



Aboriginal Cultural Values Assessment and Aboriginal Cultural Heritage Assessment Report

Proposed Youth Recreation Area, Rushcutters Bay Park, Darling Point

Woollahra LGA



April 2024

Report prepared for Woollahra Municipal Council

Project Summary

Woollahra Municipal Council ('Council') proposes to undertake works to create a Youth Recreation Area within the eastern portion of Rushcutters Bay Park, Darling Point. Coast History and Heritage ('Coast') has prepared this report at the request of Woollahra Municipal Council. It consists of an Aboriginal Cultural Heritage Assessment and an Aboriginal Cultural Values Assessment.

The Aboriginal Cultural Values Assessment was requested by Heritage NSW as Rushcutters Bay Park is a listed item on the State Heritage Register partly for its historical Aboriginal associations, and approval is required under the *Heritage Act 1977* for the Youth Recreation Area. The assessment was required to determine whether these aspects of the park's heritage value may be impacted by the proposal. The Cultural Values Assessment was undertaken in collaboration with the Gujaga Foundation and descendants of the residents of the historical Aboriginal settlements at Rushcutters Bay.

Reporting of the Cultural Values Assessment was requested to be in the form of an Aboriginal Cultural Heritage Assessment Report (ACHAR) in accordance with the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, and documenting Aboriginal community consultation in accordance with the National Parks and Wildlife Regulation 2019, and the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.¹ As the park is also within an area of Aboriginal Heritage Sensitivity as defined by the Council's Aboriginal Heritage Sensitivity Mapping, the ACHAR also includes a consideration of potential Aboriginal archaeological impacts meets Council's reporting requirements.²

The study area and proposal

The study area for the archaeological component of this report is the extent of the proposed Youth Recreation Area, located in a small portion of Rushcutters Bay Park (East) in the southwest corner. It is bounded by the remainder of the park, with the drainage channel of the former Rushcutters Creek to the west, Rushcutters Bay to the north, New Beach Road to the east and New South Head Road to the south. The proposed works in this area include the construction of skatepark and basketball elements, seating, drainage services, connecting footpaths and soft landscaping. The study area for the Cultural Values Assessment includes this area but also considers the entirety of Rushcutters Bay Park.

Aboriginal heritage values

The study area has ongoing significance to Aboriginal people whose ancestors lived in the area, in some cases up to the end of the nineteenth century. The following Aboriginal cultural values statement was developed by Shane Ingre, whose ancestor lived in historical Aboriginal camps around Rushcutters Bay, in consultation with other descendants of camp residents:

¹ OEH 2011, DECCW 2010a, DECCW 2010b

² www.woollahra.nsw.gov.au/data/assets/pdf_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf.

Rushcutters Bay Park holds great value to me as a Dharawal person. It is a place that endured the early expansion of the colony and the pressures associated with that, and our ancestors remained on country and continued living a cultural lifestyle right up until the 1900's. To have a personal family connection to this place through my great-great grandmother, visiting the area you can still feel the presence and that spiritual connection to country. This is still a very special place.

Rushcutters Bay was most likely used for many thousands of years prior to these historical camps. While there are no recorded Aboriginal archaeological sites within the study area, and none were identified during our site survey, the study area and parts of Rushcutters Bay Park were identified in the Woollahra Aboriginal Heritage Study as an area of Aboriginal Heritage Sensitivity due to the likelihood that the original shoreline, prior to reclamation works of the 1880s, is buried underneath layers of fill, and has the potential to contain Aboriginal archaeological deposits. However, our assessment has shown that physical traces of these are unlikely to survive within the layers of fill that the proposed works will excavate into.

Proposed development and potential Aboriginal heritage impact

Council proposes to construct a Youth Recreation Area. This will not impact the identified Aboriginal cultural values of the place, and will offer opportunities for those values to be recognised and celebrated through public interpretation, as both the Gujaga Foundation and La Perouse Local Aboriginal Land Council have noted. The works are also unlikely to have an impact on any Aboriginal archaeological remains that could be present in any surviving original shoreline deposits under layers of fill within the park. Components such as the slab for the skatepark, basketball elements, shade shelter, and soft landscaping, are restricted to the upper layers of disturbed fill below the ground surface. However, there is always a low possibility for Aboriginal archaeological objects to be found even in disturbed contexts. As a precaution, monitoring of all excavation works is recommended, in conjunction with an Aboriginal heritage induction for the works team and for the works to operate under an unexpected finds protocol.

Recommendations

We recommend that:

1. No further Aboriginal archaeological assessment or investigation is required prior to commencement of the proposed development, and the works may proceed with caution.
2. All workers involved in excavation works onsite undertake an Aboriginal cultural heritage induction as part of their overall site induction. This will explain the nature of the study area and the types of features that may be uncovered, the legislative requirements associated with Aboriginal heritage, and the procedures for archaeological management that are to be followed in the event that any identified or suspected Aboriginal objects or Aboriginal human remains are encountered. The induction is to be developed and delivered by the La Perouse LALC.
3. Monitoring of all excavation works should be conducted by the La Perouse LALC.
4. An unexpected finds protocol should be implemented for the life of the development. The unexpected finds protocol should be adhered to if unforeseen Aboriginal objects or human

remains are uncovered during the development. This should be undertaken in accordance with **Section 6.4.3** of this report.

5. A Heritage Interpretation Plan should be developed by interpretation specialists and designers who have considered the cultural values and consultation outlined in this report, to be prepared to ensure these values, themes and stories are represented in the proposed Youth Recreation Area. This should be developed in close consultation with the descendants of former Aboriginal residents of nearby historical settlements, which can be coordinated through the Gujaga Foundation.
6. A copy of this final report should be forwarded to the RAPs and to:

The Registrar
Aboriginal Heritage Information Management System
Heritage NSW
Locked Bag 5020
Parramatta NSW 2220

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1. Introduction to the project

Woollahra Municipal Council ('Council') proposes to undertake works to create a Youth Recreation Area within the eastern portion of Rushcutters Bay Park, Darling Point. Coast History and Heritage ('Coast') has prepared this report at the request of Woollahra Municipal Council. It consists of an Aboriginal Cultural Heritage Assessment and an Aboriginal Cultural Values Assessment.

The Aboriginal Cultural Values Assessment was requested by Heritage NSW as Rushcutters Bay Park is a listed item on the State Heritage Register partly for its historical Aboriginal associations, and approval is required under the *Heritage Act 1977* for the Youth Recreation Area. The assessment was required to determine whether these aspects of the park's heritage value may be impacted by the proposal. The Cultural Values Assessment was undertaken in collaboration with the Gujaga Foundation and descendants of the residents of the historical Aboriginal settlements at Rushcutters Bay.

Reporting of the Cultural Values Assessment was requested to be in the form of an Aboriginal Cultural Heritage Assessment Report (ACHAR) in accordance with the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, and documenting Aboriginal community consultation in accordance with the National Parks and Wildlife Regulation 2019, and the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.³

As the park is also within an area of Aboriginal Heritage Sensitivity as defined by the Council's Aboriginal Heritage Sensitivity Mapping, the ACHAR also details known and potential Aboriginal heritage ('objects') within the study area, assesses the potential Aboriginal heritage impact of the proposed activity and contains Aboriginal heritage management recommendations to inform a Review of Environmental Factors (REF) and meet Council's reporting requirements.⁴ Non-Aboriginal (historic) heritage is addressed in a separate report.⁵

1.1 What the report contains

This report contains:

- a description of the study area, the proposal and the background to our study (**Section 1**);
- documentation of Aboriginal community consultation in relation to the Cultural Values Assessment and broader project (**Section 2** and **Appendix 1**);
- an overview of the environmental, archaeological and historical information we considered in our assessment (**Section 3** and **Appendix 2**);
- a description of the field survey we completed (**Section 4**);

³ OEH 2011, DECCW 2010a, DECCW 2010b

⁴ www.woollahra.nsw.gov.au/data/assets/pdf_file/0009/248238/DA-Guide-Attachment-10-Aboriginal-Heritage-Impact-Assessment.pdf.

⁵ GML 2022

- our assessment of Aboriginal Cultural Values and other Aboriginal heritage values in relation to the study area and proposal (**Section 5**);
- a consideration of potential Aboriginal heritage impacts and a heritage management strategy for the project (**Section 6**);
- our recommendations (**Section 7**); and
- the references used in our report (**Section 8**).

1.2 Who contributed to the report

Authorship and acknowledgments

The report was written by Gina Basile (Heritage Consultant) and Dr Paul Irish (Director) and the Cultural Values Assessment was written in collaboration with the Gujaga Foundation. Coast would like to acknowledge the assistance of Kirsty Beller (Gujaga Foundation) and discussions with and advice from Shane Ingrey (La Perouse Local Aboriginal Land Council), Michael Ingrey and Shallan Foster. The information contributed by the Registered Aboriginal Parties is acknowledged with thanks.

We would also like to thank Eleanor Banaag, Kristy Wellfare, Paul Fraser and Roger Faulkner (Woollahra Municipal Council), Barbara Swebeck (Woollahra Libraries) and Jennifer Palmer (Archivist, City of Sydney).

1.3 What we are assessing

The property and proposal

The Cultural Values Assessment considers the entirety of Rushcutters Bay Park which lies to the south of the bay and is bisected by a drainage channel of the former Rushcutters Creek, forming the boundary between the City of Sydney LGA to the west and Woollahra LGA to the east. The western portion is bounded to the west and south by residential properties, while the eastern portion is bounded by New Beach Road to the east and New South Head Road to the south (**Figure 1**).

The study area for the archaeological component of this report is within the eastern portion of Rushcutters Bay Park, located off Bayswater Road and New South Head Road, Darling Point within the Woollahra Local Government Area (LGA) (**Figure 2**). The study area is approximately 2,000m² in size and is included in Lot 7321 in Deposited Plan (DP) 1165813, and is within the Parish of Alexandria, County of Cumberland, Woollahra LGA and within the boundaries of the La Perouse Local Aboriginal Land Council (LALC).

The proposed works are to create a Youth Recreation area, with a total construction footprint of 1,225m². In summary, these works will include (see **Figure 27**):

- A skatepark and basketball elements constructed on a concrete slab supported by pile footings with excavation to depths of 0.3m-0.6m.
- Shelter with posts supported by footings to a maximum depth of 0.6m and concrete seating supported by a concrete strip footing to a maximum depth of 0.3m.

- Construction of new footpaths to connect the new proposed area to the existing infrastructure of Rushcutters Bay Park.
- Soft landscaping features of low plantings, no removal of existing trees and no plantings of new ones.
- Drainage works to connect to existing services with depths ranging from 0-0.6m.
- No additional lighting is proposed as part of these works.

These activities could be expected to disturb any Aboriginal artefacts or other Aboriginal archaeological remains to the depth of construction impact. Further details are provided in **Section 6**, which also considers whether any Aboriginal Cultural Values could be impacted by the proposal.



Figure 1. The study areas in their local context.



Figure 2. Detail of the study area for the archaeological assessment within Rushcutters Bay Park east.

1.4 What have we considered

Legislative and policy requirements

This report has been prepared to assess the potential Aboriginal heritage impacts of the proposal, in consultation with Registered Aboriginal Parties, in accordance with the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*,⁶ the Code of Practice⁷ and the *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks and Wildlife Act 1974*.⁸ We have met these requirements by producing an Aboriginal Cultural Heritage Assessment Report which also documents Aboriginal community consultation in accordance with Clause 60 of the *National Parks and Wildlife Regulation 2019*. There are currently no specific guidelines for the preparation of Cultural Values Assessments, however we have been guided by the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* and the specific Heritage NSW requirement for this to include Aboriginal community consultation as outlined above.

In preparing this report and its recommendations, we are guided by the legal protections provided to Aboriginal heritage under the NPW Act. The NPW Act is administered by Heritage NSW, Department of Planning and Environment (DPE), and gives statutory protection to all Aboriginal 'objects' and 'places' in

⁶ OEH 2011.

⁷ DECCW 2010b.

⁸ DECCW 2010c.

New South Wales. The NPW Act defines ‘objects’ as ‘*any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains*’ and defines an Aboriginal place as one which ‘*in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.*’⁹ Aboriginal objects are also commonly referred to as Aboriginal sites (e.g. campsites, scarred trees, rock engravings). There are no Aboriginal places registered within or near the current study area, so the protections given to these are not further considered.

Under the NPW Act there are offences for ‘harm’ to Aboriginal objects either knowingly (s86(1)) or unknowingly (s86(2)). *Harm* is defined in s5(1) of the NPW Act to mean any act or omission that:

- (a) destroys, defaces or damages the object or place, or*
 - (b) in relation to an object—moves the object from the land on which it had been situated, or*
 - (c) is specified by the regulations, or*
 - (d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c);*
- but does not include any act or omission that:*
- (e) desecrates the object or place, or*
 - (f) is trivial or negligible, or*
 - (g) is excluded from this definition by the regulations.*

There are defences and exemptions to the offence of ‘harm’, which include damage caused by ‘low impact activities’ (s87(4)) such as routine farm maintenance. It is also a defence to unknowingly harm if you undertook a Due Diligence assessment that meets Heritage NSW standards and concluded that the proposed activity would not result in harm.¹⁰ It is also not an offence to investigate Aboriginal objects through archaeological test excavations, but only if the methods used are strictly in accordance with the Code of Practice.

The most common way that harm to Aboriginal objects takes place is under the legal sanction of an Aboriginal Heritage Impact Permit (‘AHIP’) under s90 of the NPW Act. AHIPs can also be issued to enable archaeological test excavations that cannot be undertaken under the Code of Practice. AHIPs are issued by the Chief Executive of Heritage NSW based on a valid application and an accompanying Aboriginal Cultural Heritage Assessment Report.

The ACHAR prepared for an AHIP application must document Aboriginal community consultation in accordance with the Regulation. This involves seeking registrations of interest in the project from Aboriginal people who hold cultural knowledge relevant to the application through public notices and by contacting people identified through notices to Local Aboriginal Land Councils (LALC) and government agencies who deal with Aboriginal communities in the area. People or organisations can register as

⁹ NPW Act Section 5(1) and Section 84 respectively,

¹⁰ DECCW 2010a or an equivalent standard.

‘Registered Aboriginal Parties’ which provides them with a right to review and comment on project information and draft reporting, and to provide advice on Aboriginal cultural and historical significance.

The *Environmental Planning & Assessment Act 1979* (the ‘EP&A Act’) sets out the way the NPW Act protections for Aboriginal heritage are considered in relation to proposed developments. There are three main parts of the EP&A Act which outline how Aboriginal cultural heritage is to be considered. Part 3 governs the preparation of planning instruments such as Local Environmental Plans, Part 4 relates to development assessment and consent and Part 5 considers infrastructure and Environmental Impact Assessments. Part 4 and 5 are normally the most relevant because they concern the process of obtaining development consent and the documentation required to support development applications. Under Part 4 (Division 4.7), projects can be designated as State Significance. In these cases, the DPE takes over the role of determining authority.

There are also other state and federal laws which sometimes apply to Aboriginal heritage assessment, but they do not apply to this study and are not considered here.

2. Assessing Aboriginal cultural values

In this section we outline the Aboriginal community consultation that has taken place in order to assess the Aboriginal cultural significance of the study area and Aboriginal objects within it. This has included specific engagement with the Gujaga Foundation and descendants of Rushcutters Bay Aboriginal settlement residents, and a parallel broader process of Aboriginal community consultation in accordance with Section 60 of the *National Parks and Wildlife Regulation 2019* [‘the Regulation’].

2.1 Aboriginal Cultural Values Assessment

The assessment of Aboriginal Cultural Values has been undertaken by Coast in collaboration with the Gujaga Foundation. Coast Director Dr Paul Irish has been researching historical Aboriginal settlements around coastal Sydney for many years, together with researchers from the La Perouse Aboriginal community.¹¹ Some La Perouse Aboriginal community members have ancestors who lived at Rushcutters Bay, which was home to several historical settlements or ‘camps’ for coastal Sydney people from the 1840s (or earlier) until around 1900.¹² Because of this, Coast worked with the Gujaga Foundation to identify some community members with cultural and historical links to Rushcutters Bay, who were then involved with the development of this assessment of Aboriginal Cultural Values. This involved the following steps:

1. Coast provided some initial research to the Gujaga Foundation which identified known Aboriginal residents of the Rushcutters Bay, followed by an initial online meeting on 5/10/2023 to discuss how to progress the assessment.
2. A meeting at the Gujaga Foundation on 26/10/2023 to present the findings of more detailed historical research in the form of annotated maps, historical photographs and archival sources, and to identify community descendants of key ancestors for further involvement. It was decided that an onsite meeting would be held to discuss the project and the historical Aboriginal connections and their significance once the Gujaga Foundation had discussed the project with descendants.
3. An onsite meeting on 24/11/2023 at Rushcutters Bay Park, attended by Paul Irish and Gina Basile of Coast, representatives of Woollahra Council, La Perouse Local Aboriginal Land Council site officer Dr Shane Ingrey, Kirsty Beller of the Gujaga Foundation and Michael Ingrey and Shalan Foster (descendants of one or more Rushcutters Bay settlement residents, as is Dr Ingrey). Following an initial briefing on the project by Council staff, a discussion between Coast and the Rushcutters Bay resident descendants was held to discuss what was known about the settlements and their broader significance. This discussion formed part of the basis of this assessment and the statement of cultural values.
4. A draft Aboriginal Cultural Values assessment was prepared by Coast and sent to the Gujaga Foundation on 17/1/2024 for review and discussion.

¹¹ E.g. see Irish, P. 2017. *Hidden in Plain View. The Aboriginal People of Coastal Sydney* (Sydney; NewSouth Publishing).

¹² See for example <https://www.sydneybarani.com.au/sites/the-rushcutters-bay-settlement/> [accessed 8/1/2024]

5. Follow up discussions via phone and email in January and February 2024 to discuss the assessment and develop the Aboriginal Cultural Values statement contained in **Section 5.2.1**.

The results of these discussions are detailed in **Section 5**.

2.2 Aboriginal Community Consultation in accordance with the Regulation

This section describes Aboriginal community consultation in accordance with the Regulation. Each step in the consultation is described in order, starting with determining Registered Aboriginal Parties, and the information provided to and received from them.

2.2.1 Who we spoke with

Registered Aboriginal Parties

Public and direct notices were placed in order to identify ‘Registered Aboriginal Parties’ to the project as required by the Regulation. In addition, we recognise the statutory responsibilities of Local Aboriginal Land Councils ‘to promote the protection of Aboriginal culture and the heritage of Aboriginal persons’ within their boundaries,¹³ as well as those of Registered Native Title Claimants and Registered Aboriginal Owners.¹⁴ The study area is within the administrative boundaries of the La Perouse Local Aboriginal Land Council (‘La Perouse LALC’). There are no Registered Native Title Claimants or Registered Aboriginal Owners applicable to the study area. The La Perouse LALC were informed that they would automatically be listed as a Registered Aboriginal Party unless they chose to opt out.

2.2.2 Who we notified

We sent direct notifications about the project on 22 September 2023 to the agencies listed in Table 1 and asked them to provide us with the contact details of any Aboriginal people they were aware of who may hold cultural knowledge relevant to the study area and any Aboriginal objects or places within it by 9 October 2023 (see Appendix 1A). Their responses are shown in Appendix 1B and summarised in Table 1. We then sent notices to all the Aboriginal people and organisations identified by those agencies. The list of who was sent these notices, and those who registered their interest is shown in **Table 2**, and their full responses are also provided in **Appendix 1C** (except where details have been requested not to be shared).

We placed a public notice in *The Wentworth Courier* on 27 September 2023 calling for registrations of interest from Aboriginal people with cultural knowledge relevant to the project (see **Appendix 1A**). A deadline of 13 October 2023 was provided for responses.

¹³ Aboriginal Land Rights Act 1983, s52(1)(m).

¹⁴ Aboriginal Land Rights Act 1983, Division 3.

Table 1. Direct agency notices sent on 22 September 2023

Agency Contacted	Response and Who They Asked Us To Contact
Greater Sydney Local Land Services	No response received.
National Native Title Tribunal	Responded on 22/09/23 in relation to Native Title Determination Applications, Determinations of Native Title, and Indigenous Land Use Agreements within the entire Woollahra Local Government Area (LGA). There are no Native Title Determination Applications, Determinations of Native Title, or Indigenous land Use Agreements over the Rushcutters Bay Park area.
Heritage NSW within the Department of Planning and Environment	Responded on 27/09/23 providing a list of 'known Aboriginal parties for the Woollahra Local Government Area that we consider likely to have an interest in the proposal...'. Those stakeholders with an expressed interest in the Woollahra LGA are: <i>A1 Indigenous Services, Aragung Aboriginal Cultural Heritage Site Assessments, B.H. Heritage Consultants, Barking Owl Aboriginal Corporation, Biamanga, Bidjowong Aboriginal Corporation, Butucarbin Aboriginal Corporation, Clive Freeman, Cullendulla, Darug Boorooberongal Elders Aboriginal Corporation, Darug Land Observations, Dharug, Dharug Ngurra Aboriginal Corporation, Didge Ngunawal Clan, Ginninderra Aboriginal Corporation, Goodradigbee Cultural & Heritage Aboriginal Corporation, Gulaga, Gunya Aboriginal Cultural Heritage Services PTY LTD, Kamilaroi Yankuntjatjara Working Group, La Perouse Local Aboriginal Land Council, Mura Indigenous Corporation, Murramarang, Ngambaa Cultural Connections, Thauaira, Thomas Dahlstrom, Thoorga Nura, Waawaar Awaa Aboriginal Corporation, Wailwan Aboriginal Group, Walgalu, Wurrumay Pty Ltd, Wallanbah Aboriginal Site Conveyancing, and RAW Cultural Healing.</i>
Registrar of Aboriginal Owners	Responded on 25/09/23 and advised to contact the La Perouse LALC.
NTS Corp	No response received.
La Perouse Aboriginal Land Council	Responded on 22/09/23 stating that Chris [Ingrey] can provide a list of names of those with cultural knowledge and should involve the Gujaga Foundation [n.b. Coast is working with them as part of this project].
Woollahra Municipal Council	No response received.

Table 2. Direct notices and responses

Person/Organisation Contacted	Date Contacted	Response Deadline	Response Received?	Seeking Registration?
A1 Indigenous Services	13/10/23	27/10/23	19/10/23	Yes
Aragung Aboriginal Cultural Heritage Site Assessments	13/10/23	27/10/23		
B.H. Heritage Consultants	13/10/23	27/10/23		
Barking Owl Aboriginal Corporation	13/10/23	27/10/23		
Biamanga	13/10/23	27/10/23		
Bidjawong Aboriginal Corporation	13/10/23	27/10/23		
Butucarbin Aboriginal Corporation	13/10/23	27/10/23	17/10/23	Yes
Clive Freeman	13/10/23	27/10/23		
Cullendulla	13/10/23	27/10/23		
Darug Boorooberongal Elders Aboriginal Corporation	13/10/23	27/10/23		
Darug Land Observations	13/10/23	27/10/23		
Dharug	13/10/23	27/10/23		
Dharug Ngurra Aboriginal Corporation	13/10/23	27/10/23		
Didge Ngunawal Clan	13/10/23	27/10/23		
Ginninderra Aboriginal Corporation	13/10/23	27/10/23		
Goodradigbee Cultural & Heritage Aboriginal Corporation	13/10/23	27/10/23		
Gulaga	13/10/23	27/10/23		
Gunya Aboriginal Cultural Heritage Services PTY LTD	13/10/23	27/10/23		
Kamilaroi Yankuntjatjara Working Group	13/10/23	27/10/23	16/10/23	Yes
La Perouse Local Aboriginal Land Council	13/10/23	27/10/23	n/a	Yes
Mura Indigenous Corporation	13/10/23	27/10/23		
Murramarang	13/10/23	27/10/23		
Ngambaa Cultural Connections	13/10/23	27/10/23	15/10/23	Yes
Thauaira	13/10/23	27/10/23		
Thomas Dahlstrom	13/10/23	27/10/23		
Thoorga Nura	13/10/23	27/10/23		
Waawaar Awaa Aboriginal Corporation	13/10/23	27/10/23		
Wailwan Aboriginal Group	13/10/23	27/10/23	13/10/23	Yes
Walgalu	13/10/23	27/10/23		
Wurrumay Pty Ltd	13/10/23	27/10/23		

Person/Organisation Contacted	Date Contacted	Response Deadline	Response Received?	Seeking Registration?
Wallanbah Aboriginal Site Conveyancing	13/10/23	27/10/23	1/11/23	Yes
RAW Cultural Healing	13/10/23	27/10/23		

2.2.3 Who registered an interest

The process resulted in the identification of a total of 8 Registered Aboriginal Parties, comprising those who responded to the direct notice and those who had contacted us directly (Table 3). As per the Regulation, the list of Registered Aboriginal Parties was provided to Heritage NSW and the La Perouse LALC on 6 November 2023.

Table 3. Registered Aboriginal Parties for this project

Registered Aboriginal Party
La Perouse LALC
A1 Indigenous Services
Amanda Hickey Cultural Services
Butucarbin Aboriginal Corporation
Kamilaroi Yankuntjatjara Working Group
Ngambaa Cultural Connections
Wailwan Aboriginal Group
Wallanbah Aboriginal Site Conveyancing

2.3 What we were told

Comments from Registered Aboriginal Parties

As part of the consultation process, the Registered Aboriginal Parties were invited to comment on two main occasions: on distribution of project information and the proposed assessment methodology, and on completion of the draft report. In addition, some of the RAPs provided information in their registration of interest in the project. These comments are outlined below.

2.3.1 Responses to the project information and proposed methodology

We sent a document containing project information and our proposed assessment methodology to the Registered Aboriginal Parties on 31 October 2023 with a deadline of 29 November 2023 for responses, with the exception of the late registration who was provided the documentation on 6 November 2023 with a deadline of 5 December 2023 (see **Appendix 1D**). We invited all Registered Aboriginal Parties to provide us with information or views about:

- any places or objects of cultural value to Aboriginal people which may be relevant to the current proposal;

- appropriate management for any Aboriginal objects that may be retrieved from the study area during archaeological test excavation or during works for the current proposal; and
- any other Aboriginal cultural or historical knowledge which is relevant to the Aboriginal cultural assessment of the study area in relation to the current proposal.

All Registered Aboriginal Parties were also asked to identify any information that may be of a sensitive nature so that appropriate protocols could be developed for assessing and discussing it.

The full responses we received are contained in **Appendix 1E** and are summarised in **Table 4**. We have also discussed them more generally in **Section 2.3** and **Section 6**.

Table 4. Summary of information provided by Registered Aboriginal Parties

Registered Aboriginal Party	Summary
Kamilaroi Yankuntjatjara Working Group	The group stated that the study area is highly significant and spiritual to Aboriginal people, using the site for <i>‘various activities such as fishing, camping, ceremonies and potentially burial sites’</i> and that the group supports the proposed methodology.

2.3.2 Comments on the draft report

This draft report was sent out to all Registered Aboriginal Parties on 1 March 2024. A copy was also provided to the Gujaga Foundation to distribute to those involved in the Cultural Values Assessment. We asked for any comments or information to be provided to us by 1 April 2024 so that they could be considered in the final report. The comments provided have been included in **Appendix 1F** and are summarised in **Table 5** below.

Table 5. Comments received on the draft report

Registered Aboriginal Party	Summary
La Perouse Local Aboriginal Land Council	Supports the recommendations of the draft report and notes the connection of La Perouse Aboriginal community members to the camp through ancestors.
Gujaga Foundation	Supports the findings of the draft report and noted that the cultural values of the plan will not be harmed by the proposed Youth Recreation Area and will provide an opportunity to educate the public about the area’s Aboriginal history
Kamilaroi Yankuntjatjara Working Group	Agreed with and supported the draft report recommendations

3. Information we have considered

Environmental, archaeological and historical context

3.1 Environmental context

Geology, soils and hydrology

If we want to understand how Aboriginal people may have used the local area in the past, and what traces of that use might still physically remain on and below the ground surface, we need to understand the local environment and how it has changed over time. This is particularly true of the current study area which has been highly impacted and altered over the past two centuries. The environmental data can help us to understand how the area looked before this, and how Aboriginal people may have used the landscape.

Around the end of the last glacial period, around 18,000 years ago, sea levels began to rise with warming global temperatures. This helped develop and shape coastal Sydney. The shoreline receded, about a metre or two every year from its former position around 10km further east when sea levels were lower. The deep river valley that made up the harbour slowly filled with water.¹⁵ By 6,000 – 7,000 years ago, a vastly longer shoreline made up of jagged harbour bays and headlands, coastal cliffs and beaches had come into being. The Darling Point and Potts Point headlands flanking Rushcutters Bay took their current form, transforming from long rocky ridges overlooking a forested valley, into short, rounded points lapped by waves. Once Aboriginal people had been able to walk along the rocky spine of Darling Point to the low hill of Clark Island at its end, but now they had to paddle canoes from the rocky shore at places like McKell Park to the newly formed island.

Prior to the 1880s, Rushcutters Bay contained expansive mud and sand flats at the delta of the Rushcutters Creek valley between these rocky ridges (see **Figure 3**). The shoreline was substantially further south than the present day (**Figure 4** and **Figure 5**), and most of this 'shore' was made up of shifting sand bars and mudflats as historical images clearly show (**Figure 5**, **Figure 6** and **Figure 7**). The flats were fed by the meandering Rushcutters Creek which was fed by creeks flowing through Paddington through a large swamp to the south of New South Head Road. Together these landforms, and the waters of the bay itself would have been rich in natural resources.

However, the arrival of Europeans in 1788 and the subsequent spreading European settlement, resulted in severe impacts to the natural landform. In the 1880s, Rushcutters Bay was subject to extensive reclamation works, channelising Rushcutters Creek into a storm drain, constructing a ballast dyke seawall and dumping silt and fill, permanently impacting the former mudflats and burying the original shoreline. This created the open grassed space for public recreation that we see today. These practices are reflected in the current topography geological mapping with study area lying within a flat open parkland and is within an area of 'man-made fill' and disturbed terrain (**Figure 8**).¹⁶

¹⁵ Coast History and Heritage 2021, pp.31-36; Attenbrow 2010, p.38.

¹⁶ Chapman & Murphy 1989

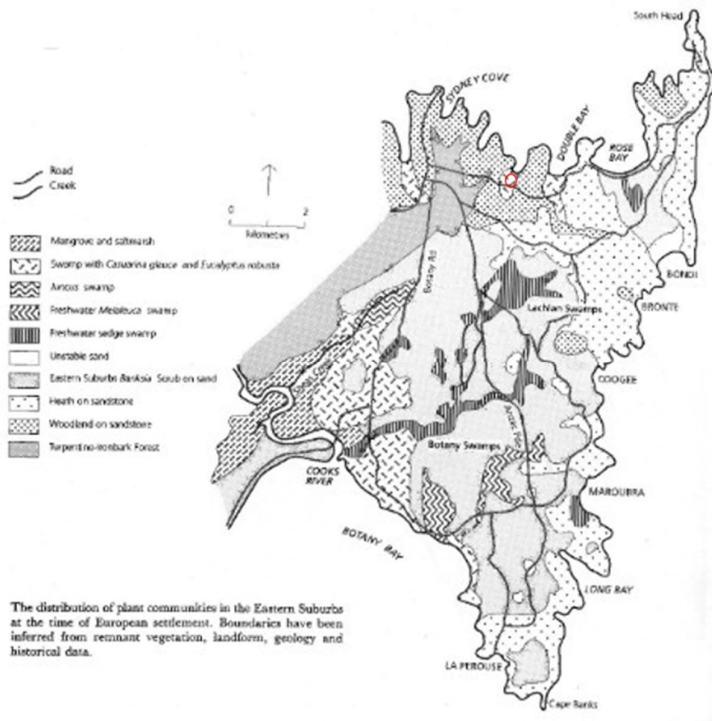


Figure 3. Inferred environment prior to 1788, approximate location of the study area in red

Source: Benson & Howell, 1990. *Taken for Granted - The Bushland of Sydney and its Suburb* (Kangaroo Press. pp.100).

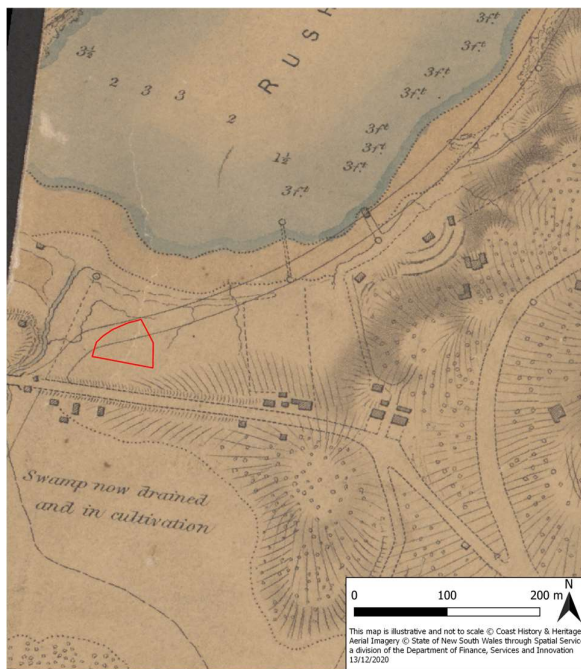


Figure 4a. 1853 – original shoreline

Source: Thomas Mitchell, 1853, *Trigonometrical survey of Port Jackson* (National Library of Australia, nla.obj-231444014), extract of original map

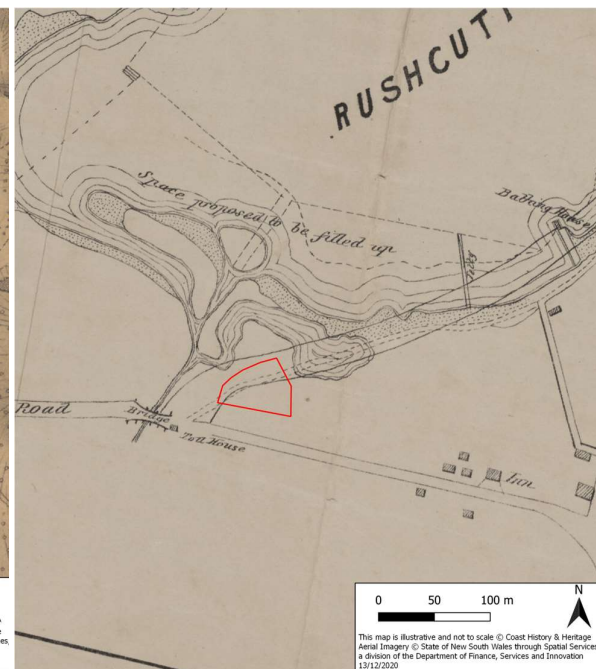


Figure 4b. 1850s – original shoreline

Source: Allan & Wigley. ([185-?]). 11 [eleven] allotments of land at Delamere Darling Point together with Delamere House and Avoca Cottage (NLA, MAP F 594)

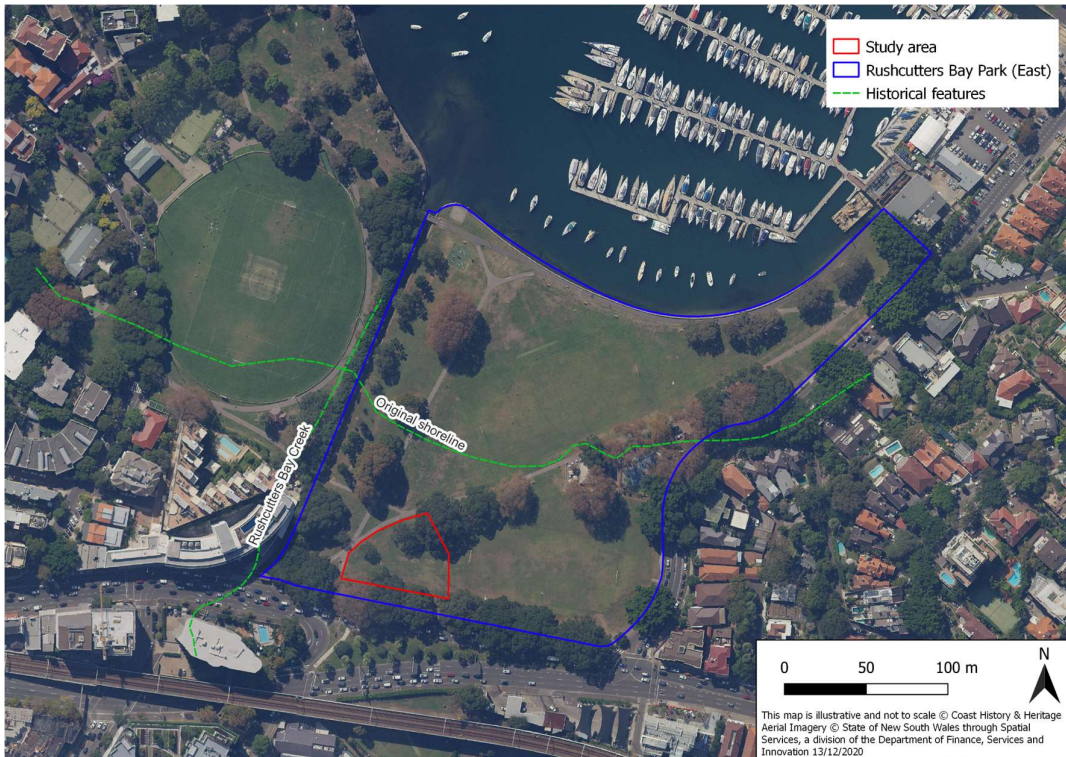


Figure 5. Approximate location of historical watercourse and shoreline based on historical plans.



Figure 6. The mud and sand flats along Rushcutters Creek in the 1870s.

Source: American & Australasian Photographic Company 1870-1875. Looking from creek in Rushcutters Bay (later in the Park) to Darling Point with St. Mark's Church (upper right) (State Library of NSW, ON 4 Box 56 No 253).

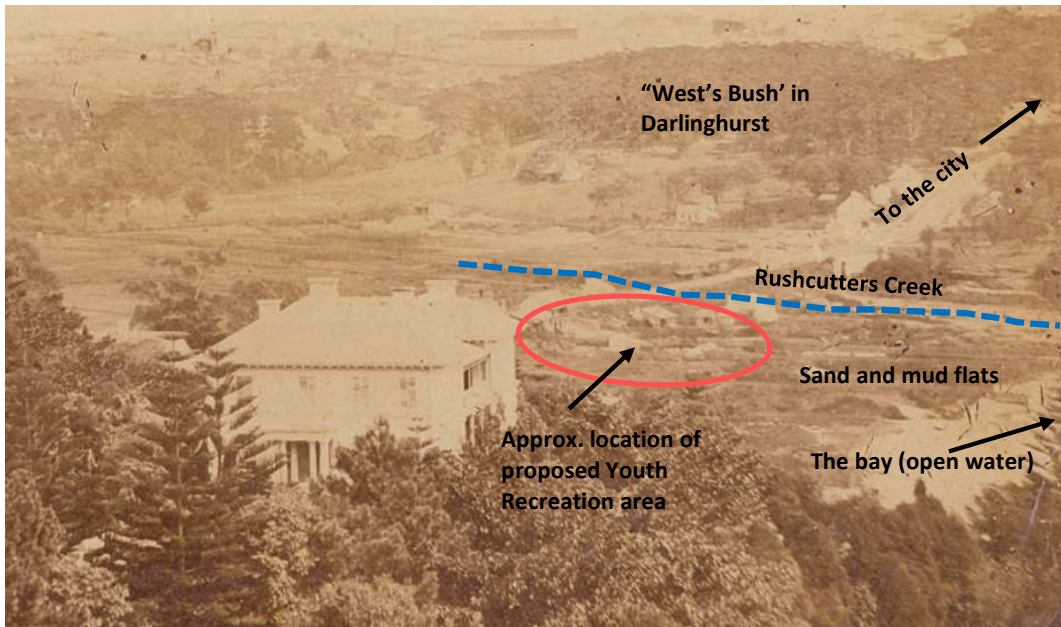


Figure 7. Looking west across the Rushcutters Creek valley from Darling Point towards Darlinghurst.

Source: 1872. [View of "Mona", Darling Point] (State Library of NSW, SPF735).

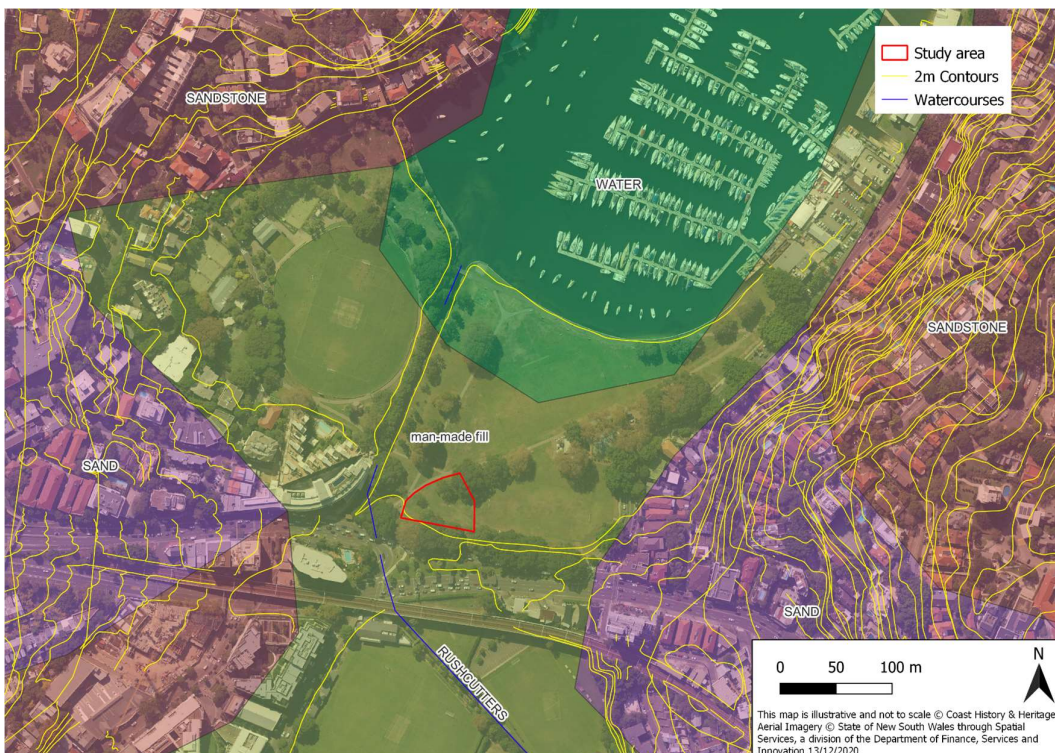


Figure 8. The study area in relation to geological mapping, watercourse and contours

Source: Troedson 2014.

A geotechnical investigation of the proposed Youth Recreation Area showed clear evidence of this historical modification. The upper layers contained up to 1.4m of recent soil and fill, followed by buried alluvial and marine deposits from 0.2 – 1.5m below the surface, which may align with the location of the original shoreline.¹⁷ These sands and soils extend to considerable depth and are likely to be underlain by sandstone bedrock.

3.2 Historical context

Non-Aboriginal land use and impacts

In this section we consider the non-Aboriginal uses of the study area and their potential impacts on Aboriginal archaeological remains. The archaeological potential of these landscape features may be affected by processes of disturbance that have occurred as a result of natural process, or of historical occupation and development. The effects of natural processes, such as alluvial deposition, have been mentioned above, and they may be further exacerbated by historical agricultural and pastoral activities, in addition to extensive landform modifications. To assess disturbance that may have resulted from historical occupation, we reviewed historical images and other documentary sources.

Rushcutters Bay was one of the focal points in early colonial history. In the late 1700s and early 1800s settlers in Sydney Harbour stripped the area of resources, such as clearing timber and cutting rushes. Some of this clearing across this area was for the use of salt pans at Rushcutters Bay which would have exposed the underlying sand dunes.¹⁸ During this period, the commonly used Aboriginal name for the area, Kogarah, fell out of use, and the area has subsequently been referred to as Rushcutters Bay.¹⁹ In 1812, Thomas West was granted 40 acres of land at the head of Rushcutters Bay for the construction of and use of a water mill to grind wheat, which at the time, produced most of the settlement's flour (**Figure 9**).²⁰ In the early 1830s, Mrs Darling Point (now Darling Point) was subdivided, and made more attractive by the construction of New South Head Road, raised across the Rushcutters Bay valley floor.²¹ It has since become one of the most densely populated suburbs in the Woollahra LGA. Historical information refers to market gardens in the area during this period, however, these are believed to have likely been located on the southern side of the New South Head Road which lies outside the study area (**Figure 10**).

With the developing area, people began to complain of the lack of open public space and the smell of the drained swamp and mudflats of Rushcutters Bay. After a public campaign, reclamation works began in the late 1870s, this included the construction of a seawall at the head of the bay, channelising of Rushcutters Creek, and slit filling and leveling of the area, including the study area (**Figure 11 - Figure 13**). After the completion of the reclamation works, the area was gazetted as a park in 1885.²²

¹⁷ Fortify Geotech 2019

¹⁸ GML 2022

¹⁹ Woollahra Municipal Council 2005

²⁰ GML 2022, Woollahra Municipal Council 2005

²¹ *History of Darling Point* (Woollahra Library, LH994.4/WOO/2); Annable 1999, p. 1.

²² Woollahra Municipal Council 2005

Historical aerial photographs provide more detail from the early 20th century onwards of the eastern portion of Rushcutters Bay Park, including the study area (**Figure 13 - Figure 16**). Features evident in these photographs include footpaths, lighting, planted trees, cricket pitches and a football field. While the wider park has gone through upgrades, with the construction of the kiosk and amenities in the 1950s and realignment of the footpaths over the decades, the footprint within the study area has largely remained the same throughout the 20th century as a levelled grassed area bordered by fig trees and paths.

In summary, the study area has been subject to continuous historical usage for the last 250 years, with several phases of modifications, particularly the reclamation works of the late 1800s which drastically altered the landform and natural environment. These processes will have impacted archaeological deposits that may have been present on the ground surface and in the topsoil. In places, any archaeological deposits may have been entirely removed. However, where there is potential for deep deposits of alluvial marine sands to be present underneath the fill of the reclamation works, archaeological deposits may also survive.



Figure 9. 1843 Parish map showing study area

Source: Parish [of] Alexandria [cartographic material]. 1843? (State Library of NSW, Call No. Maps/0018)



Figure 10. View west, central low portion is market gardens south of South Head Road. Mudflats out of frame to the right

Source: 1830-39. View west. Central low portion is market gardens south of South Head Road. Mudflats out of frame to the right. Clarke, J. 1830-1839. Rushcutters Bay from Darling Point, N.S.W. (NLA, PIC Drawer 2612 #R3999)



Figure 11. 1850 map showing area, pre-reclamation works

Source: Allan & Wigley. ([185-?]). 11 [eleven] allotments of land at Delamere Darling Point together with Delamere House and Avoca Cottage (NLA, MAP F 594)

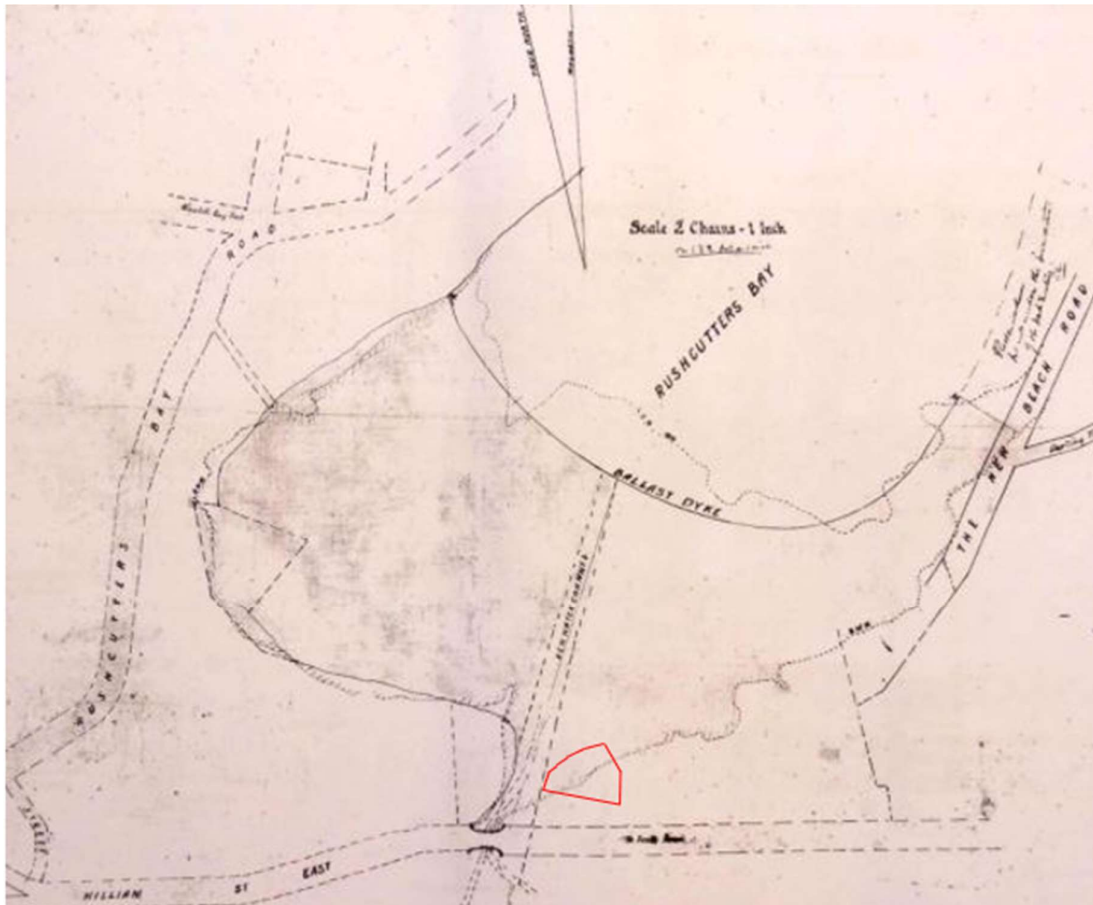


Figure 12. Undated map, c1880s, showing post-reclamation shoreline

Source: State Archives & Records, Map No. 727 HR 250/3



Figure 13. 1930 panoramic imagery showing post-reclamation landform

Source: 1903/4. Panorama of Rushcutters Bay and Darling Point (State Library NSW, DL Pg 38)



Figure 14. 1930 aerial imagery showing approximate location of study area in red
Source: NSW Spatial Services



Figure 15. 1955 aerial imagery showing approximate location of study area in red
Source: NSW Spatial Services



Figure 16. 2005 aerial imagery showing approximate location of study area in red

Source: NSW Spatial Services

3.3 Heritage registers and sites

For this assessment we checked the main Aboriginal heritage database for New South Wales, the Heritage NSW Aboriginal Heritage Information Management System (AHIMS). We searched AHIMS over a 2.5km x 2.5km area centred on the study area (see **Appendix 2**).²³ There are 3 registered Aboriginal sites within the search area (**Figure 17** and **Table 6**).

Table 6. Recorded site features within the AHIMS Register search area

Site feature	Number of sites
Artefact (Open Campsite)	1
Potential Archaeological Deposit (PAD)	2
Total	3

²³ AHIMS Search ID 831571 on 23/10/2023 of MGA Coordinates in Zone 56 E3353118-337618, N6248941-6251441.

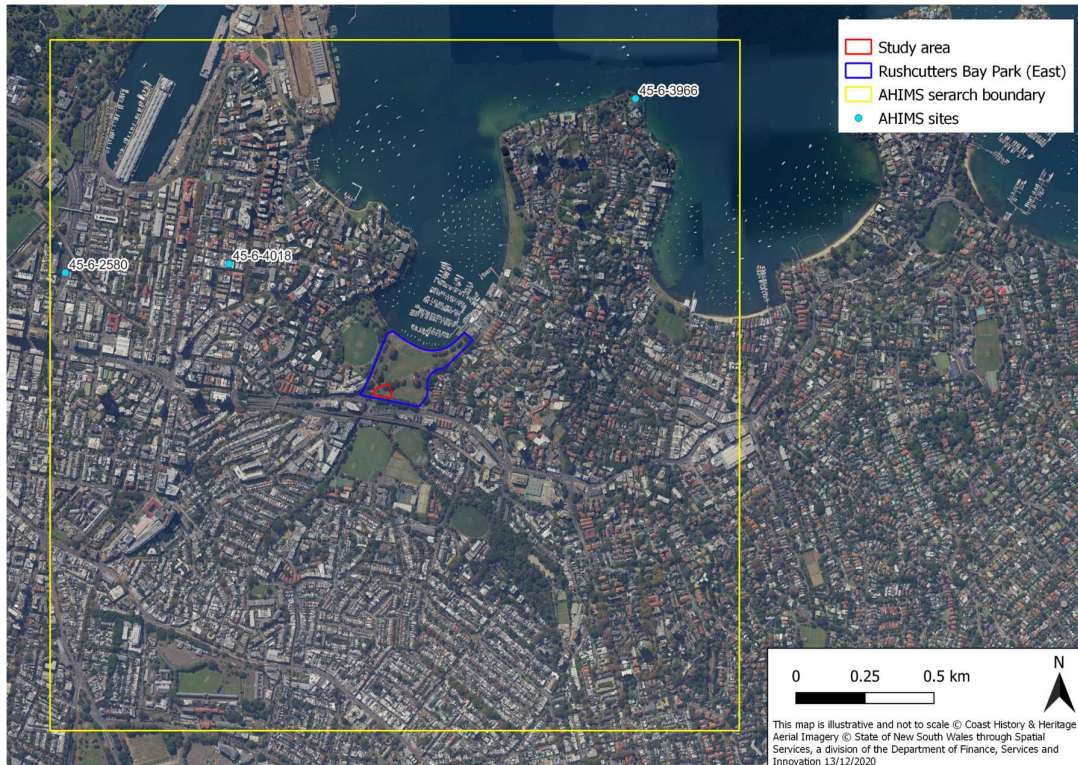


Figure 17. An overview of the AHIMS search results within a 2.5km x 2.5km search area

The original AHIMS records for the site within the search area were reviewed and summarised below and reflect general trends of registered Aboriginal sites within the Woollahra LGA and the city, such as artefacts scatters and sites associated with sandstone.

- **#45-6-2580 (Junction Lane).** This site comprises an artefact scatter, or open campsite, found during historical excavations for the Eastern Distributor in the 1990s. The site is approximately 1.2km to the west of the current study area. A total of 15 artefacts of silcrete, chert, quartz, quartzite and chalcedonic silica were found at a depth of around 1m in disturbed topsoil, overlain by fill. The site has been subject to urban development since the 1840s and the previous environment would have likely been mudflats backed by swamp forest. The site was destroyed by the construction works.
- **#45-6-3966 (Woollahra Possible Shelter WAH123).** This site is located around 1.4km to the northeast of the current study area and was identified during the Woollahra Aboriginal Heritage Study in 2021 as a potential archaeological deposit within a rockshelter (closed site). A large overhang in the lower line of the sandstone outcrop / escarpment has been identified, however, the extent of the PAD, and whether art/engravings may be present, has not been determined as the site was on private property.
- **#45-6-4018 (Metro-Minerva PAD).** Located around 700m northwest of the study area. Originally registered as a PAD, however, archaeological test excavations confirmed that it is not a site, and no Aboriginal heritage was identified.

While only three sites (one of which has been shown to contain archaeological remains) have been registered within the search area, this may reflect a research bias, as Aboriginal people have a well-

documented historical presence in Darling Point, Rushcutters Bay, and the wider Woollahra LGA that is likely to have had a much more ancient history. Darling Point has been densely populated with residential developments since the 19th century, which was before the advent of laws protecting Aboriginal heritage or requiring investigations prior to developments. Consequently, it has not been the focal point for archaeological investigations and/or Aboriginal heritage assessments.

Generally, sites are associated with sandstone outcrops and rock shelters which are typical of this landscape. Within the wider Woollahra LGA the majority of registered Aboriginal sites are associated with sandstone geology with sixty-five rock shelter sites that contain shell middens and stone artefacts from former campsites and/or pigment art and engravings, or the potential to contain these. A further forty-one sites are classified as open sites on sandstone, such as engravings on rock platforms and shell middens around rocky shorelines.²⁴ While this probably tells us something about the areas favoured by Aboriginal people in the past, it is also a reflection of where archaeologists have looked.

It's clear that Aboriginal people utilised this landscape for a number of purposes. Near the lower slopes around the harbour, they fished the bays and cooked their meals by campfires in rockshelters or on the sand dunes set back from the shore. Where there was good exposure of sandstone outcropping, they also inscribed and maintained engravings. Historical records within the vicinity of the study area clearly demonstrate that Aboriginal people lived and moved through this landscape.

Recent investigations into the Aboriginal history and heritage at Darling Point have included the wider Woollahra LGA Aboriginal Heritage Study.²⁵ This study found that there is potential for engraving sites to be located where there has been minimal impact to sandstone outcropping. Archaeological deposits containing stone tools may also be found in those areas where there has been minimal soil disturbance and deep sand deposits remain.

Based on the archaeological, environmental and historical records we have reviewed, we can conclude that Aboriginal people may have utilised various landforms within this local landscape including camping, gathering resources and engraving sandstone outcrops. However, these physical archaeological remains are unlikely to be evenly distributed across the area.

As well as the AHIMS Register, we also searched some other heritage registers to see if any other sites or places of Aboriginal cultural or historical significance had been recorded. The Australian Heritage Database and the NSW State Heritage Inventory (incorporating the NSW State Heritage Register) was searched on 17 October 2023 for the suburb of Darling Point and Rushcutters Bay. There is one listing within the Australian Heritage Database classed under 'Indigenous', that is; 'Rushcutters Bay Park East, Sydney, New South Head Road, Rushcutters Bay, NSW, Australia' (Place ID 106381), however, the listing is not active and provides no other information.

The study area is included in one statutory heritage listing, the State Heritage Register (SHR). The study area falls within the boundaries for the listing 'Rushcutters Bay Park and Yarranabbe Park' (SHR #02041). While the listing primarily focuses on its history as a recreational space, it notes the significance of

²⁴ Coast History and Heritage 2021

²⁵ Coast History and Heritage 2021

Aboriginal presence in the area, both pre- and post-European contact. The listing incorporates the importance of Aboriginal history in the area through strong historical connections to the La Perouse community, evidence of 6,000 years of occupational and seasonal usage through exploitation of a resource-rich environment.

3.4 Previous investigations

Over the last 50 years, several archaeological investigations have been undertaken by heritage consultants and Aboriginal community members prior to proposed developments within the study area and Woollahra. Following are summaries of the most relevant, available studies that are in the vicinity of the study area.

An Assessment of Prehistoric Heritage of Woollahra²⁶

This report is an appendix about Aboriginal heritage included as part of a broader heritage study for the municipality of Woollahra. Haglund provides an overview of Aboriginal heritage in the Woollahra LGA in the 1980s. There was a total of 33 Aboriginal sites registered on AHIMS for the Woollahra LGA at the time of the study, they primarily consisted of rock engraving sites and archaeological deposits (such as middens). Modern and historical development has drastically modified the natural landform, not only impacting the preservation of sites but the environmental resources previously exploited by Aboriginal people as seen through the arrival of Europeans and subsequent devastation to 'traditional' life. The report concludes that the extent of Aboriginal heritage in the Woollahra LGA is not known due to a lack of systematic studies of the area and that there is a chance for unrecorded sites in the area.

Rushcutters Bay Park, Yarranabbe Park and Plantation Reserve Plan of Management (PoM)²⁷

The PoM was prepared by Woollahra Council in 2005, building off their earlier 1998 PoM, and primarily focuses on historical heritage and management of the parklands. Aboriginal heritage is briefly noted in the assessment. The PoM only addresses the section of Rushcutters Bay Park which lies within Woollahra Council's boundary, with the drainage channel as the division point with City of Sydney Council.

The report describes the kind of archaeological sites that have been documented within Woollahra, such as rock engravings and shelters, middens, burials and art sites. Furthermore, the report discusses the issues with preservation of historic material within Rushcutters Bay Park due to the reclaimed landform.

Woollahra Aboriginal Heritage Study²⁸

In 2021, an Aboriginal heritage study was conducted by Coast and the La Perouse LALC over the Woollahra LGA to develop management procedures in relation to Aboriginal heritage. The study area lies within an Area of Aboriginal Sensitivity due to 'relatively undisturbed ground possible containing bay shoreline' of Rushcutters Bay (**Figure 18**). The assessment addresses historical impacts that occurred

²⁶ Haglund 1984

²⁷ Woollahra Municipal Council 2005

²⁸ Coast History & Heritage 2021a

within the Woollahra LGA and within Rushcutters Bay and Darling Point and how it may have impacted Aboriginal heritage and archaeological potential.

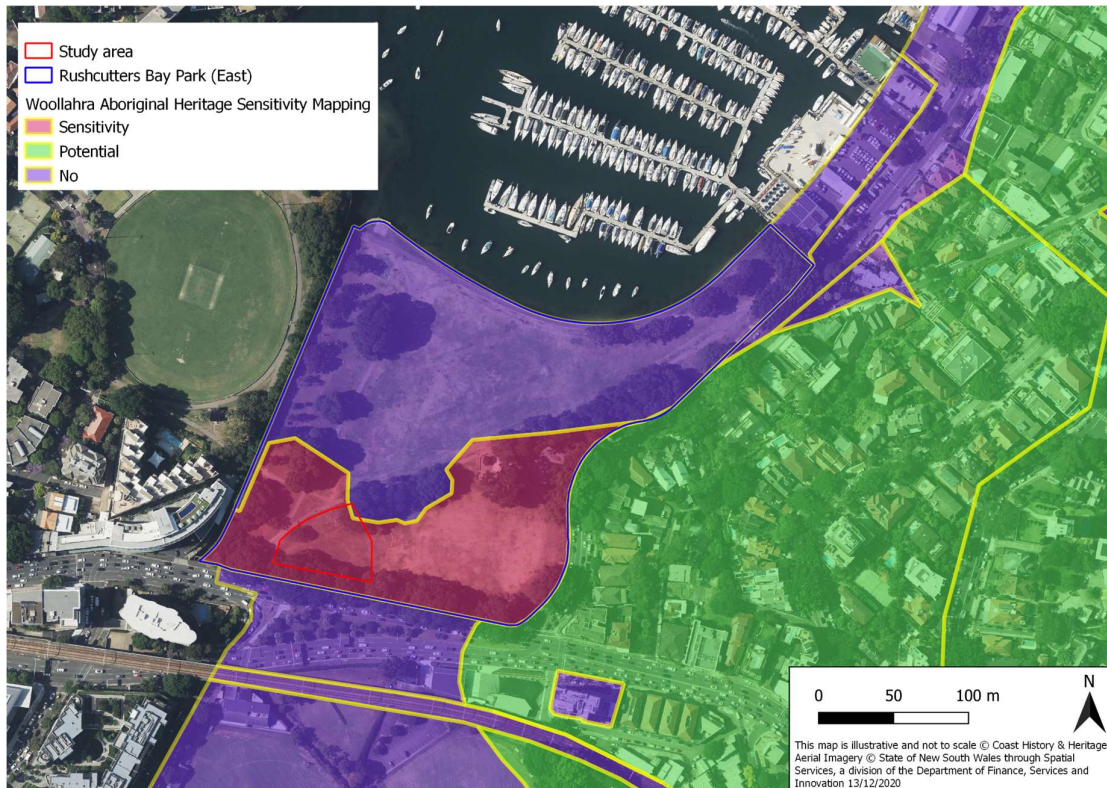


Figure 18. Aboriginal sensitivity mapping of the study area

Rushcutters Bay Park and Yarranabbe Park CMS²⁹

The current Conservation Management Strategy (CMS) for Rushcutters Bay Park and Yarranabbe Park provides an overview of the historical heritage sensitivity of the parks under the SHR. While the report provides a historical overview of Rushcutters Bay Park, it did not assess Aboriginal cultural heritage values associated with the SHR listed parks. However, based on the Woollahra Aboriginal Heritage Study (see **Figure 18**), the southern part of Rushcutters Bay Park, which includes the current study area, was identified as an area of Aboriginal heritage sensitivity due to its location along the assumed former foreshore of the bay, which could mean that there is a potential to contain Aboriginal archaeological remains associated with Aboriginal occupation and use in the area. Furthermore the report states that the 'entire park may continue to hold social and cultural values for Aboriginal people; further research would be required to understand these values.'³⁰

The report recommends that any future works in areas of Aboriginal cultural sensitivity should be avoided and that works may need an Aboriginal heritage assessment (and may require an AHIP),

²⁹ GML 2021

³⁰ GML 2021, pp.65

consultation with relevant Aboriginal stakeholders should be undertaken when investigating areas of potential Aboriginal cultural heritage values and assist in the development of interpretations.

Rushcutters Bay Park, Youth Facility Heritage Impact Statement (HIS)³¹

While this assessment focuses on historical archaeology, the report references Aboriginal heritage management, through a brief assessment of the Aboriginal archaeology potential, largely based on Coast's 2021 Aboriginal Heritage Study of Woollahra and GML's 2021 CMS. The assessment concluded that within the original foreshore area, there is a potential for it to contain *in situ* Aboriginal archaeological features, and contains a low potential for Aboriginal archaeological remains on the surface or within surface fills.

Woollahra Crown Lands Aboriginal Heritage Project (Draft)³²

This draft report by Coast considered Aboriginal heritage management within the various Crown Land reserves within the Woollahra LGA, and provides a brief overview of the Aboriginal heritage and history of Rushcutters Bay Park. The report explores the environment prior to and immediately after European arrival and how Aboriginal people continued to use and live in the area despite overall violent encounters, the devastation of smallpox, and other effects of colonisation.

While there are no recorded sites within Rushcutters Bay Park, this is due to the nature of Aboriginal heritage assessment and their history in NSW, with a lot of development impacting the area prior to formal recording procedures. The report recommends the creation of an Aboriginal Heritage Management Plan (AHMP) for Rushcutters Bay Park and until this is produced and adopted, any proposed activities within sensitive areas which may impact below ground surface should be subject to an Aboriginal Heritage Impact Assessment report to meet council and HNSW reporting requirements to determine if any other heritage investigations or permits may be required and throughout any future work, opportunities should be created to interpret local Aboriginal history and heritage within the park.

Generic Plan of Management of Crown Land Reserves (PoM)³³

This PoM was prepared for all Crown Land Reserves within the Woollahra LGA and provides an overview the Aboriginal and European history and contributions to the cultural landscape of Rushcutters Bay Park. The report speaks to its landscape history, with the Park being a former estuarine marshland in a timber gully that lead to the harbour, prior to the arrival of the First Fleet. During the 19th century, the area was subject to notable impacts through the use of the surrounding area for market gardens and the eventual reclamation works to create a public recreation space.

Aboriginal people lived in the area for thousands of years, exploiting the environmental resources of the mudflats, and continued to live in the area throughout the 19th century despite the impact of smallpox

³¹ GML 2022

³² Coast History & Heritage 2021b

³³ Woollahra Municipal Council 2023

and violent encounters during this period. The significance of the area is reflected in the SHR listing of the park.

The report states that the southern part of Rushcutters Bay Park is likely to be an area of Aboriginal heritage sensitivity. The report recommends opportunities to interpret local Aboriginal history and that an Aboriginal heritage management plan should be produced for Rushcutters Bay Park. Additionally, any proposed ground penetrating works should be subject to an Aboriginal heritage impact assessment, prior to the development of this plan.

Archaeological Excavations

There have been no archaeological excavations or monitoring projects within or in close proximity to Rushcutters Bay Park, and few within several kilometres. While open campsites and other Aboriginal heritage have been found and registered in the vicinity which emphasises the presence of Aboriginal people across the landscape, comparable sites situated within a similar environmental and historical context as the study area are virtually non-existent, that is to say, they may have either been destroyed or not yet documented.

For example, within the Woollahra LGA, excavations conducted at Cranbrook Oval and the Royal Sydney Golf Club were situated in deep sand dune deposits, with some sections of remnant swamps, that had remained relatively intact below the ground surface, these contained Aboriginal heritage, ranging from sparse to concentrated stone artefact scatters and ancestral burials.³⁴

Comparatively, archaeological excavations in eastern part of the CBD, such as the Central Depot of the Royal Botanic Gardens, was located within the shallow soils associated with Hawkesbury sandstone (AHIMS #45-6-2783).³⁵ In this instance, their finds concluded that the area had been heavily modified by historic activities and that no intact soil profiles were identified, with either highly truncated and/or disturbed profiles found across the excavation with limited or no potential to contain Aboriginal archaeological deposits.

The other nearby excavation was an archaeological test and salvage excavation of an Aboriginal site at 60-70 William Street, Sydney, located around 1.5km east of the current study area.³⁶ The registered site (AHIMS #45-6-2651, William Street PAD), consists of a low-density artefact scatter within intact layers of the natural soil profile, which had been buried underneath foundations of buildings from the 1850s onwards. The upper most natural layers were originally from an alluvial creek valley, likely the former Yurong Creek (also referred to as Woolloomooloo Creek) which was nearby and filled during construction works in the early 1800s and flowed into Woolloomooloo Bay.

A total of 388 stone artefacts and 8 shattered fragments of raw material used for artefacts were recovered during both the test and salvage excavations. Quartz was the dominant material used at 69%, followed by tuff and silcrete, with a median artefact density of 4/m² which reflects a low-density distribution of artefacts. This likely represents cumulative occupation by Aboriginal people over

³⁴ Unearthed Archaeology and Heritage 2020, JMCHM 2010

³⁵ Haglund 2006

³⁶ ERM 2004

generations as isolated instances rather than continual occupation. The local environment such as the proximity to the former creekbank, estuarine boundaries (of the former Woolloomooloo Bay before reclamation) and resource areas reflects sensitive landforms, likely exploited by Aboriginal people and may retain evidence of their presence through open campsites, art sites and tool manufacturing sites. This reflects a trend preserved open campsites within the CBD on former creeklines despite significant impacts through historical developments.

3.5 Historical Aboriginal uses of Rushcutters Bay

Even though no direct archaeological evidence has yet come to light of Aboriginal uses of Rushcutters Bay prior to the arrival of Europeans, we know from the way that Aboriginal people used the area in the nineteenth century that they were continuing a much more ancient occupation of Rushcutters Bay. Aboriginal people kept living at Rushcutters Bay and around the eastern suburbs for more than a century after Europeans arrived in 1788. Despite dispossession and a lethal smallpox epidemic in 1789, the survivors regrouped and set up a series of camps or settlements around the harbour bays and elsewhere. There were not a lot of Europeans living in these areas until later in the 1800s, so Aboriginal people could set up camp near the shore and fish the waters. Walking tracks connected these camps, one of which was referred to as the 'meroo' and also used by local European residents (**Figure 19**).

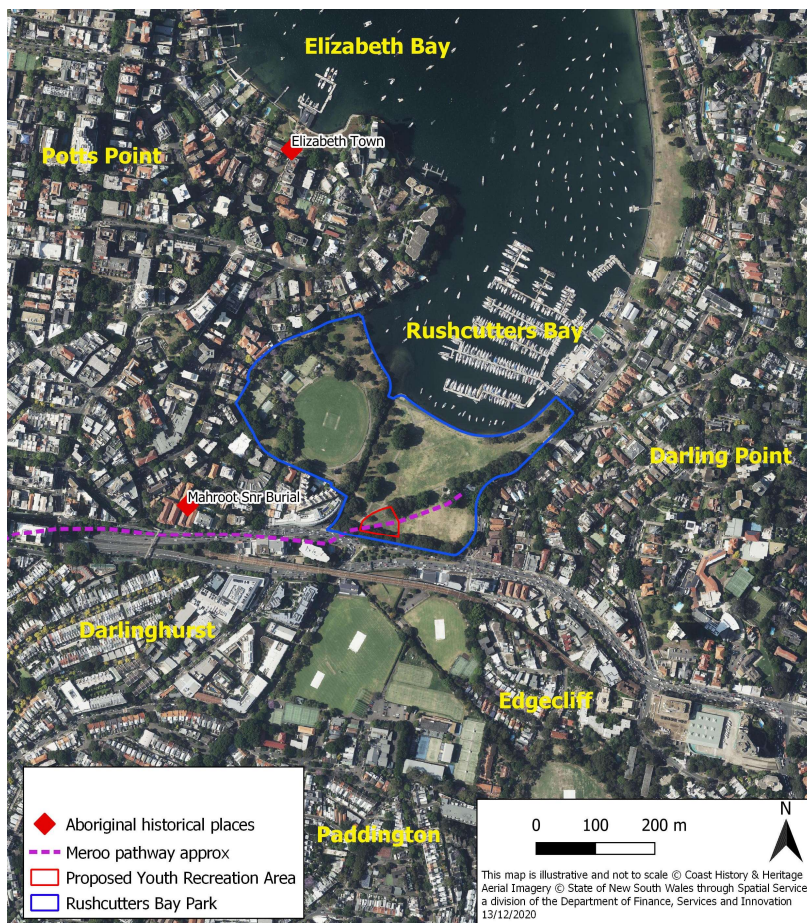


Figure 19. Some places used by Aboriginal people in the early 1800s

In 1820, Governor Macquarie set up a fishing village called Elizabeth Town for the ‘Sydney tribe’ at Elizabeth Bay, which was recognised as being ‘a place much frequented and delighted in by the Sydney blacks, to a family of whom indeed it belonged’.³⁷ Up to a few dozen Aboriginal people lived at Elizabeth Town at any one time including Botany Bay man Mahroot (1790s–1850), who was the son of Mahroot Senior (senior coastal Sydney man) buried nearby, and a later leader of the Sydney tribe Thomas Tamara (1800s–1860s).³⁸ Aboriginal people stopped using Elizabeth Town after a few years. There’s not a lot of historical information about them again until the 1850s, but they were still there. For example, in 1838 people from Shoalhaven and Wollongong were gathered at Elizabeth Bay.³⁹



Figure 20. Some places used by Aboriginal people around Rushcutters Bay in the mid to late 1800s

³⁷ Edward Hall, ‘Mr ES Hall to Sir George Murray 26 November 1828’, *Historical Records of Australia*, vol 28, 1828, pp 596–97.

³⁸ Richard Hill and George Thornton, *Notes on the Aborigines of New South Wales: With personal reminiscences of the tribes formerly living the neighbourhood of Sydney and the surrounding districts*, Government Printer, Sydney, 1892, p 7.

³⁹ *Sydney Gazette* 11/9/1838, p. 2.

Between the 1850s and 1900, there were three areas that we know were regularly used by Aboriginal people around Rushcutters Bay as shown in **Figure 20** to **Figure 22**.

- **West's Bush:** this was in a patch of forest known as West's Bush at Darlinghurst, and appeared to have been used until the 1870s (maybe 1880s). By then the whole area became dense town houses.
- **Upper Ocean Street:** this was where Edgecliff Station is now, around Upper Ocean St, and this appears to have been used at least until the 1880s.
- **Mona:** this was around the Mona property at Darling Point and was used in the 1890s and perhaps earlier, and up to 1900.



Figure 21. West's Bush (circled), looking west towards the city

Source: American & Australasian Photographic Company 1870-1875. *Toll road New South Head Road, looking west to Darlinghurst* (State Library of NSW, ON 4 Box 57 No 278). [extract of original image]



Figure 22. View east to area of Upper Ocean Street settlement (circled) past Wests Bush

Source: American & Australasian Photographic Company 1870-1875. *Toll road, Bayswater-New South Head Roads, Rushcutters Bay* (State Library of NSW, ON 4 Box 57 No 260). [extract of original image]

Wests Bush and Upper Ocean Street were the two main settlements used between the 1850s and 1870s on the slopes either side of Rushcutters Creek. We can't always be sure of which settlement historical sources are referring to, and residents of both places went down to the water, in what is now Rushcutters Bay Park, to fish. Here are a few of the better documented residents:

- Jack Harris and his wife Charlotte (1850s/1860s) – Jack was a Sydney man known for telling people ‘this is my country’. He died at Rushcutters Bay in 1863.⁴⁰
- Kate Sims (1870s/1880s) – lived there with her then husband Joseph Bundle in 1880, where she had her son Joseph.⁴¹
- Thomas and Jane Sims (1870s/1880s) – Kate’s brother and sister-in-law. Tragically they lost their baby daughter at Rushcutters Bay in 1880.⁴²
- Frank Foster (1870s/1880s) – Frank Jr was living at Circular Quay in 1880 when his father Frank Snr died when visiting other Aboriginal people at Rushcutters Bay.⁴³

⁴⁰ ‘Death of a well known Sydney character’, *Empire*, 11 February 1863, p 4.

⁴¹ ‘Death of an Aboriginal Boy’, *Evening News* 8/7/1881, p.3

⁴² ‘Death of an Aboriginal Child’, *Evening News* 2/2/1880, p.2

⁴³ [no title; Frank Foster], *Sydney Daily Telegraph* 29/4/1880, p. 2, *Death certificate of Frank Foster* (NSW BDM 2005/180116).

- Bally Rochet/Bob Curran/Iembin (1890s?) – was said to have lived at Rushcutters Bay. He was a senior south coast man who provided a lot of cultural information to anthropologist Alfred Howitt in the 1880s.⁴⁴
- Charley Wells (1880/1890s) - Charley may have been married to the granddaughter of Bob Curran/Iembin. Around 1950, Charley was interviewed at La Perouse and remembered visiting Rushcutters Bay as a child, probably in the 1880s. He said:

“There were a few permanent inhabitants, and other natives came down at Christmas and Easter from the country for short periods. The visitors brought birds and honey with them, and exchanged them for fish. The permanent residents lived mainly on mussels and other shellfish, and on the sale of boomerangs and shellwork.”⁴⁵

As well as fishing the bay, we know that Aboriginal people in these settlements were conducting ceremonies, and sometimes stopped travellers along New South Head Road to ask for money and presents for their children.⁴⁶



Figure 23. The Government Boatshed at Bennelong Point in the mid-1870s

Source: American & Australasian Photographic Company 1870-1875. *Looking across the Harbour from cottage on Blues Point Road towards Fort Macquarie and Government House* (SLNSW ON 4 Box 80 No 8). [Extract of original image].

In the early 1880s, several residents like Kate Sims, Thomas and Jane Sims, and Frank Foster Snr and his son were moving from the settlements at Rushcutters Bay to a camp in the former Government Boatsheds at Circular Quay when they wanted to buy and sell goods in the city (**Figure 23**). In 1881, they

⁴⁴ Esther Wait, 1950. *The Migration of People of Aboriginal Ancestry to the Metropolitan Area and their Assimilation* (BA Honours thesis, University of Sydney), p. 13.

⁴⁵ Esther Wait, 1950, pp.14-15.

⁴⁶ <https://www.sydneybarani.com.au/sites/the-rushcutters-bay-settlement/> [accessed 8/1/2024]

became tied up in attempts to evict Aboriginal people from the boatsheds, which ultimately led to the formation of the Aborigines Protection Board and in the short term, saw them all travel to the Maloga Aboriginal Mission far away on the Murray River.⁴⁷ Kate returned to Sydney soon after, and was among the first Aboriginal families to live permanently at the Aboriginal fishing camp of La Pouse.

Other people continued to live at Rushcutters Bay in the 1890s. By this time, it looks like both Upper Ocean Street and Wests Bush were covered by houses and the Aboriginal settlements there appear to have closed. Instead, Aboriginal people were living around the Mona Estate at Darling Point. They would sometimes camp in the stone coach house and other times perhaps on or near the eastern end of Rushcutters Bay Park. They knew Harriet Baker, the governess at Mona, who was also a Christian missionary involved with establishing the first mission at La Pouse. We think that she, or other Aboriginal people living there, persuaded the last Rushcutters Bay residents to move to La Pouse permanently, which they did by around 1900.⁴⁸

After this time we don't have any records of Aboriginal people living permanently around the Rushcutters Bay area, but it is likely that some people continued to visit. Perhaps they camped there sometimes too.

3.6 What may remain within the study area

Archaeological evidence shows that Aboriginal people used all parts of the broader eastern suburbs landscape, though this usage varied greatly according to cultural factors (such as ceremonial and other significant places that were used in particular ways) and the availability of water and food resources. Based on what we know about these patterns of use, the Rushcutters Bay area is likely to have been a focus of occupation by Aboriginal people, as it is close to Rushcutters Bay Creek, the bay and the swamp and hinterlands to the south. This would have provided extensive environmental resources for exploitation, primarily fishing. The environmental information suggests that while the Rushcutters Bay Park area is likely to have been a focus for past Aboriginal resource use, occupation areas (campsites) are more likely to have been located further south beyond tidally inundated areas or in rockshelters along the foreshore of Darling Point and Potts Point/Elizabeth Bay.

The area continued to be used by Aboriginal people after the arrival of Europeans, though this use was impacted by disease and dispossession, especially in early years, and the impacts of European land use. Nonetheless, there is clear evidence of Aboriginal people continuing to camp on the slopes either side of Rushcutters Creek throughout the nineteenth century, and using the creek and bay for fishing and gathering shellfish. A traditional walking track across the creek also shows how this, and other areas, were interconnected.

The types of evidence that may have survived within the specific study area, and the broader area of Rushcutters Bay Park, are related to the landforms that are present and the level of historical impact. For example, the absence of outcropping bedrock in the former mud and sand flats means that rockshelters with evidence of art or occupation, rock engravings or axe grinding grooves will not be present. It is

⁴⁷ Irish 2017, pp109-116.

⁴⁸ Irish 2017, pp. 127-128.

possible that remains of coastal campsites (middens) and Aboriginal burials could be present along the former shoreline, however, these are likely to be a metre or more below the current infilled surface (if they survive) and are also more likely to be located further south beyond the area of tidally shifting sand banks and mudflats that can be seen in **Figure 4b**, **Figure 6** and **Figure 7**. The specific Rushcutters Bay Park area is more likely to have been used both before and after the arrival of Europeans for resource exploitation (fishing and shellfishing) and moving between adjacent areas. These are likely to have left relatively ephemeral physical traces which, if they survive, are also most likely to be buried beneath the fill used to reclaim the area in the 1880s. It is important to remember that the area may retain significance to Aboriginal people today whether or not physical traces remain of past Aboriginal uses.

4. What we have observed

Site survey

The results of the documentary research indicates that there are no known or registered sites within or close to the study area, however, the area holds potential for subsurface Aboriginal archaeological remains below the level of infilled deposits used to form the current park.

Our archaeological survey was undertaken to confirm these results and determine if any previously unrecorded sites or areas of archaeological potential were present within the study area. The method and results are outlined in this section.

4.1 Survey methods

The survey was undertaken on Friday, 24 November 2023, in cloudy weather, by Paul Irish and Gina Basile (Coast), in conjunction with Shane Ingre (La Perouse LALC). It was combined with a meeting for the Cultural Values Assessment which also included Eleanor Banaag, Kristy Wellfare and Roger Faulkner (Woollahra Council) and Michael Ingre, Shalan Foster, Kirsty Beller (Gujaga Foundation). The survey was undertaken on foot, using a handheld GPS, and photographs and notes were taken.

A survey methodology was developed to focus on areas where the ground surface was clear of vegetation and constructed surfaces, such as paths. The survey focused on the location of the proposed works, areas of exposed ground (tracks, paths, erosion scours etc), and areas where mature native trees may have been present. Survey observations were recorded using written notes and photographs, linked to GDA coordinates obtained using handheld GPS units. Due to the small size and relatively uniform landform of the study area, the area was not divided into survey units. It comprises part of a grassed section of Rushcutters Bay Park (East) with few trees within the boundary.

The identification and recording of sites are based on the specific information required for the AHIMS Register, and on guidelines for particular site types. In relation to scarred trees, determining whether scars have a cultural or natural origin can be difficult but is evaluated based on attribute guides and knowledge of the specific land use history of the area in question.⁴⁹ Stone artefacts can represent the remains of former Aboriginal living spaces, or the casual or accidental discard of individual artefacts. Though arbitrary it is common practice to define 'open campsites' as being two or more artefacts within 50m of one another, unless they are obviously not related. Single artefacts more than 50m from other artefacts are typically recorded as 'isolated finds', unless we can see that they are somehow related to artefacts further away than this.

This information is recorded about any artefacts we find on our inspections:

- How big the artefact is – its maximum length, width and thickness.
- What it was made from - raw materials such as silcrete, quartzite and quartz.
- The type of artefact - flakes, blades, cores, flaked pieces etc.

⁴⁹ Irish 2004, Long 2005.

- Any other information about its context or perhaps evidence of use such as retouching etc.

As well as recording the archaeological evidence we can see, we also think about whether there is any potential for evidence to survive beneath the surface. This can be determined by thinking about the type of landform, what we know of how Aboriginal people used these types of landforms, the archaeological evidence we can see, and the level of disturbance that is either observed during the inspection or known from historical records. If we think an area might have subsurface archaeological evidence, it is identified as an area of Potential Archaeological Deposit. These areas may not be associated with any surface evidence such as stone artefacts.

4.2 *Survey observations*

The study area comprises a small portion of Rushcutters Bay Park and is approximately 2,000m². It is located on reclaimed land of Rushcutters Bay, around 200m south of the current shoreline. The reclamation works created a flat and relatively level parkland which buried the original foreshore (**Figure 24**). Alterations to the landform were noted just to the south of the study area, where a tree line along New South Head Road was on a ridge, around a metre higher than the grassed section of the park, it is unknown whether this represents the original ground level or if the road was raised during construction (**Figure 25**).

The study area is open and grassed with fig trees at the north and south boundary. At the time of the survey, there was poor ground surface visibility, due to the dense grass cover and mulch around the trees (**Figure 26**). There are no structures within the study area. No areas of exposed ground were observed.

The results of the survey confirmed the findings from the background research, that is, historical disturbances are likely to have buried any potential for Aboriginal archaeological material. The original landform / environment has been substantially modified. No culturally significant trees were identified, no surface artefacts, or areas of archaeological potential were identified beyond the previously identified archaeological sensitivity of subsurface deposits.



Figure 24. View north towards the shoreline of Rushcutters Bay showing reclaimed landform



Figure 25. View east along raised treeline along New South Head Road



Figure 26. View east across the study area, showing landform and vegetation

4.3 Survey coverage

It is a requirement of the Code of Practice to assess the effective survey coverage according to the formulas shown in **Table 7**. These tables are based on summaries of ground visibility and exposure observed during the survey. Visibility is taken to refer to the ground surface that can be seen, while exposure is taken to refer to that part of the visible ground where artefacts or archaeological deposits may be visible. In general, effective coverage was limited by the presence of vegetation, leaf litter and grass, water, and eroded sediment.

The limited effective coverage might suggest that we do not have sufficient information to extrapolate and assess archaeological potential. However, these calculations place undue emphasis on the current observable 'surface' as an indicator of archaeological potential, and overlooks the value of observations of erosional processes, soil type and nature, and historical disturbance, not to mention the findings of several previous assessments. In this study in particular, these are essential factors, as all of the observed land has been highly impacted by historical disturbance.

Table 7. Summary table of effective archaeological survey coverage

Landform	Area (m ²)	Visibility	Exposure	Effective Coverage Area	Effective Coverage	No. of sites	No. of artefacts or features
Flat	2,000 m ²	0%	0%	0m ²	0%	0	0

4.4 Survey results

No previously unrecorded Aboriginal sites were found during the site survey; however, ground surface visibility was very low due to extensive grass cover and mulch. There are no trees within the study area that are of sufficient age to bear scars of potential Aboriginal cultural origin.

The survey confirmed that the previous reclamation works completely stripped the original vegetation and topsoils (and uppers layers of the natural soil profile), altering the former landform to create the open, levelled parkland for public recreation. While these processes will have affected any archaeological deposits that were present within the topsoil, they are unlikely to have been entirely removed from subsurface deposits, represented as buried alluvial sand deposits within the study area beneath up to 1.4m of fill.

5. Our Assessment

5.1 *What physical remains are (or may be) present within the study area*

While there are no recorded Aboriginal archaeological sites within the study area and no previously unrecorded sites were found during the field survey, based on our background research and field survey observations, we can describe what Aboriginal archaeological remains may possibly occur within the study area. The study area has known Aboriginal archaeological sensitivity because of:

- the possible survival of the original foreshore of Rushcutters Bay under reclamation fill.
- the presence of historical Aboriginal camps in the vicinity.

We know that the foreshore (if it survives) is under a layer of fill from the reclaiming of the foreshore in the 1880s to form the current surface and extent of Rushcutters Bay Park. The geotechnical investigation of the area showed that there is up to 1.4m of fill material on top of alluvial and marine sand deposits. We also know from historical images and descriptions that the immediate foreshore was quite mobile, with sand flats constantly shifting position through tidal action. It seems unlikely that Aboriginal people would have camped and buried their dead in such a mobile landscape, so it is more likely that substantial archaeological traces of past Aboriginal use (ancestral burials, middens, stone artefact deposits) will be located further south from the park area. However, even if they are present and have survived the process of historical reclamation, they are likely to be more than a metre under the current ground surface.

The continuing use of the Rushcutters Bay area throughout the nineteenth century has also been considered, and it has been demonstrated that the main camps were located to the south of New South Head Road on either side of the Rushcutters Creek Valley. However, Aboriginal people continued to use the area for nearly 20 years after the reclamation works and formation of Rushcutters Bay Park. It does not appear that they had a permanent settlement within the park area, but they are likely to have continued to fish the bay and traverse the area. It is unlikely that substantial physical remains will have been generated by these uses, and even less likely that they will have survived. However, it is important to be aware that they may exist and can include European materials that would otherwise be dismissed as having no Aboriginal heritage significance.⁵⁰

In summary, it is possible but very unlikely that ephemeral isolated traces of past Aboriginal use may survive within surface soils and fill deposits across the park. Any intact physical evidence of resource use (e.g. fishing) or more substantial traces of former campsites or ancestral burials, are likely to be more than a metre below the surface if they survive.

⁵⁰ See Irish and Goward 2012.

5.2 What Aboriginal Cultural Values does Rushcutters Bay Park have?

Identifying Aboriginal Cultural Values

As part of this assessment, we talked with the descendants of settlement residents about the history of these places and how they are bound up in the histories of the La Perouse community, and the even broader stories of coastal Sydney Aboriginal people and the legacy of government ‘protection’ and religious missions. Aboriginal people at La Perouse continued to remember the Aboriginal settlements at Rushcutters Bay long after they ceased to live there. As we have seen, in the 1950s, Charley Wells remembered his time there as a boy. Kate Sims’ granddaughter, the late Aunty Boronia Williams, retained Kate’s knowledge of the main camps in the late 19th century at La Perouse, Circular Quay (the boatsheds) and Double Bay (Rushcutters Bay). Among those she passed on this information to include her sister’s grandsons, Shane and Michael Ingrey, who have been involved in this project. Shallan Foster is also connected to the Rushcutters Bay settlements and their broader history through her ancestors Frank Foster Snr and Frank Foster Jr. Michael expressed why these associations continue to have meaning and importance:

Our old people used to occupy these places within Sydney Harbour right up until the establishment of the Aborigines Protection Board in the 1880s and really impacted on their occupation and access to country when the full weight of the laws and programs of the APB started. My Elders often spoke about their grandparents who occupied these places but not much detail was available to them except what was told to them by those old people that occupied. With the increase of technology and access to records, our community are now finding more detailed information of cultural content, movement, connection that backs up those stories of connection where our connection has been disputed in the past by both non-Aboriginal and Aboriginal people that have very limited understanding of our cultural ways. These places that many families of the La Perouse Aboriginal Community belong to are as important to us now as many other areas within our country that haven’t been developed.

With the descendants we also discussed how the highly altered landscape means that there is unlikely to be anything physically remaining relating to the use of any of the historical settlements, and how Rushcutters Bay Park provides a place where historical and cultural connections can be remembered and recognised. For example, the traditional walking track which passed through the area, connecting the park to these broader stories. We also talked about how the park and wider area was an important resource area that settlement residents used. As well as being a place that Aboriginal community members can visit to remember and reconnect, the park provides an appropriate place to educate the public about the settlements and the history of government intervention that eventually forced Aboriginal people out of the area. Proposals like the Youth Recreation Area do not diminish the importance of this history and heritage but provide opportunities to tell these stories.

5.2.1 Aboriginal Cultural Values Statement

Based on these discussions, the following Aboriginal cultural values statement was developed by Shane Ingrey, whose ancestor lived in historical Aboriginal camps around Rushcutters Bay, in consultation with other descendant of camp residents:

Rushcutters Bay Park holds great value to me as a Dharawal person. It is a place that endured the early expansion of the colony and the pressures associated with that, and our ancestors remained on country and continued living a cultural lifestyle right up until the 1900s. To have a personal family connection to this place through my great-great grandmother, visiting the area you can still feel the presence and that spiritual connection to country. This is still a very special place.

6. How Aboriginal heritage could be managed

6.1 What are the proposed works?

Woollahra Council is proposing the installation and construction of a Youth Sports Recreation Area. In summary these works will include (**Figure 27**):

- A skatepark and basketball elements constructed on a concrete slab supported by pile footings with excavation to depths of 0.3m-0.6m.
- Shelter with posts supported by footings to a maximum depth of 0.6m and concrete seating supported by a concrete strip footing to a maximum depth of 0.3m.
- Construction of new footpaths to connect the new proposed area to the existing infrastructure of Rushcutters Bay Park.
- Soft landscaping features of low plantings, no removal of existing trees and no plantings of new ones.
- Drainage works to connect to existing services with depths ranging from 0-0.6m.
- No additional lighting is proposed as part of these works.

6.2 What impacts are possible to Aboriginal heritage from this proposal?

Impact Assessment

In this assessment we have considered the environmental setting and historical context of the study area, what is currently known about past Aboriginal use of the surrounding area, it's ongoing Aboriginal cultural values, and we have conducted a field inspection with representatives from La Perouse LALC and the Gujaga Foundation. Based on all these things, we have been able to determine whether the current development proposal is likely to impact any items of Aboriginal heritage, and whether it may have other impacts to Aboriginal heritage values.

The documented Aboriginal cultural values of the place will also not be impacted by the proposal, as noted in the response of the Gujaga Foundation. Indeed, it represents for them an opportunity for those values and their associated history to be recognised and communicated to the broader public.

The potential for physical evidence of past Aboriginal use to have survived within the study area consists of two components; the potential for subsurface archaeological deposits associated with the original buried shoreline, and the potential for the physical remains of nearby Aboriginal historical camps. This has the potential to represent Aboriginal history and use of the area, through both pre- and post-contact archaeological remains.

While there are no registered Aboriginal sites within the proposed footprint of works, there is a low chance of impact to potential subsurface archaeological deposits. The construction of the concrete slabs will be restricted to the upper layers of fill (a maximum depth of 0.6m) which will not impact the buried sand deposits. It is possible though very unlikely that ephemeral isolated traces of historical Aboriginal use may survive within surface soils and fill deposits across the park.



6.3 Can those impacts be avoided?

Avoiding and minimising harm

It is always preferable to avoid harming Aboriginal objects and this has been considered in the design of the proposed works and in the current assessment. There are no known Aboriginal sites within the study area, but it is an area of Aboriginal archaeological sensitivity. This relates to the potential for Aboriginal heritage through the potential presence for the original shoreline buried at depths within the study area, and references the wider presence of Aboriginal historical camps in the area, which are however unlikely to have any surviving physical traces within naturally accumulating topsoil and fill deposits.

The proposed works have been designed to avoid impact to the buried sand deposits by restricting the depth of their excavation to around 0.6m which should be contained within layers of imported fill. Therefore, there should be no impact to the Aboriginal heritage potential for the buried original foreshore of the bay, and there is little likelihood that the works will impact any physical traces of past Aboriginal use that may have survived within fill deposits.

6.4 What management strategies will be in place to minimise and mitigate Aboriginal heritage impact?

Although there is a very low risk of the works impacting Aboriginal archaeological remains, a precautionary approach has been taken, given a lack of previous archaeological investigations in the area. The proposed Aboriginal heritage management comprises the following measures, which are supported by the La Perouse LALC and other Registered Aboriginal Parties who responded to the draft report:

6.4.1 Aboriginal cultural heritage induction

All workers involved in excavation works onsite will undertake an Aboriginal cultural heritage induction as part of their overall site induction. This will explain the nature of the study area, the legislative requirements associated with Aboriginal heritage, and the procedures for archaeological management that are to be followed in the event that any unexpected Aboriginal objects are encountered. The induction is to be developed and delivered by the La Perouse LALC.

6.4.2 Monitoring of earthworks

The La Perouse LALC should be present for the excavation works and monitor the removal of soil due to allow any potential Aboriginal archaeological material or potentially original shoreline deposits to be identified and appropriately managed. Specifically, if suspected Aboriginal archaeological material is encountered, works must cease and adhere to the unexpected finds procedure.

6.4.3 Unexpected finds procedure

An unexpected finds protocol should be implemented for the life of the development. The unexpected finds protocol should be adhered to if unforeseen Aboriginal objects or Ancestral human remains are uncovered during the development. If any Aboriginal objects are identified during construction, site workers must:

- Not further disturb or move these remains.

- Immediately cease all work at the location.
- In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify the Heritage NSW Environment Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. La Perouse LALC should also be notified to assist in the determination of appropriate management for the objects or remains.
- Not recommence any work at the location unless authorised in writing by Heritage NSW.

6.4.4 Interpretation

Proposals like the Youth Recreation Area and other future projects within Rushcutters Bay Park provide opportunities to communicate the Aboriginal historical and cultural significance of the area. Opportunities should include heritage interpretation devices and landscape design that are integrated into the design development that represent and reflect the standing cultural significance of the place. The development of these elements should occur in close consultation with the descendants of former Aboriginal residents of nearby historical settlements, which can be coordinated through the Gujaga Foundation.

7. Our recommendations

We have based our recommendations on:

- the research and conclusions of our assessment as outlined in this report
- the views expressed by the Registered Aboriginal Parties to this project as documented in **Section 2** and **Appendix 1**
- the legal protections provided to Aboriginal 'objects' and 'places' under s.86 of the *National Parks and Wildlife Act 1974*
- current policy and regulatory requirements relating to the assessment of Aboriginal heritage, and in particular the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* and the National Parks and Wildlife Regulation 2019.

The following recommendations are made:

We recommend that:

1. No further Aboriginal archaeological assessment or investigation is required prior to commencement of the proposed development, and the works may proceed with caution.
2. All workers involved in excavation works onsite undertake an Aboriginal cultural heritage induction as part of their overall site induction. This will explain the nature of the study area and the types of features that may be uncovered, the legislative requirements associated with Aboriginal heritage, and the procedures for archaeological management that are to be followed in the event that any identified or suspected Aboriginal objects or Aboriginal human remains are encountered. The induction is to be developed and delivered by the La Perouse LALC.
3. Monitoring of all excavation works should be conducted by the La Perouse LALC.
4. An unexpected finds protocol should be implemented for the life of the development. The unexpected finds protocol should be adhered to if unforeseen Aboriginal objects or human remains are uncovered during the development. This should be undertaken in accordance with **Section 6.4.3** of this report.
5. A Heritage Interpretation Plan should be developed by interpretation specialists and designers who have considered the cultural values and consultation outlined in this report, to be prepared to ensure these values, themes and stories are represented in the proposed Youth Recreation Area. This should be developed in close consultation with the descendants of former Aboriginal residents of nearby historical settlements, which can be coordinated through the Gujaga Foundation.
6. A copy of this final report should be forwarded to the RAPs and to:

The Registrar
Aboriginal Heritage Information Management System
Heritage NSW
Locked Bag 5020
Parramatta NSW 2220

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Appendix 1A

Public and Direct Notice Examples



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Registration of Interest Aboriginal Community Consultation, Darling Point, Woollahra LGA

Registration of Interest – Aboriginal Cultural Heritage Assessment

Woollahra Municipal Council (536 New South Head Road, Double Bay NSW 2028) are undertaking an Aboriginal Cultural Values Assessment as part of an Aboriginal Cultural Heritage Assessment Report for proposed development at Rushcutters Bay Park, Darling Point NSW 2027 (Lot 7321, DP1165813) in the Woollahra Local Government Area. The proposed development includes the construction of a youth recreation area in Rushcutters Bay Park. These works may result in application for an Aboriginal Heritage Impact Permit (AHIP) under s90 of the National Parks & Wildlife Act 1974. The purpose of community consultation with Aboriginal people is to assist the proposed applicant in the preparation of an AHIP application and to assist the Secretary of the NSW Department of Planning and Environment in their consideration and determination of the application if required.

We are inviting Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the area of the proposed development to register an interest in the project. If you would like to register your interest, please provide name of group/individual, nominated contact person and contact details. We are required to provide details of all Registered Aboriginal Parties to Heritage NSW and the Local Aboriginal Land Council, unless otherwise advised. Please advise us in writing in you do not wish your details to be released.

If you would like to register your interest in this project, please respond by Friday, 13 October 2023. Registrations can be sent to C/O Coast History & Heritage, 15/112 McEvoy Street, Alexandria NSW 2015 or admin@coasthistory.com.au For any inquiries call 1800 450 995.

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22 September 2023

Aboriginal Heritage Planning Officer
Heritage NSW, Department of Planning and Environment
Level 6, 10 Valentine Avenue
Parramatta NSW 2150

Dear Sir/Madam,

**RE: Request for names of Aboriginal people who hold cultural knowledge
for the proposed Rushcutters Bay Youth Recreation Area, Darling Point NSW**

Proponent: Woollahra Municipal Council (536 New South Head Road, Double Bay NSW 2028)

Woollahra Municipal Council are undertaking an Aboriginal Cultural Values Assessment as part of an Aboriginal Cultural Heritage Assessment Report for a proposed development at Rushcutters Bay Park, Darling Point NSW 2027 (Lot 7321, DP1165813). The proposed development includes construction of a Youth Recreation Area. These works may result in application for an Aboriginal Heritage Impact Permit (AHIP) under s90 of the *National Parks & Wildlife Act 1974*. Coast History & Heritage (Coast) has been engaged by the proponent to undertake Aboriginal community consultation in accordance with the *National Parks and Wildlife Regulation 2019*.

In accordance with Section 60(2a) of the *National Parks and Wildlife Regulation 2019*, we are seeking the names and contact details of Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) within the proposal location. This will assist us in preparing the Aboriginal Cultural Values Assessment as part of an Aboriginal Cultural Heritage Assessment Report and assist the Secretary of the Department of Planning and Environment in their consideration and determination of an AHIP application if required.

Please forward us the details of any such Aboriginal people in writing before **Monday, 9 October 2023** to:

(Post) 15/112 McEvoy Street, Alexandria NSW 2015

(Fax) 02 8311 1478

(Email) admin@coasthistory.com.au

Please ensure that you provide us with current postal addresses and contact names. Any enquiries should be directed to our office on 1800 450 995.

Yours sincerely,



Gina Basile
Heritage Consultant
E: gina@coasthistory.com.au
W: www.coasthistory.com.au

13 October 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

**RE: Registration of interest for community consultation
for the proposed Rushcutters Bay Youth Recreation Area, Darling Point NSW**

Proponent: Woollahra Municipal Council (536 New South Head Road, Double Point NSW 2028)

Woollahra Municipal Council are undertaking an Aboriginal Cultural Heritage Assessment for a proposed development at Rushcutters Bay Park, Darling Point NSW 2027 (Lot 7321, DP1165813). The proposed development includes construction of a Youth Recreation Area. These works may result in application for an Aboriginal Heritage Impact Permit (AHIP) under s90 of the *National Parks & Wildlife Act 1974*. Coast History & Heritage (Coast) has been engaged by the proponent to undertake Aboriginal community consultation in accordance with the *National Parks and Wildlife Regulation 2019*.

The purpose of community consultation with Aboriginal people is to assist the proposed applicant in the preparation of an AHIP application and to assist the Secretary of the Department of Planning and Environment in their consideration and determination of the application.

We have received your details from Heritage NSW as someone who may hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) within the proposal location. If this is the case, you are invited to register your interest for community consultation in relation to the proposed development. If you would like to register your interest, please provide the name of a group/individual, nominated contact person and contact details. We are required to provide details of all Registered Aboriginal Parties to Heritage NSW and the La Perouse Local Aboriginal Land Council, unless otherwise advised. Please advise us in writing if you do not wish your details to be released.

If you would like to register your interest for this project, please notify us in writing by **Friday, 27 October 2023** at one of the following:

(Post) 15/112 McEvoy Street, Alexandria NSW 2015
(Email) admin@coasthistory.com.au

Please ensure that you provide us with current postal addresses and contact names. Any enquiries should be directed to our office on 1800 450 995.

Yours sincerely,



Gina Basile

Heritage Consultant

E: gina@coasthistory.com.au

W: www.coasthistory.com.au

Appendix 1B

Agency Responses to Direct Notices

25 September 2023

By email: gina@coasthistory.com.au

Gina Basile
Heritage Consultant
Coast History & Heritage
15/112 McEvoy St,
ALEXANDRIA NSW 2015

Dear Gina,

Aboriginal Cultural Heritage Assessment – proposed Rushcutters Bay Youth Recreation Area, Rushcutters Bay Park, Darling Point, NSW: request for list of potential Aboriginal stakeholders

We refer to your email to this Office, dated 22 September 2023, requesting contact information for Aboriginal organisations, stakeholders and/or people who may have cultural knowledge relevant to the proposed Rushcutters Bay Youth Recreation Area, Rushcutters Bay Park, Darling Point, NSW (Lot 7321, DP1165813), as part of an Aboriginal Cultural Heritage Assessment (ACHA) and AHIP.

Under Section 170 of the *Aboriginal Land Rights Act 1983* (NSW), the Office of the Registrar is required to maintain the Register of Aboriginal Owners (RAO) for New South Wales. A search of the RAO has shown that there are currently no Registered Aboriginal Owners in the project area.

The proposed development and study area falls within the boundaries of La Perouse Local Aboriginal Land Council. We suggest you contact La Perouse LALC (contact details provided below), as they may wish to participate or contribute.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brendan Smith".

Brendan Smith
Senior Project Officer
Office of the Registrar, Aboriginal Land Rights Act 1983

La Perouse Local Aboriginal Land Council
PO Box 365
MATRAVILLE NSW 2036
Ph: (02) 9311 4282
Email: admin@laperouse.org.au

Gina Basile

From: Geospatial Search Requests <GeospatialSearch@NNTT.gov.au>
Sent: Friday, 22 September 2023 1:39 PM
To: Gina Basile
Cc: Coast History and Heritage; Daniel Longbottom
Subject: RE: SR23/1559 - Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA - SR23/1559 [SEC=OFFICIAL]
Attachments: 20230922_Woollahra_Municipal_Council_LGA.xlsx

OFFICIAL

Your ref: *Rushcutters Bay Park* **Our ref:** *SR23/1559*

Dear Gina Basile,

Thank you for your search request, please find your results attached.

Search Results

The results provided are based on the information you supplied and are derived from a search of the following Tribunal databases:

- Schedule of Native Title Determination Applications
- Register of Native Title Claims
- Native Title Determinations
- Indigenous Land Use Agreements (Registered and notified)

For more information about the Tribunal's registers or to search the registers yourself and obtain copies of relevant register extracts, please visit our [website](#).

Information on native title claims and freehold land can also be found on the Tribunal's website here: [Native title claims and freehold land](#).

Please note: There may be a delay between a native title determination application being lodged in the Federal Court and its transfer to the Tribunal. As a result, some native title determination applications recently filed with the Federal Court may not appear on the Tribunal's databases.

The search results are based on analysis against external boundaries of applications only. Native title applications commonly contain exclusions clauses which remove areas from within the external boundary. To determine whether the areas described are in fact subject to claim, you need to refer to the "Area covered by claim" section of the relevant Register Extract or Schedule Extract and any maps attached.

Search results and the existence of native title

Please note that the enclosed information from the Register of Native Title Claims and/or the Schedule of Applications is **not** confirmation of the existence of native title in this area. This cannot be confirmed until the Federal Court makes a

determination that native title does or does not exist in relation to the area. Such determinations are registered on the National Native Title Register.

The Tribunal accepts no liability for reliance placed on enclosed information

The enclosed information has been provided in good faith. Use of this information is at your sole risk. The National Native Title Tribunal makes no representation, either express or implied, as to the accuracy or suitability of the information enclosed for any particular purpose and accepts no liability for use of the information or reliance placed on it.

If you have any further queries, please do not hesitate to contact us via GeospatialSearch@NNTT.gov.au

Regards,

Geospatial Searches

National Native Title Tribunal | Perth

Email: GeospatialSearch@nntt.gov.au | www.nntt.gov.au

From: Gina Basile <gina@coasthistory.com.au>

Sent: Friday, September 22, 2023 8:03 AM

To: Geospatial Search Requests <GeospatialSearch@NNTT.gov.au>

Cc: Coast History and Heritage <admin@coasthistory.com.au>; Daniel Longbottom <daniel@coasthistory.com.au>

Subject: SR23/1559 - Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

Please find attached a letter and request for search of Tribunal registers requesting details of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Monday, 9 October 2023**.

Kind regards,

Gina

Gina Basile

Heritage Consultant



P: 1800 450 995 / M: 0411 295 921

E: gina@coasthistory.com.au

W: www.coasthistory.com.au

15/112 McEvoy Street

Alexandria NSW 2015

Overlap Analysis

Disclaimer

This information product has been created to assist in understanding the spatial characteristics and relationships of this native title matter and is intended as a guide only. Spatial data used has been sourced from the relevant custodians in each jurisdiction, and for the Tribunal, and is referenced to the GDA2020 datum.

While the National Native Title Tribunal (NNTT) and the Native Title Registrar (Registrar) have exercised due care in ensuring the accuracy of the information provided, it is provided for general information only and on the understanding that neither the NNTT, the Registrar nor the Commonwealth of Australia is providing professional advice. Appropriate professional advice relevant to your circumstances should be sought rather than relying on the information provided. In addition, you must exercise your own judgment and carefully evaluate the information provided for accuracy, currency, completeness and relevance for the purpose for which it is to be used. The information provided is often supplied by, or based on, data and information from external sources, therefore the NNTT and Registrar cannot guarantee that the information is accurate or up-to-date. The NNTT and Registrar expressly disclaim any liability arising from the use of this information. This information should not be relied upon in relation to any matters associated with cultural heritage.

Please note:

- Calculated areas may not be the same as the legal area of a parcel.
- Where shown, NNTT Tenure Class for a non freehold parcel refers to a tenure grouping derived for the purposes of the Tribunal, and does not necessarily represent the jurisdictional tenure type.
- Overlap results are returned only for the currently active jurisdiction.
- Where shown, overlap results are returned for 'current' future act notices. These are notices within six months of the notification date, notices subject to a current future act application or state deed and those notices where the right to negotiate applies and are within five years of the notification date.
- Where shown, overlap results are returned for Future Act Objections that are currently active, or that have been subject to an NNTT determination.

Selected Feature from Local Government Area

Name	Woollahra
Full Name	Woollahra Municipal Council
Selection Area (sq km)	12.1916



Reporting overlapping features in New South Wales

Schedule of Native Title Determination Applications

No overlap found

Register of Native Title Claims

No overlap found

Native Title Determinations

No overlap found

Native Title Determination Outcomes

No overlap found

* Note: Outcomes identified as "Native title extinguished" are generally outside the determination area. Refer to the determination document for more information.

Indigenous Land Use Agreements

No overlap found

Section 31 Agreements

(note: Agreements where the tenement has been withheld will not appear)

No overlap found

RATSIB Areas

Name	Organisation	Area (sq km)	Overlap Area (sq km)	% Region Overlapped
New South Wales	NTSCORP Limited	1,719,931.7807	12.1916	100.00%

Local Government Areas

No overlap found

NSW ALC Areas

Name	Regional Council Name	Area (sq km)	Overlap Area (sq km)	% Region Overlapped
La Perouse	Sydney Newcastle	358.9959	12.0903	99.17%

Our reference: Doc23/847807

Gina Basile
Heritage Consultant
Coast, History and Heritage
15/112 McEvoy street
Alexandria NSW 2015

27/9/2023

Dear Gina,

WRITTEN NOTIFICATION OF PROPOSAL AS REQUIRED UNDER DECCW ABORIGINAL CULTURAL HERITAGE CONSULTATION REQUIREMENTS FOR PROPONENTS 2010

Subject: Rushcutters Bay Youth Recreation Area, Darling Point.

Thank you for your correspondence dated 22 September 2023 to Heritage NSW (Department of Planning and Environment) regarding the above project.

Attached is a list of known Aboriginal Stakeholders for the proposed development at the **Woollahra** Local Government Area that Heritage NSW considers likely to have an interest in the activity.

Please note this list is not necessarily an exhaustive list of all interested Aboriginal Stakeholders.

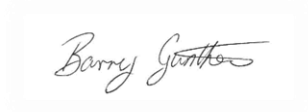
Receipt of this list does not remove the requirement of a proponent/ consultant to advertise in local print media and contact other bodies seeking interested Aboriginal parties, in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (April 2010).

Under Section 4.1.6. of the Consultation Requirements, you must also provide a copy of the names of each Aboriginal person who registered an interest to the relevant Heritage NSW office and Local Aboriginal Land Council (LALC) within 28 days from the closing date for registering an interest.

Please note that the contact details in the list provided by Heritage NSW may be out of date as it relies on Aboriginal stakeholders advising Heritage NSW when their details need changing. If individuals/companies undertaking consultation are aware that any groups contact details are out of date, or letters are returned unopened, please contact either the relevant stakeholder group (if you know their more current details) and/or Heritage NSW. AHIP applicants should make a note of any group they are unable to contact as part of their consultation record.

If you have any questions about this advice, please email:
heritagemailbox@environment.nsw.gov.au or contact (02) 9873 8500.

Yours sincerely

A handwritten signature in black ink, reading "Barry Gunther", is displayed within a light gray rectangular box.

**Barry Gunther, Aboriginal Senior Assessment Officer
Environment and Heritage – Heritage NSW
Department of Planning and Environment
Aboriginal Heritage Regulation Branch – South Heritage NSW**

Attachment A:

Registered Aboriginal Interests DPE Aboriginal Stakeholders List for the **Woollahra** Local Government Area.

Gina Basile

From: La Perouse Admin <Admin@laperouse.org.au>
Sent: Friday, 22 September 2023 3:16 PM
To: Gina Basile; La Perouse Admin
Cc: Coast History and Heritage; Daniel Longbottom; Kirsty Beller
Subject: RE: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Good afternoon Gina

Trust you are well.

I have spoken to Chris and we have staff that would be able to provide Cultural knowledge.
Do we have to give you names as of yet or can we provide that at a later date?

Chris also suggested the Gujaga Foundation being involved and a lady by the name of Kirsty Beller.
I have CC'd her into this email.

Regards,
Toni Musgrave

Administration/Finance

La Perouse Local Aboriginal Land Council
1 Elaroo Avenue
La Perouse NSW 2036

Email: tmusgrave@laperouse.org.au

Phone: (02) 9311 4282

Mail: PO Box 365 Matraville NSW 2036

Website: <http://laperouse.org.au/>



*I acknowledge the Traditional Custodians of the
land I work and live and pay my respect to the
Elders both past and present.*

From: Gina Basile <gina@coasthistory.com.au>
Sent: Friday, 22 September 2023 10:03 AM
To: La Perouse Admin <Admin@laperouse.org.au>
Cc: Coast History and Heritage <admin@coasthistory.com.au>; Daniel Longbottom <daniel@coasthistory.com.au>
Subject: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Good morning Toni,

Please find attached a letter requesting details of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Monday, 9 October 2023**.

Appendix 1C

Registrations of Interest

Gina Basile

From: Phillip Boney <Waarlan12@outlook.com>
Sent: Friday, 13 October 2023 12:51 PM
To: Gina Basile
Subject: Re: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Hey Gina Phil Boney here I would like to register my interest for this project please,thank you
Regards Phil Boney

Sent from my iPhone

On 13 Oct 2023, at 11:39 am, Gina Basile <gina@coasthistory.com.au> wrote:

Dear Philip Boney,

Please find attached a letter requesting the Registration of Interest for community consultation of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Friday, 27 October 2023**.

Kind regards,
Gina

Gina Basile

Heritage Consultant

<image001.png>

P: 1800 450 995 / **M:** 0411 295 921

E: gina@coasthistory.com.au

W: www.coasthistory.com.au

15/112 McEvoy Street

Alexandria NSW 2015

<Wailwan Aboriginal Group_Rushcutters Bay_Direct Notice_13Oct23.pdf>

Gina Basile

From: Kaarina Slater <ngambaa.culturalconnections@gmail.com>
Sent: Sunday, 15 October 2023 1:19 PM
To: Gina Basile
Subject: Re: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA
Attachments: image001.png

Hi Gina

On behalf of Ngambaa cultural connections I would like to register my expression of interest in the consultation for the Darling point NSW Woollahra project.

Kind regards

Kaarina Slater
NCC
0432 828 182

On Fri., 13 Oct. 2023, 11:34 Gina Basile, <gina@coasthistory.com.au> wrote:

Dear Kaarina Slater,

Please find attached a letter requesting the Registration of Interest for community consultation of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Friday, 27 October 2023**.

Kind regards,

Gina

Gina Basile

Heritage Consultant



Gina Basile

From: Phil Khan <philipkhan.acn@live.com.au>
Sent: Monday, 16 October 2023 2:32 PM
To: Gina Basile
Subject: RE: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA
Attachments: Public liability 2023 to 2024.pdf; Icare 2023.pdf

Hi Gina,

Thank you for informing us that **Coast & History & Heritage** will be involved in an Aboriginal Cultural Heritage Assessment for **Rushcutters Bay Youth Recreation Area, Darling Point NSW** & that you are inviting Aboriginal organisations to register, if they wish to be involved in the community consultation process.

As a senior Aboriginal person for the past 50yrs, I actively participate in the protection of the Aboriginal Cultural Heritage throughout the Sydney Basin, & particularly throughout Western Sydney, on behalf of Kamilaroi Yankuntjatjara Working Group I wish to provide to you my organisation's registration of interest.

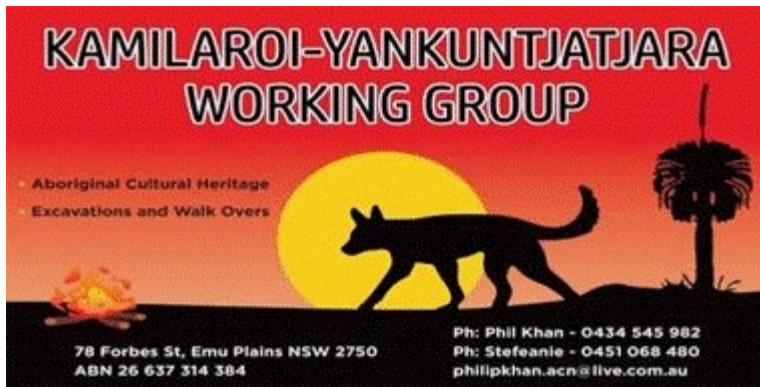
I wish to be involved & participate in all levels of consultation/project involvement. I wish to attend all meetings, participate in available field work & receive a copy of the report.

I have attached a copy of Kamilaroi Yankuntjatjara Working group's Public Liability Insurance & Workers Compensation certificate.

Our RAPS have up to 15yrs Cultural Heritage experience in – field work which involves manual excavation (digging), sieving, identifying artefacts, setting up transits, setting up equipment, packing equipment, site surveys & attending meetings (Focus groups, CwC, interpretation).

Should you wish me to provide further information, please do not hesitate to contact me on 0434545982 or Stefeanie on 0451068480.

Kind Regards
Phil Khan – Director
P 0434545982
E philipkhan.acn@live.com.au
ABN 26 637 314 384



Sent from [Mail](#) for Windows

From: [Gina Basile](#)

Sent: Friday, 13 October 2023 11:30 AM

To: [Phil Khan](#)

Cc: [Coast History and Heritage](#)

Subject: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Dear Phil Khan,

Please find attached a letter requesting the Registration of Interest for community consultation of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Friday, 27 October 2023**.

Kind regards,
Gina

Gina Basile

Heritage Consultant



P: 1800 450 995 / **M:** 0411 295 921

E: gina@coasthistory.com.au

W: www.coasthistory.com.au

15/112 McEvoy Street

Alexandria NSW 2015

Gina Basile

From: Butucarbin Heritage <butuheritage@gmail.com>
Sent: Tuesday, 17 October 2023 12:14 AM
To: Gina Basile
Subject: Re: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Dear Gina,

On behalf of Butucarbin, I would like to register for this project.

Kind regards,
Jenny

On Fri, Oct 13, 2023 at 11:14 AM Gina Basile <gina@coasthistory.com.au> wrote:

Dear Jennifer Beale,

Please find attached a letter requesting the Registration of Interest for community consultation of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Friday, 27 October 2023**.

Kind regards,

Gina

Gina Basile

Heritage Consultant



P: 1800 450 995 / M: 0411 295 921

E: gina@coasthistory.com.au

Gina Basile

From: Amanda De Zwart <Amandahickey@live.com.au>
Sent: Thursday, 19 October 2023 12:14 PM
To: Gina Basile
Subject: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA Register for AHCS
Attachments: insurance 2024.pdf

Hi Gina

Thank you for the email AHCS would like to Formally register a interest in this project AHCS Holds strong cultural knowledge to the land and holds Cultural knowledge to determine Aboriginal heritage and artefacts

Attached is my current insurance

If you need anything else please don't hesitate to contact me

Have a great day
Amanda AHCS

Get [Outlook for Android](#)

Gina Basile

From: Carolyn .H <cazadirect@live.com>
Sent: Thursday, 19 October 2023 12:10 PM
To: Gina Basile
Subject: Re: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA
Attachments: A1.PL2024.pdf; A1.WC2024.pdf



Contact: Carolyn Hickey
Mobile: 0411650057
Email: Cazadirect@live.com
Address: 10 Marie Pitt Place, Glenmore Park, NSW 2745
ABN: : 20 616 970 327

Hi,
Thank you for your email, I would like to register in being involved in all levels of consultation for this project.
Including, Meetings, Reports, Sharing Cultural Information, and available Field Work.

About the founder Carolyn Hickey
I am a traditional owner with over 25 years experience in helping preserve Aboriginal cultural heritage on projects.
I hold cultural knowledge relevant to determining the cultural significance of Aboriginal objects and values that exist in the project area.

I have attached A1 Indigenous Services Insurances

[A1 INDIGENOUS SERVICES Represents over 100 Indigenous Locals](#)

Kind Regards,
Carolyn Hickey

When Selecting Groups for Engagement;

Please consider that **A1 INDIGENOUS SERVICES** is a member of the **NSW INDIGENOUS CHAMBER OF COMMERCE**.

We carry the NSWICC Assured logo showing that **A1 Indigenous Services** has met National Policy requirements as upheld by the First Australians Chamber of Commerce and Industry (FACCI) for being identified as a **100% First Nations Owned Indigenous Business** That has demonstrate compliance with Government and Industry Regulators.

A1 INDIGENOUS SERVICES is now a member of the NSW INDIGENOUS CHAMBER OF COMMERCE

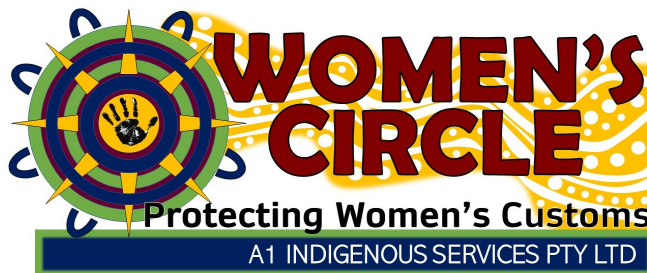
A business or enterprise carrying the NSWICC Assured logo has met National Policy requirements as upheld by the First Australians Chamber of Commerce and Industry (FACCI) for being identified as a First Nations Business Owner or Entrepreneur and the business must demonstrate compliance with Government and Industry Regulators.

(Certificate attached) A certificate confirms that the Enterprise listed above has met all requirements of the NSWICC's Assured Program, operating as a 100% Aboriginal Owned, Operated and Controlled Business. The NSW Indigenous Chamber of Commerce (NSWICC) is the Peak body for Aboriginal Business in New South Wales and a member of the First Australians Chamber of Commerce and Industry (FACCI)

A1 Indigenous Services is 100%, Indigenous Owned Australian Company
which offers a range of services to the construction industry.

It is our mission to commit to an innovative approach to a better future for Indigenous employment and community.

While improving ways to close the gap in Aboriginal participation in the construction Industry.
Building strength in aboriginal communities and our Indigenous labour force.





From: Gina Basile <gina@coasthistory.com.au>
Sent: Friday, 13 October 2023 11:05 AM
To: Carolyn .H <cazadirect@live.com>
Cc: Coast History and Heritage <admin@coasthistory.com.au>
Subject: Aboriginal Community Consultation - Darling Point NSW, Woollahra LGA

Dear Carolyn Hickey,

Please find attached a letter requesting the Registration of Interest for community consultation of any Aboriginal people who may have cultural knowledge in relation to the Darling Point area in NSW to assist with the preparation of an Aboriginal Cultural Heritage Assessment.

Could you kindly respond by **Friday, 27 October 2023**.

Kind regards,
Gina

Gina Basile
Heritage Consultant



P: 1800 450 995 / **M:** 0411 295 921
E: gina@coasthistory.com.au
W: www.coasthistory.com.au
15/112 McEvoy Street
Alexandria NSW 2015

Appendix 1D

Information and Methodology Document

31 October 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

**RE: Aboriginal Cultural Heritage Assessment Information and Methodology
for the proposed Rushcutters Bay Park Youth Recreation Area, Darling Point NSW**

Thank you for expressing your interest in this project. We have recorded your organisation as a 'Registered Aboriginal Party' for the project and are now providing you with further information in accordance with Section 60 (5), (6) & (7) of the *National Parks and Wildlife Regulation 2019*. Specifically, this letter contains:

- A description of the proposed development
- A consideration of the types of potential impacts that this may have on Aboriginal objects and places
- The methodology we propose to use to complete an Aboriginal Cultural Heritage Assessment of the proposed works, and
- Potential management options for identified and potential Aboriginal objects.

The letter also invites you to provide any knowledge or information about the cultural significance of Aboriginal objects and/or places which you believe should be considered in relation to the proposed works. We also welcome your comments on the proposed methodology. As outlined in this letter, any comments you provide will be considered in the Aboriginal Cultural Heritage Assessment Report (ACHAR) for the proposal, and will be used to assist Heritage NSW, Department of Planning and Environment in their assessment of the proposal.

Coast History & Heritage (Coast) has been engaged by Woollahra Municipal Council (Woollahra Council) to undertake this Aboriginal Cultural Heritage Assessment Report and Aboriginal community consultation.

If you wish to provide us with any comments, please send them to us in writing (or contact us if this is not possible), by **Wednesday, 29 November 2023** at one of the following:

(Post) 15/112 McEvoy Street, Alexandria NSW 2015

(Email) admin@coasthistory.com.au

We note that in accordance with current Heritage NSW guidelines¹, any proposal you may wish to submit for engagement in fieldwork is a commercial matter which the proponent will consider separately from the comment and consultation we are currently undertaking.

1 What we are assessing

The study area and proposal

We are assessing around 2,300m² of land (the study area) within Rushcutters Bay Park, Darling Point NSW (Lot 7321, DP1165813) (**Figure 1**). In this area, Woollahra Council are proposing to construct a Youth Recreation Area (**Figure 2**). In summary these works will include:

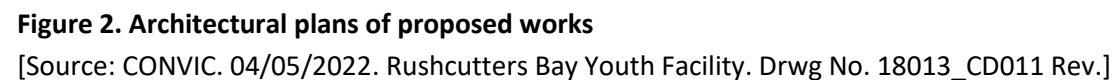
- Construction of skate park with basketball elements
- Shelter and concrete seating
- Landscaping works and construction of new footpaths

There may be some changes to details as the design is finalised, however, works will not be undertaken outside of the study area.



Figure 1. The study area

¹ As outlined in Section 3.4 (page 9) of the *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks & Wildlife Act 1974* (DECCW 2010).



An Aboriginal Cultural Heritage Assessment Report will be prepared for the project which may be used in support of an Aboriginal Heritage Impact Permit (AHIP) under s90 of the *National Parks & Wildlife Act 1974* if required. The assessment will be prepared according to the guidelines issued by Heritage NSW:

- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW.*²
- *Aboriginal cultural heritage consultation requirements for proponents 2010.*³
- *Code of practice for archaeological investigation of Aboriginal objects in New South Wales.*⁴

The Rushcutters Bay area has been identified as having Aboriginal heritage sensitivity based on documented historical Aboriginal camps around the area in the nineteenth century, and the possibility that these were based on more ancient Aboriginal connections to the area.⁵ No Aboriginal sites are currently recorded within or next to the park but this is not surprising. There have been few Aboriginal heritage assessments undertaken in the surrounding area until very recently, and the original landscape is no longer visible because Rushcutters Bay Park was formed in the 1880s by reclaiming a large area of tidal sand and mudflats and filling adjacent lands at the head of the bay (**Figure 3**). These works also channelised Rushcutters Bay Creek into a storm drain.



Figure 3. Approximate extent of original foreshore within Rushcutters Bay Park.

² OEH 2011

³ DECCW 2010

⁴ DECCW 2010

⁵ State Heritage Listing for SHR #02041; Coast History and Heritage 2021. *Woollahra Local Government Area: Aboriginal Heritage Study* (Report to Woollahra Municipal Council).

2 Project timing and opportunities for comment

To meet the Aboriginal community consultation requirements of the Aboriginal cultural heritage assessment process, Coast has undertaken public and direct Aboriginal community notification on behalf of the proponent in accordance with Section 60 of the *National Parks and Wildlife Regulation 2019*. As a result, a number of Registered Aboriginal Parties to the project have been identified.

All Registered Aboriginal Parties have two main opportunities to comment on the proposal and the Aboriginal Cultural Heritage Assessment Report: in response to this Information and Methodology document, and in response to the draft Aboriginal Cultural Heritage Assessment Report. All Registered Aboriginal Parties have been sent a copy of this document by email or post on 31 October 2023 and provided 28 days to make any comments. We have asked for any comments you may wish to make in relation to the project, its methodology and any Aboriginal cultural information that may be relevant to assessment the potential impacts of the proposal.

These comments will be forwarded to the proponent for their consideration, and will be incorporated into the draft Aboriginal Cultural Heritage Assessment Report. This draft report will also be provided to all Registered Aboriginal Parties and 28 days will be provided to make any comments. Any comments received will be considered and incorporated into the final report, which will be provided to Woollahra Municipal Council, and submitted to Heritage NSW. A copy of the final Aboriginal Cultural Heritage Assessment Report will also be made available to all Registered Aboriginal Parties.

Please note that if any information that you wish to provide to Coast History & Heritage is culturally sensitive, please let us know so that appropriate protocols of access and use can be developed. If you do not inform us, we will assume that the information you provide can be included and discussed in the Aboriginal Cultural Heritage Assessment report.

3 Proposed assessment methodology

We propose to use the following methodology to assess the archaeological and Aboriginal cultural values relevant to the project.

Archaeological assessment

Our archaeological assessment will be undertaken and documented in the Aboriginal Cultural Heritage Assessment Report. It will consider relevant environmental, historical and archaeological context, including the original environment and subsequent major historical changes to it, historical Aboriginal uses of the area and the results of our field inspection. Based on this, it will provide proposed management recommendations.

Aboriginal cultural assessment

The Aboriginal cultural assessment will consider:

1. Our knowledge of previously documented Aboriginal cultural and historical associations with the study area;

2. The results of an Aboriginal Cultural Values Assessment currently being undertaken in collaboration with the Gujaga Foundation for the project, which involves discussions with descendants of named former residents of the nineteenth century Aboriginal settlements in the area (and which will be documented in the draft ACHAR); and
3. Any information provided by Registered Aboriginal Parties about:
 - The Aboriginal cultural significance of any identified Aboriginal remains or Aboriginal objects;
 - Any other places or objects of cultural value to Aboriginal people which may be relevant to the current proposal;
 - Any other Aboriginal cultural or historical knowledge which is relevant to the Aboriginal cultural assessment of the study area in relation to the current proposal.

Any information you provide us with will be considered and included in the Aboriginal Cultural Heritage Assessment report that is to be produced for the project. And, as we noted above, appropriate protocols can be developed for sensitive information if you let us know.

4 Conclusions

This letter has provided you with information about the project and documented Aboriginal heritage that might be impacted by the current proposal.

We have sought:

- Your comments on the assessment methodology that we have proposed.
- Any information about Aboriginal objects or places of cultural value to Aboriginal people which may be located within the study area, and any other Aboriginal cultural or historical information that you feel is relevant to the current assessment and proposal and should be considered.

As noted above, where requested and appropriate, protocols can be developed for culturally sensitive information provided to Coast History & Heritage. It is, however, essential that comments and information, preferably in writing, be received by Coast History & Heritage no later than **Wednesday, 29 November 2023** if they are to be considered in the draft Aboriginal Cultural Heritage Assessment report.

If you have any questions or require any additional information, please contact our office on 1800 450 995 or admin@coasthistory.com.au.

Yours sincerely,



Gina Basile
Heritage Consultant
E: gina@coasthistory.com.au
W: www.coasthistory.com.au

Appendix 1E

Responses to Information and Methodology

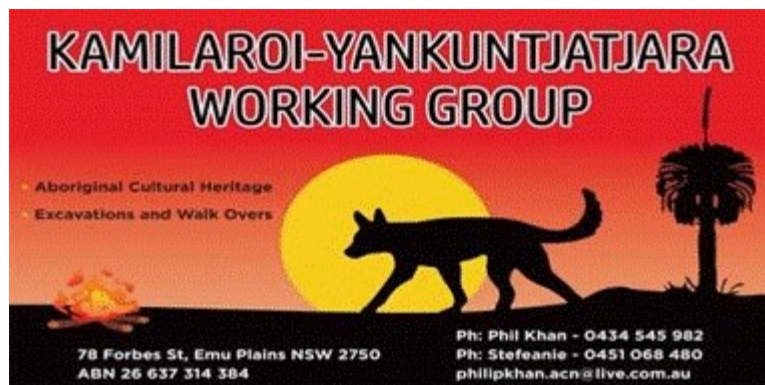
Gina Basile

From: Phil Khan <philipkhan.acn@live.com.au>
Sent: Thursday, 30 November 2023 12:05 PM
To: Gina Basile
Subject: RE: Aboriginal Community Consultation, Information & Methodology - Darling Point NSW, Woollahra LGA

Hi Gina,

Thank you for your report, the study area is highly significant and spiritual to us Aboriginal people, it would have been occupied by Aboriginal people for various activities such as fishing, camping, ceremonies and potentially burial sites. I agree and support your methodology to investigate the area in the way of a site survey. We look forward to working alongside you on this project.

Kind Regards
Phil Khan – Director
P 0434545982
E philipkhan.acn@live.com.au
ABN 26 637 314 384



Sent from [Mail](#) for Windows

From: [Gina Basile](#)
Sent: Tuesday, 31 October 2023 11:18 AM
To: [Phil Khan](#)
Cc: [Coast History and Heritage](#)
Subject: Aboriginal Community Consultation, Information & Methodology - Darling Point NSW, Woollahra LGA

Dear Phil,

Thank you for registering as a Registered Aboriginal Party for this project.

Please find attached a letter detailing information & methodology regarding the proposed works in the Darling Point area in NSW. We invite you to provide any knowledge or information about the cultural significance of Aboriginal objects and/or places which you believe should be considered in relation to the proposed works. We also welcome your

Appendix 1F

Responses to Draft Report

Wednesday 20 March 2024

Re: Rushcutters Bay

To Whom It May Concern,

The Gujaga Foundation wishes to confirm that the proposed project, Youth Recreation Area at Rushcutters Bay Park, Darling Point will not harm the Aboriginal cultural values of the place. Visitor interpretation around the new facility will offer an important opportunity to educate the public about the area's Aboriginal history.

The Gujaga Foundation fully supports the Coast History & Heritage report *Aboriginal Cultural Values Assessment and Aboriginal Cultural Heritage Assessment* regarding Rushcutters Bay.

Kind Regards,
Ash Walker,



Chief Executive Officer

12 April 2024

Dr Paul Irish
Director
Coast History & Heritage

paul@coasthistory.com.au

LA PEROUSE



LOCAL ABORIGINAL LAND COUNCIL

Dear Dr Irish

Aboriginal Cultural Values Assessment and Aboriginal Cultural Heritage Assessment Report – Proposed Youth Recreation Area, Rushcutters Bay Park, Darling Point Woollahra LGA

I am writing in regard to the above mentioned Aboriginal Cultural Values Assessment and Aboriginal Cultural Heritage Assessment Report.

As you may be aware, the La Perouse Local Aboriginal Land Council (**La Perouse LALC**) was established and operates within the provisions of the *Aboriginal Land Rights Act 1983* (NSW) (**ALRA**) and currently represents a membership of approximately 648 Aboriginal persons who reside within or have an association with the La Perouse LALC area. In accordance with Section 52 of the ALRA the La Perouse LALC has a statutory function to *"take action to protect the culture and heritage of Aboriginal persons in the Council's area"*.

As mentioned in the report, members of the La Perouse LALC and La Perouse Aboriginal Community are the descendants (in some instances the great grandchildren) of residents of the old Aboriginal camps in Sydney Harbour including at Rushcutters Bay. Oral histories within those families record the places within Sydney Harbour where their ancestors had lived before being moved to La Perouse permanently.

The La Perouse LALC endorses the report and supports the recommendation set out on pages 54 and 55.

If you would like to discuss this issue further, please don't hesitate to contact the La Perouse LALC office on 9311 4282 during business hours.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Ingrey'.

Chris Ingrey
Chief Executive Officer

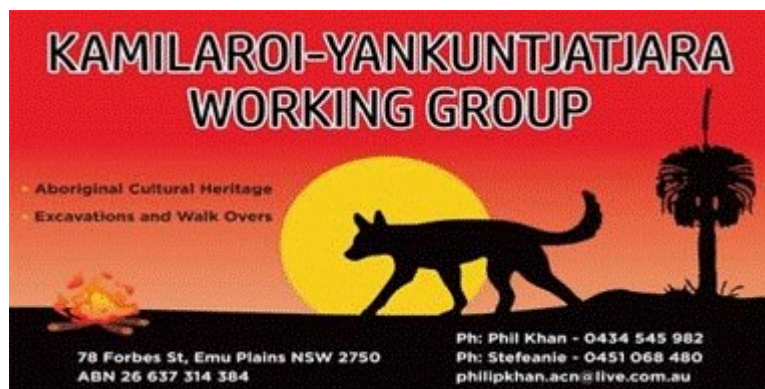
Paul Irish

From: Phil Khan <philipkhan.acn@live.com.au>
Sent: Tuesday, 2 April 2024 1:54 PM
To: Paul Irish
Subject: RE: Draft ACHAR - Rushcutters Bay Park

Hi Paul,

Thanks for your Draft ACHAR re Rushcutters Bay Park, we would like to agree and support your recommendations.

Kind Regards
Phil Khan – Director
P 0434545982
E philipkhan.acn@live.com.au
ABN 26 637 314 384



Sent from [Mail](#) for Windows

From: Paul Irish <paul@coasthistory.com.au>
Sent: Friday, March 1, 2024 8:01:01 AM
Cc: Coast History and Heritage <admin@coasthistory.com.au>
Subject: Draft ACHAR - Rushcutters Bay Park

Dear all,

Please see at the link below a draft Aboriginal Cultural Heritage Assessment Report for a proposed Youth Recreation Area at Rushcutters Bay Park, Darling Point. If you have any trouble accessing the file please just let me know.

<https://app.box.com/s/8sbzzubhyue9q65ixfq38zs05s8tzpgp>

As a Registered Aboriginal Party to the assessment, we invite you to review the draft report and provide any responses to us by **Monday 1 April 2024** to admin@coasthistory.com.au.

Kind regards,

Paul Irish

Dr Paul Irish
DIRECTOR / Historian and Archaeologist

Appendix 2

Heritage NSW Aboriginal Heritage Information Management System Records

Coast History & Heritage

Date: 23 October 2023

15/112 McEvoy Street
Alexandria New South Wales 2015

Attention: Gina Basile

Email: gina@coasthistory.com.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Datum :GDA, Zone : 56, Eastings : 335118.0 - 337618.0, Northings : 6248941.0 - 6251441.0 with a Buffer of 0 meters, conducted by Gina Basile on 23 October 2023.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

	3 Aboriginal sites are recorded in or near the above location.
	0 Aboriginal places have been declared in or near the above location. *

If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(https://www.legislation.nsw.gov.au/gazette\)](https://www.legislation.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.