures outlined in the Chapter 7 and Chapter 8 EMMs will affect the impacts to intangible values,

Changes to EMMs

- 26 The following EMMs relate to the identification of Aboriginal cultural heritage:
- CH1 – Cultural Heritage Management Plan
 - CH2 – Archaeologically sensitive landforms
- 27 Having considered the newly identified Aboriginal cultural heritage associated with CHMP 16593. EMM CH1 is still considered an appropriate measure to manage the impacts of the project on Aboriginal cultural heritage.
- 28 The newly identified intangible values and recommendations put forward as part of the Cultural Values Recording, will be included as part of the condition of CHMP 16593 where deemed appropriate in consultation with the RAP and therefore will also be covered under EMM CH1.

Response to RFI# 103 – How cultural heritage matters have been considered in the options assessment and the ability to adapt the route alignment if significant cultural heritage is identified in the Cultural Heritage Management Plans

- 29 The selection of a preferred route option for the WORM undertaken as part of the Route Options Report in March 2019 considered known areas of cultural heritage sensitivity within the multi-criteria analysis process as well as watercourse crossings.
- 30 Through the CHMP process, the extent, nature and significance of any identified Aboriginal cultural heritage for the alignment will be assessed. If harm to the identified Aboriginal cultural heritage cannot be avoided by the Project, then minimisation and mitigation measures will be discussed in consultation with the RAP and FP-SR.
- 31 APA would consider options to avoid and minimise where practicable, which could include the following measures:
 - review construction methodology in close proximity to a significant site (e.g. consider boring)
 - narrowing the construction footprint to minimise impacts on a significant site;
 - minor alignment change to minimise impacts to significant site, subject to assessment and consideration of other impacts.