



Rushcutters Bay Park Youth Facility



Heritage Impact Statement
Report prepared for Woollahra Municipal
Council
July 2022

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Report Register

The following report register documents the development and issue of the report entitled Rushcutters Bay Park Youth Facility—Heritage Impact Statement, undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job Number	Issue Number	Notes/Description	Issue Date
21-0024A	1	Draft Report	1 February 2022
21-0024A	2	Final Report	1 July 2022

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The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

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1 Introduction

1.1 Background

GML Heritage Pty Ltd (GML) has been engaged by Woollahra Municipal Council (Woollahra Council) to provide heritage advice and prepare a Heritage Impact Statement (HIS) for the proposed Youth Facility (the proposal), a combined skatepark and basketball court, proposed for the eastern side of Rushcutters Bay Park near its south-western entry at New South Head Road.

From 2015 to 2018 Woollahra Council made plans to provide a Youth Facility at Rushcutter's Bay Park, however, an Interim Heritage Order (IHO) was made under the NSW Heritage Act for the park in response to community opposition to the Youth Facility and the project was put on hold.

Rushcutters Bay Park is part of the State Heritage Register (SHR) listed heritage item 'Rushcutters Bay Park and Yarranabbe Park' (#02041) (gazetted in 2020 following the IHO), which also includes Yarranabbe Park, Sir David Martin Reserve and Plantation Reserve.

GML completed a Conservation Management Strategy for Rushcutters Bay Park and Yarranabbe Park in August 2021 for Woollahra Council (2021 CMS). The 2021 CMS guides the heritage management of the larger site and is used to guide future management of the parks heritage values, including proposed new development in the parks. It includes a history of the parks, gradings of significance for different park components, and conservation policies addressing the parks as a whole as well as individual site elements.

Following preparation of the 2021 CMS, Woollahra Council determined to proceed with the Youth Facility project. This HIS report has been prepared as a standalone document for Woollahra Council to accompany a Section 60 application (S60) to the Heritage Council and the Review of Environmental Factors (REF) for the Youth Facility. The HIS incorporates relevant parts of the heritage significance assessment and conservation policies contained in the CMS and assesses the potential impacts of the proposed development on the SHR listed park as well as on heritage items in the vicinity. More detailed information on the parks can be found in the CMS.

1.2 Proposed Development Overview

Woollahra Council proposes a Youth Facility in the southwest corner of Rushcutters Bay Park, close to the southwestern park entry at New South Head Road. Council considers this to be an easily accessible area from the park's pedestrian pathways and is at one end of the one of the original open lawn areas of the park. It sits beside the grassed embankment that runs along the park's the southern boundary, which is bordered by groups of exceptionally significant late-nineteenth and early twentieth-century trees and is within an area of Aboriginal archaeological sensitivity and the original shoreline.

The proposed Youth Facility comprises a skatepark, basketball practice area, seating areas, shade shelter and associated landscaping. It appears to be a large facility, though its skate features are of low height and landscaped garden beds are proposed to mitigate any visual impacts.

1.3 Rushcutters Bay Park

1.3.1 Location and Description

Rushcutters Bay Park occupies the head of the Rushcutters Bay foreshore in the middle of Sydney Harbour and is approximately 2 kilometres east of Sydney's CBD (refer to Figure 1.1).

It is divided in two by a large stormwater drain, which separates its eastern and western sides. The stormwater drain is also the boundary between the City of Sydney local government area (LGA) and the Woollahra Council LGA. The eastern side of Rushcutters Bay Park is within the Woollahra LGA, while the western side is within the City of Sydney LGA.

The proposal is located in the eastern side of Rushcutters Bay Park (Refer to Figure 1.2).

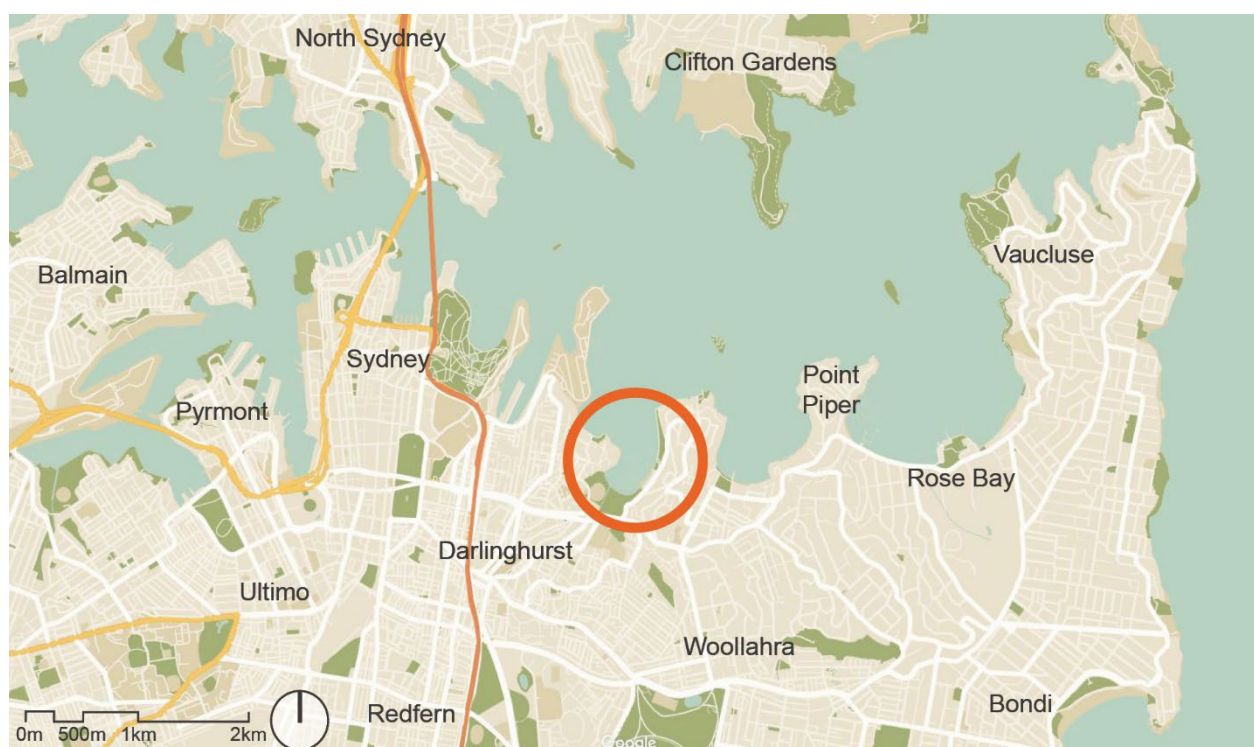


Figure 1.1 Rushcutters Bay Park in the context of Sydney. (Source: © Google Maps with GML overlay, 2021)

1.4 Heritage Listings

1.4.1 Rushcutters Bay Park and Yarranabbe Park

Rushcutters Bay Park is listed on the State Heritage Register (SHR). Its seawall is also listed on Schedule 5 of the *Woollahra Local Environmental Plan 2014* (WLEP 2014). Details of these listings are provided in the table below:

Table 1.1 Rushcutters Bay Park Listing on the SHR and the WLEP 2014.

Item Name	Address	Significance	Listing	Item ID
Rushcutters Bay and Yarranabbe Parks	New Beach Road and 2A New South Head Road	State	NSW State Heritage Register	02041
Yarranabbe Park Seawall and Rushcutters Bay Seawall	New Beach Road and 2A New South Head Road	Local	WLEP 2014	670

Rushcutters Bay Park is part of a larger SHR listing which includes much of the land around the Rushcutters Bay Foreshore to Darling Point. The listing is comprises four distinct areas:

- Rushcutters Bay Park;
- Yarranabbe Park;
- Sir David Martin Reserve—an area of Crown land located between Rushcutters Bay Park and Yarranabbe Park; and
- Plantation Reserve—a narrow strip of land which connects Rushcutters Bay Park to Sir David Martin Reserve.

Refer to Figure 1.2 for a breakdown of the park areas.

1.4.2 Heritage Significance

The following statements are summarised from the NSW State Heritage Register (SHR) listing.

- *(The parks) reflect the influence of James Jones, Overseer for the Domains who laid out Victoria Park then Wentworth Park, incorporating sports ovals, greens and paths with lines or avenues of trees into the design, was innovative and reflected practice in England and France in the 1870s. (Historical significance)*
- *Rushcutters Bay Park has historic and aesthetic significance as a large-scaled inner-harbour foreshore informally-landscaped park, providing dramatic views to and from the harbour and surrounds. (Aesthetic significance)*
- *Rows of huge Moreton Bay figs form a mature and magnificent southern boundary to this bayside common and a distinctive entry into the Municipality of Woollahra along New South Head Road. (Aesthetic significance)*
- *There are few other parks in NSW of such grand scale and engineering scope with large open spaces, still relatively intact and not compromised by major infill or other incursions. (Rarity)*

Detailed information on the significance of the parks is included at Section 5 Heritage Significance of this report.



Figure 1.2 Sites which comprise the State Heritage Listing of Rushcutters Bay Park and Yarranabbe Park. The area outlined in blue is the the western side of Rushcutters Bay Park located within the City of Sydney LGA. The location of the proposed Youth Facility is circled in red. (Source: © Nearmap with a GML overlay 2021)

1.4.3 Heritage items in the vicinity

There are many heritage items listed in the WLEP 2014 in the vicinity of Rushcutters Bay Park, as shown on the below map (**Figure 1.3**) and table. Sites within the City of Sydney LGA are listed on the *Sydney Local Environmental Plan 2012* (SLEP) and are also noted below.

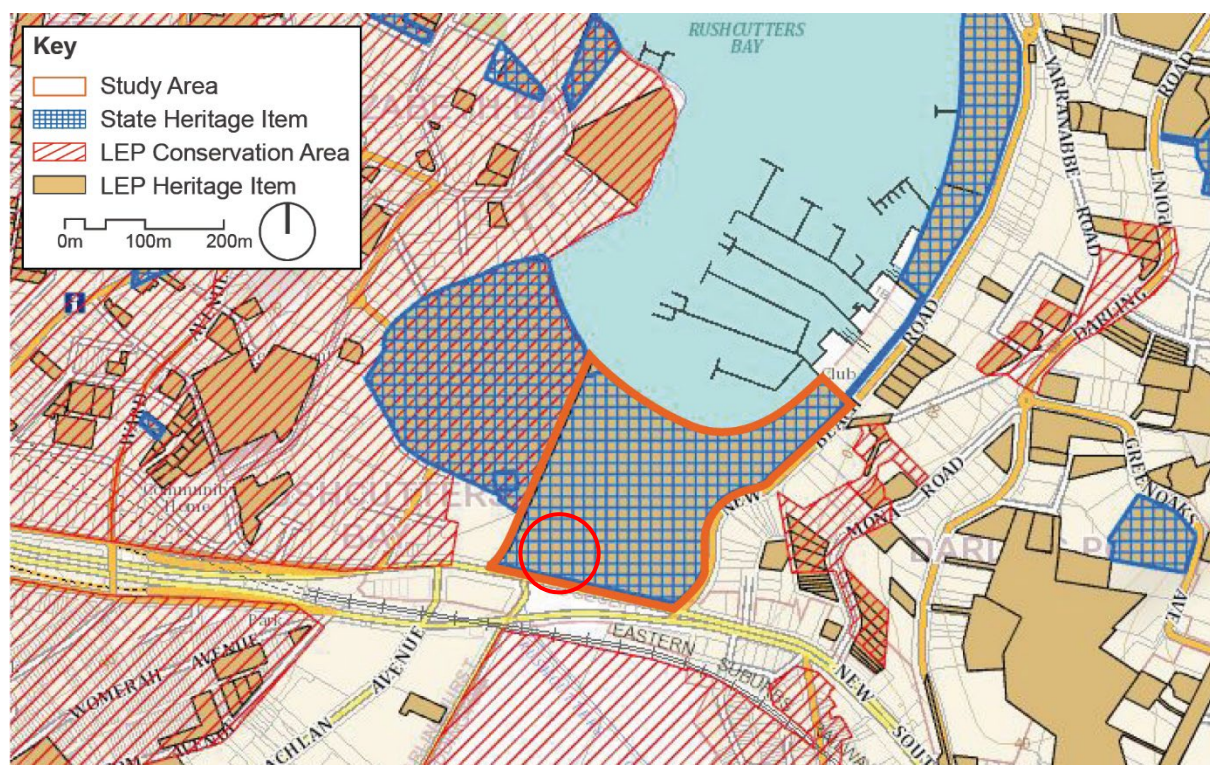


Figure 1.3 Rushcutters Bay Park and surrounding heritage items and conservation areas. The location of the proposed Youth Facility is circled in red. (Source: © NSW ePlanning Spatial Viewer with GML overlay, 2021)

Table 1.2 Heritage Items and Conservation Areas in the Vicinity of the Rushcutters Bay Park as included in the SHR, Schedule 5 of the WLEP 2014 and SLEP 2012.

Item Name	Address	Significance	Listing	Item ID
Rushcutters Bay Park and pumping station including grandstand, Rey [sic] Bartley Oval and picket fence, seawall and landscaping	Waratah Street, Rushcutters Bay	State	Sydney Local Environmental Plan 2012 (Sydney LEP 2012)	11403
Sewage Pumping Station 18	Rushcutters Bay Park (west), Rushcutters Bay	State	NSW State Heritage Register	01339
Sir David Martin Reserve including former HMAS Rushcutter, comprising the Sayonara slipway, ramps, sea wall, parade ground, drill hall and extension, sail loft, cottage and garden, R.A.N.S.A. boatshed and slipway, flagpole, memorial, plantation	1C New Beach Road, Darling Point	Local	WLEP 2014	170

Item Name	Address	Significance	Listing	Item ID
reserve, all building interiors and grounds				
HMAS Rushcutter Slipway	1C New Beach Road, Darling Point	Local	WLEP 2014	171
Rushcutters Bay Stormwater Channel No. 84	Rushcutters Bay Park, Rushcutters Bay/Darlinghurst	s170	Sydney Water s170 Heritage Register	003313
Bus Stop Shelter	Intersection of New Beach Road and Yarranabbe Road, Darling Point	Local	WLEP 2014	178
Residential flat building and interiors, front garden and retaining wall (multiple listings)	27–28 New Beach Road; 29–30 New Beach Road; 31–32 New Beach Road; 33–34 New Beach Road; 35–36 New Beach Road	Local	WLEP 2014 (multiple listings)	172, 173, 174, 175, 176
Residential flat building and interiors	37–38 New Beach Road	Local	WLEP 2014	177
Elizabeth Bay/Rushcutters Bay Heritage Conservation Area	Elizabeth Bay and Rushcutters Bay	Local	Sydney LEP 2012	C20
Mona Road Heritage Conservation Area	Darling Point	Local	WLEP 2014	C6
Darling Point Road Heritage Conservation Area	Darling Point	Local	WLEP 2014	C3
Paddington Heritage Conservation Area	Paddington	Local	WLEP 2014	C8

1.5 Methodology

This HIS has been prepared in accordance with the ‘Statements of Heritage Impact’ guidelines in the *NSW Heritage Manual*.¹ It is also consistent with the relevant principles and guidelines of the *Australia ICOMOS Burra Charter, 2013* (the Burra Charter).² The impact assessment also refers to relevant policies of the 2021 CMS.

1.6 Relevant Heritage Documentation

The following heritage documentation was reviewed in the preparation of this HIS:

- GML 2021, *Rushcutters Bay Park and Yarranabbe Park Conservation Management Strategy*, report prepared for Woollahra Council (2021 CMS).
- Coast History & Heritage 2021, *Woollahra Local Government Area Aboriginal Heritage Study*, draft report prepared for Woollahra Council.

1.7 Limitations

The historical and Aboriginal archaeological assessment is based on the 2021 CMS and Woollahra Local Government Area Aboriginal Heritage Study. No additional research has been undertaken to inform this HIS.

No consultation with the Aboriginal community or other stakeholders has been undertaken in the preparation of this report.

1.8 Authorship and Acknowledgements

This report has been prepared by Catherine Macarthur, Senior Associate, Sophie Jennings, Senior Heritage Consultant/Archaeologist, and Patrick Atkinson, Heritage Consultant, at GML.

GML acknowledges the assistance of the following people from Woollahra Council in the preparation of this report:

- Paul Fraser, Manager Open Space and Trees
- Roger Faulkner, Team Leader Open Space and Recreation Planning
- Kristie Wellfare, Heritage Officer
- Caitlin Moffat, Project Manager, Capital Works

1.9 Endnotes

¹ NSW Heritage Office 1991, *NSW Heritage Manual*, Department of Urban Affairs and Planning, Sydney, revised 2002.

² Australia ICOMOS Inc, *The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance 2013*, Australia ICOMOS Inc, Burwood, VIC, 2000.

2 Statutory Context

2.1 Introduction

In NSW, items of heritage significance and archaeological remains are afforded statutory protection under the following Acts:

- the *Heritage Act 1977* (NSW) (Heritage Act);
- the *National Parks and Wildlife Act 1974* (NSW) (NPW Act); and
- the *Environmental Planning and Assessment Act 1979* (NSW) (EPA Act).

As a Crown Reserve management by Woollahra Council, the provisions of the *Crown Lands Act 1989* (NSW) also apply to Rushcutters Bay Park.

2.2 Heritage Act 1977

The Heritage Act is a statutory tool designed to conserve NSW's environmental heritage. It is used to regulate the impacts of development on the state's heritage assets. The Heritage Act defines a heritage item as 'a place, building, work, relic, moveable object or precinct'.

2.2.1 State Heritage Register

The SHR is established under the Heritage Act and is a list of identified heritage items of significance to the state of NSW. The SHR includes items and places (such as buildings, works, archaeological relics, movable objects or precincts) determined to be of state heritage significance.

Rushcutters Bay Park is listed on the SHR as part of the Rushcutters Bay and Yarranabbe Park listing (#02041).

Under the Heritage Act, approval must be sought for non-exempt works to state heritage items in the form of a Section 60 application. As the proposal is not an exempt development under the standard exemptions or site-specific exemptions¹ for the Rushcutters Bay and Yarranabbe Park (#02041), typically allowing for maintenance or minor works, approval must be sought. Applications must be accompanied by a statement of heritage impact which provides details of the proposal's impacts on the heritage item.

An assessment of the proposal's impacts on Rushcutters Bay Park according to the standard questions found in the NSW Heritage Manual is discussed in section 9.1.

2.2.2 Archaeology

Section 4(1) of the Heritage Act defines 'relic' to mean any deposit, object or material:

¹ Standard exemptions and site specific exemptions are outlined in the 2021 CMS.

(a) that relates to the settlement of the area that comprises of New South Wales, not being Aboriginal settlement; and

(b) that is of State or local heritage significance.

Section 139(1) of the Heritage Act states that:

A person must not disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance is carried out in accordance with an excavation permit.

The proposal's compliance with the provisions of the Heritage Act in regard to Historical Archaeology is discussed in Section 9.3.1.

2.3 National Parks and Wildlife Act 1974 (NSW)

All Aboriginal Objects and places receive statutory protection under the NPW Act. Aboriginal Objects are defined in the Act 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.

Under the Act, applicants must seek approval prior to disturbance of sites with potential to contain Aboriginal Objects or cultural material. Harming Aboriginal Objects and harming or desecrating Aboriginal places is also a liability offence under the Act. 'Harm' includes to destroy, deface, damage or move an Aboriginal Object or declared Aboriginal place.

The proposal's compliance with the provisions of the NPW Act is discussed in Section 9.3.1.

2.4 Environmental Planning and Assessment Act 1979

The EPA Act is administered by the NSW Department of Planning and Environment and provides for environmental planning instruments to be made to guide the process of development and land use. The EPA Act also provides for the protection of local heritage items and conservation areas through listing on Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs), which provide local councils with the framework required to make planning decisions.

2.4.1 Woollahra Local Environmental Plan 2014

Clause 5.10 of WLEP 2014 contains standard provisions regarding the conservation of heritage items.

Sea wall elements of Rushcutters Bay Park are listed as a local heritage item on Schedule 5 of the WLEP 2014. Neighbouring properties are also listed as heritage items, as shown in **Figure 1.3**. However, Rushcutters Bay Park is not included in the WLEP 2014 as an individual heritage item or in a heritage conservation area.

Clause 5.10 of the WLEP 2014 lists the following objectives for heritage conservation in Woollahra:

- (a) To conserve the environmental heritage of Woollahra,*
- (b) To conserve the heritage significance of heritage items and conservations areas, including associated fabric, settings, and views,*

(c) *To conserve archaeological sites,*

(d) *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

Under Clause 5.10 (4), Woollahra Council must consider the effect of the proposed development on the heritage significance of the item or area before granting consent. This includes development in the vicinity of heritage items. Heritage assessment documents must address all relevant controls from WLEP 2014 and WDCP 2015.

The proposal's compliance with the provisions of the WLEP 2014 is discussed in Section 9.3.1.

2.4.2 Woollahra Development Control Plan 2015

In addition to the provisions of the WLEP 2014, the *Woollahra Development Control Plan 2015* (WDCP 2015) contains guidelines for development.

The eastern part of Rushcutters Bay Park sits within the Darling Point Precinct of Woollahra. Development controls which apply to the Darling Point Precinct are found in section B1.2 of the WDCP 2015. These controls generally only apply to residential development but may also apply to other developments, such as community facilities.

Section B1.2.1 contains the Precinct Character Statement, which outlines the existing conditions of the area. Section B1.2.2 outlines the desired future character statement which is used as the basis to guide future development. These provisions are summarised in Section 9.3.2 of this HIS.

B1.2.2 of the WDCP 2015 outlines key elements of the precinct's character which must be respected and enhanced by development. It also outlines desired future character objectives.

Significant views and vistas identified in the WDCP 2015 are included at Figure 8.1.

The proposal's compliance with the controls of the WDCP 2015 is discussed in Section 9.3.1

Part B3.10 of the WDCP 2015 provides controls for land adjoining the Sydney Harbour foreshore. As Rushcutters Bay Park is within the Sydney Harbour foreshore area as defined by the SEPP, it is unclear that the provisions apply.

2.4.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP or SEPP) commenced on 1 March 2022 and repealed and replaced the provision of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SREP 2005).

The provisions within the repealed SREP 2005 have been transferred to 'Chapter 10—Sydney Harbour Catchment' in the new Biodiversity and Conservation SEPP and the intent and provisions remain largely unchanged (Department of Planning and Environment NSW, 2022).

The SEPP incorporates guidelines and controls that relate to the protection of foreshore lands along Sydney Harbour. The provisions of the SEPP apply to the site with regards to harbourside settings and views associated with the heritage significance of heritage items included in the SEPP.

Schedule 11 of the Biodiversity and Conservation SEPP contains a list of places within the Sydney Harbour Catchment which are heritage listed for the purposes of the SEPP. This listing has a statutory effect.

Rushcutters Bay Park is located within the Sydney Foreshores and Waterways Area Boundary but is not included as a heritage item on Schedule 1 of the SEPP. The closest item listed on the SEPP is the 'HMAS Rushcutter slipways' (item no. 42) in Sir David Martin Reserve. Refer to Figure 2.1.

The SEPP contains provisions which require consideration of the effect development has on the setting of heritage items.

The proposal's compliance with the controls of the SEPP is discussed in Section 9.4.3.

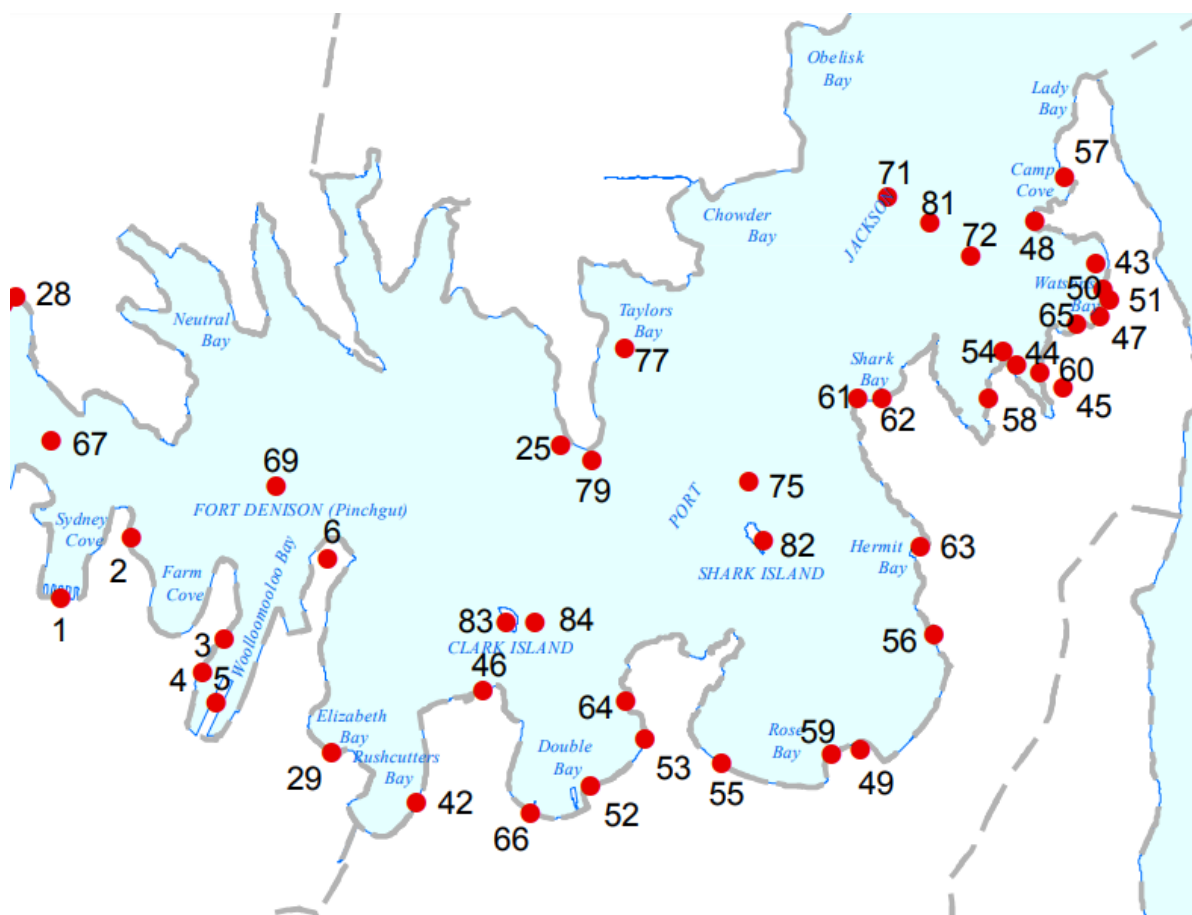


Figure 2.1 Extract from State Environmental Planning Policy (Biodiversity and Conservation) 2021 Heritage map, formerly the SREP 2005 map (amended 2016) (Source: NSW Planning & Environment 2016).

2.5 Crown Lands Act 1989

Rushcutters Bay Park is a Crown Reserve and is managed by a Reserve Trust, with Woollahra Council as its Trust Manager. Woollahra Council is required to manage Rushcutters Bay Park in accordance with the *Crown Lands Act* 1989 (NSW). In 2005, Woollahra Council prepared a Plan of Management (POM) for the park in accordance with Clause 112 of the Act.

POMs consider a range of land use and management requirements, including heritage considerations, and provide recommendations and actions for ongoing management.

In 2005, Rushcutters Bay Park was not listed on any statutory heritage register. Only the stormwater channel and parts of Sir David Martin Reserve and Plantation Reserve were heritage listed at the time.

As such, the heritage management recommendations in the 2005 POM only relate to these items. No heritage actions listed in the 2005 POM relate to the Parks.

A draft updated POM has been prepared for the park and has been updated to reflect the State Heritage Register listing of the park. GML understands the Draft POM will undergo public exhibition shortly.

3 Historical Overview

The following section provides a timeline overview of the historical development of Rushcutters Bay Park. It is accompanied by a selection of historical images relevant to the proposal location.

The history and images in this section are drawn from the 2021 CMS, supplemented by additional images where necessary. Refer to the 2021 CMS for a detailed history of the site.

3.1 Timeline

Table 3.1 Timeline of the Development of Rushcutters Bay Park.

Date	Event
Pre-1788	The southern shore of Sydney Harbour was occupied for upwards of 35,000–40,000 years by the Cadigal people. The Cadigal called Rushcutters Bay 'Kogerah'.
1788	The First Fleet arrived in Sydney Harbour.
1789	The Aboriginal population was dispossessed by Europeans and devastated by the smallpox epidemic.
1812	Thomas West was granted 40 acres at the head of Rushcutters Bay and erected a water mill to grind flour.
1830	New South Head Road was constructed.
1833	Mrs Darling's Point was subdivided.
1839	Stone arch bridge was constructed over Rushcutters Creek.
1842	Sydney Council was incorporated. Rushcutters Creek was designated as the eastern municipal boundary.
1860	The borough of Woollahra was proclaimed.
1875	Petition requesting reclamation of Rushcutters Bay after complaints about its foul state.
c1877	Silt dumping commenced at Rushcutters Bay.
1878	<i>Rushcutters Bay Act</i> was passed, and six acres were set aside as 'a park or place of public recreation'.
1879	Stone was provided to Rushcutters Bay in preparation for constructing the dyke seawall.
1881–1883	Reclamation of the head of Rushcutters Bay and construction of the first phase of the dyke seawall.
1882–1898	Rushcutters Bay Stormwater Channel No. 84 was built.
1883–1885	Extension of the stone seawall north of Rushcutters Bay Park as far as Yarranabbe Road.
November 1885	Rushcutters Bay Park was formally gazetted and trustees appointed.
1886	Rushcutters Bay Park design competition was won by FA Franklin.
1908	City of Sydney and Woollahra Councils deputation to Minister for Lands requesting dissolution of Rushcutters Bay Park Trust and vesting of lands in the two councils according to their respective boundaries.
1910	<i>Victoria and Rushcutters Bay Parks Act 1910</i> , No. 34, was passed.

Date	Event
	Rushcutters Bay Park Trust was dissolved. Rushcutters Bay Park was vested in the City of Sydney and Woollahra councils .
1939	Woollahra Council accepted the tender of the NSW Women's Hockey Association to use the area at Rushcutters Bay Park.
1957	The kiosk and public toilet building was constructed (modified in the 1980s).
1980s	Breakfront seawall modification and concrete hardstand added (approximate date).
2000	Rushcutters Bay Park, Sir David Martin Reserve and Yarranabbe Park were converted to the Sydney Olympic and Paralympic Games Sailing Shore Base.

3.2 Selected Historical Images



Figure 3.1 Rushcutters Creek looking towards Darling Point, c1874. (Source: National Library of Australia, PIC/12254/980 LOC Album 1136)

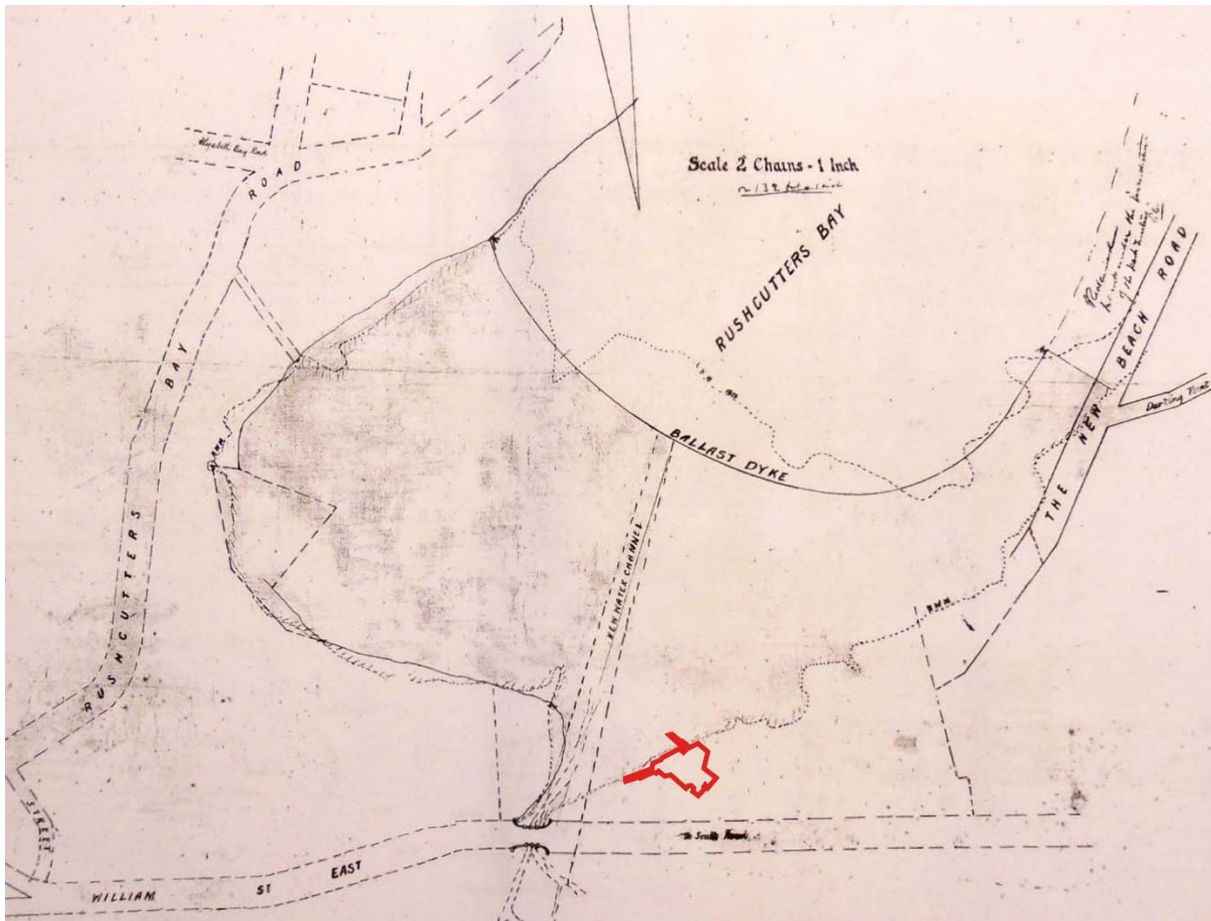


Figure 3.2 Undated plan showing the proposed alignment of the first ballast dyke at the head of the bay, c1880s. The proposed Youth Facility is outlined in red (Source: State Archives & Records, Map No. 727 HR 250/3)



Figure 3.3 View from Darling Point looking southwest across Rushcutters Bay Park, c1900–1910. (Source: State Library of New South Wales, PXE 711/74)



Figure 3.4 Detail from Rushcutters Bay Park, c1909. This plan shows the present seawall replacing the dyke wall. The proposed Youth Facility is outlined in red (Source: NSW Land Registry Services, Crown Plan 3197-3000)



Figure 3.5 Part of 'Panorama of Darling Point and Rushcutters Bay, New South Wales, 1', c1917-1946, by EB Studios. (Source: National Library of Australia, PIC P865/82/2 LOC Nitrate store)



Figure 3.6 Aerial view north over Rushcutters Bay with the park in the foreground. Aerial photograph by Adastra Airways, c1930s. (Source: Royal Australian Historical Society via Flickr. <<https://www.flickr.com/photos/royalaustrianhistoricalsociety/albums/72157640448188933/>>)

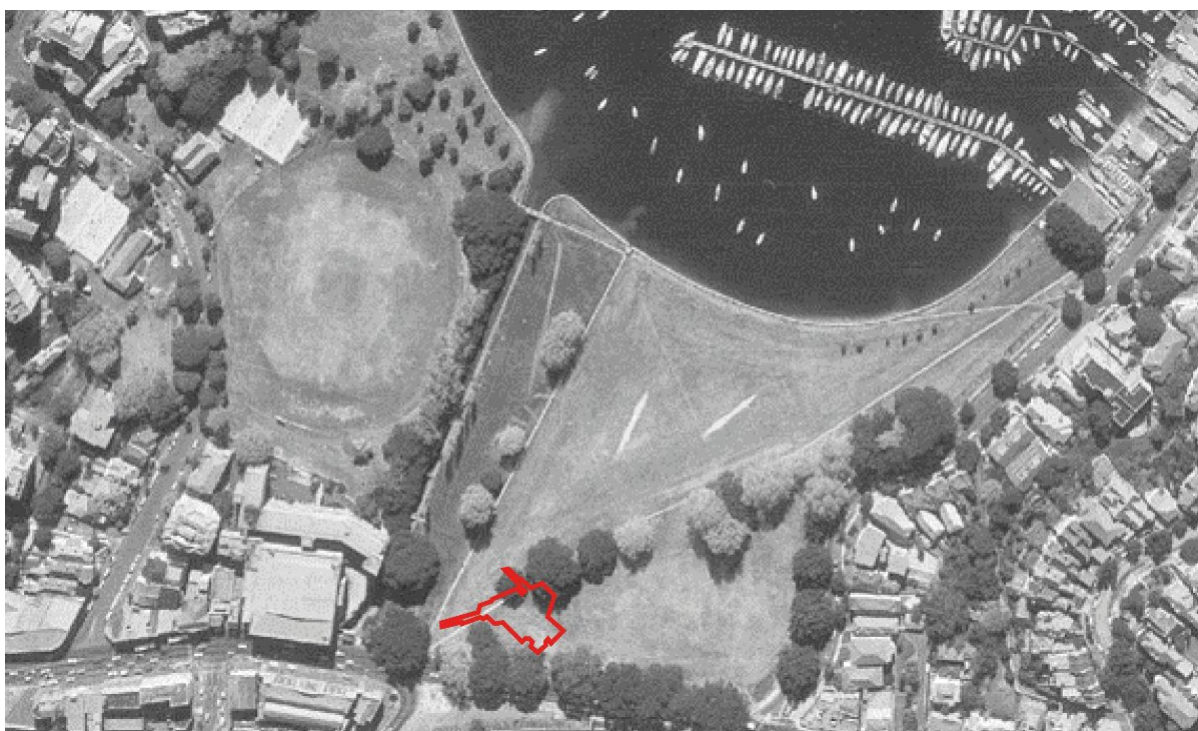


Figure 3.7 A 1978 aerial photograph of Rushcutters Bay Park showing the original line of the diagonal footpath. The proposed Youth Facility is outlined in red. (Source: © NSW Department of Customer Service)

4 Site Analysis

This site analysis is adapted from the 2021 CMS. Refer to the 2021 CMS for a detailed description of the site and its elements.

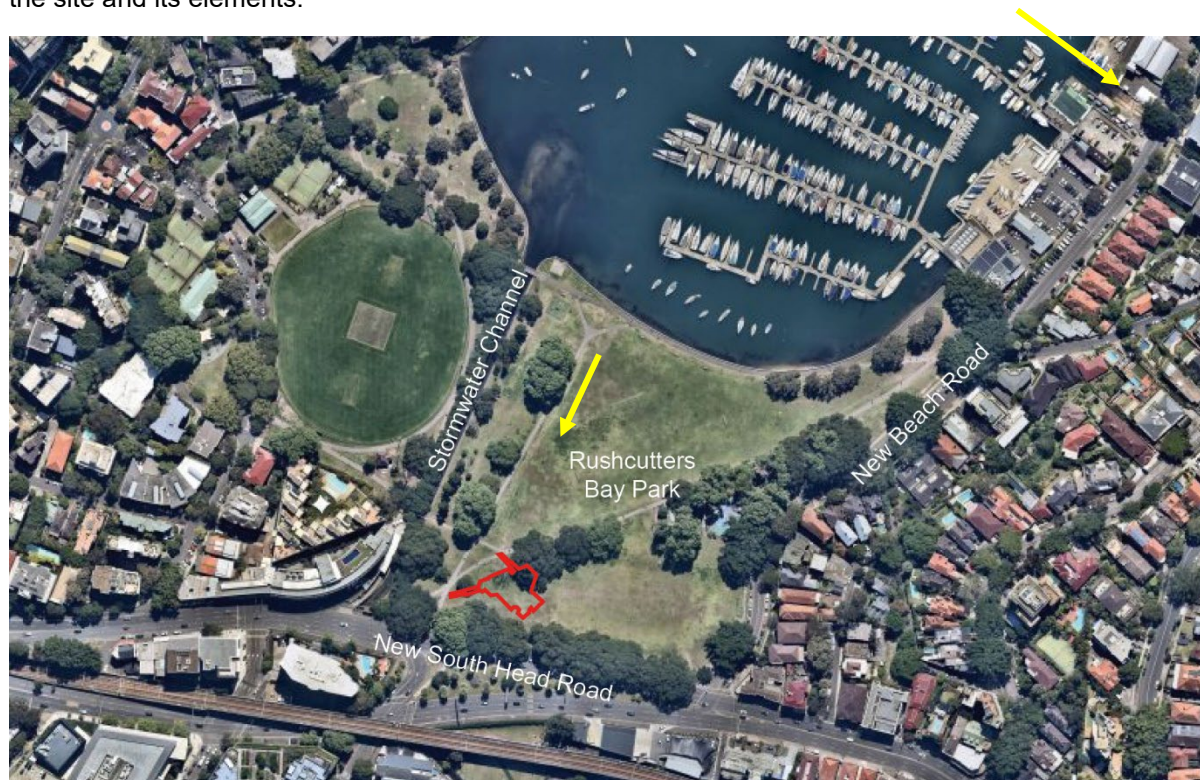


Figure 4.1 A 2021 aerial photograph of Rushcutters Bay Park showing the new line of the diagonal footpath. The footprint of the proposed Youth Facility is outlined in red and the distant setting views in the following images are shown by the yellow arrows. (Source: © Nearmap with GML overlay)

4.1 Site Description

Rushcutters Bay Park, within the wider area of harbourside parklands listed on the SHR, is situated directly north of New South Head Road at the end of Rushcutters Bay with New Beach Road forming its eastern boundary. The park is divided into east and west sections by a stormwater channel that runs roughly through the centre of the park. This also demarcates the boundary between the City of Sydney and Woollahra Council LGAs. Rushcutters Bay Park (West) falls within the City of Sydney.

The eastern portion of Rushcutters Bay Park (where the proposed Youth Facility would be located), approximately 6.4-hectare in area, predominantly consists of large open lawns that are used for formal and informal sports and for active and passive recreation by the wider community. East Rushcutters Bay Park is 54,080m² in area and is broadly divided into three zones:

- a rectangular zone abutting New South Head Road (mostly used for rugby and soccer);
- a large triangular zone between the park's kiosk and the bay (mostly used for rugby, soccer and passive recreation); and
- a long strip of lawn along the eastern side of the stormwater channel (passive recreation).

Park feature locations and their heritage significance is shown at Figure 5.1 which has been included from the 2021 CMS.

Built elements within the park include the kiosk building, dating from 1957, near the eastern fringe of the park at New Beach Road, and the later playground towards the centre of the park, concrete stairs into the park from New South Head Road, the 1890s contiguous sandstone seawall on the north, and modern and mid-twentieth century bridges to the west. There is also a hardstand concrete area in the park's northwest that dates from the 1980s and a related breakfront modification to the seawall.

East Rushcutters Bay Park has three principal pedestrian pathways:

- the path that extends diagonally across the park from the southwest to the northeast (past the kiosk);
- a path extending to the bay from New South Head Road (parallel to the stormwater channel); and
- the 'promenade' aligned with the seawall.

The first two of these pathways are original/early, though they were partially realigned in the early 2000s. Most pathways in the park are asphalt and have been widened over time.

Trees planted from the late-nineteenth century until the 1920s make up most of the vegetation in the eastern portion of Rushcutters Bay Park. These include the prevailing Moreton Bay figs (*Ficus macrophylla*), Port Jackson figs (*Ficus rubiginosa*) and London plane trees (*Platanus × acerifolia*). Several mature phoenix palms are also located on the lawn slopes below New South Head Road.

Mature hills figs planted in the 1930s demarcate the eastern boundary of the park along New Beach Road—these were planted concurrently with the same species abutting Yarranabbe Park. Later twentieth-century plantings in the park include the short alignment of paperbarks near the park's northeastern corner and assorted species to the immediate east of the stormwater channel, including hoop pines (*Araucaria cunninghamii*), casuarinas, paperbarks and Cook Island pines (*Araucaria columnaris*). In recent decades, garden beds have been formed around the playground on the park's boundary with New Beach Road.

4.2 Photographs

4.2.1 Setting

The wider setting of the proposed Youth Facility site, and tree canopies of Rushcutters Bay Park and Yarranabbe Park which provide a dense green backdrop to views from Sydney Harbour and surrounding lands, as referred to in the WDCP 2015 are indicated by the photos below.

Additional photographs of the specific proposal site are presented in the Views section of this report at section 8.2.



Figure 4.2 View from the southeastern corner of Rushcutters Bay Park towards the proposed Youth Facility and the significant trees showing the significant trees along New South Head Road (at the left of the image). The proposed facility location is shown by the red arrow. (Source: GML 2021)

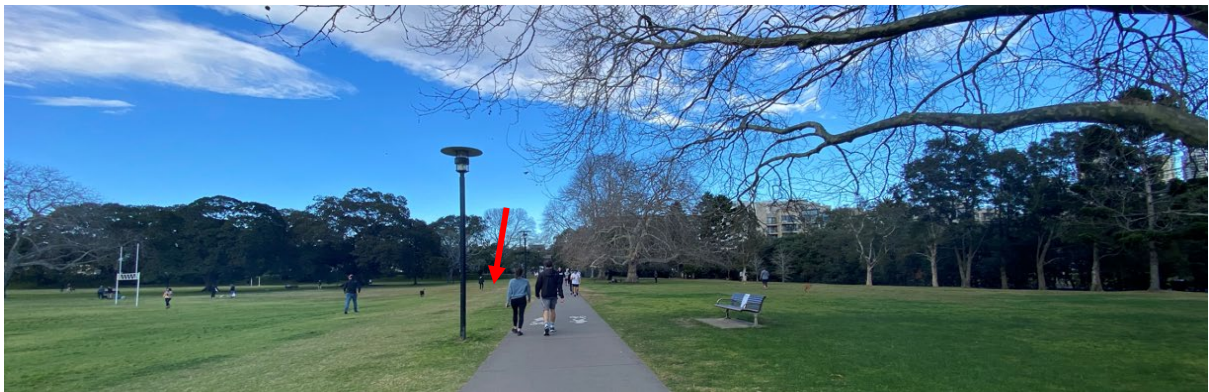


Figure 4.3 View from the sea wall at Rushcutters Bay Park towards the proposed Youth Facility and the significant trees along New South Head Road. The proposed facility location is shown by the red arrow. (Source: GML 2021)



Figure 4.4 View from Elizabeth Bay towards the eastern edge of Yarranabbe Park and the tree canopy along New Beach Road. The proposed facility location is located further right of this view (and along New South Head Road) (Source: GML 2021)

5 Heritage Significance

An assessment of heritage significance is conducted to establish why a place is important. The Burra Charter defines cultural significance as ‘aesthetic, historic, scientific, social or spiritual value for the past, present or future generations.’ Heritage assessment in NSW is undertaken against seven heritage criteria that are based on the five Burra Charter values.

Rushcutters Bay Park and Yarranabbe Park were listed on the SHR in June 2020 and the assessment for the listing is still up-to-date. The statement of significance is reproduced below and provides a summary explanation of why the site is significance. Refer to the SHR listing sheet for the individual assessments against the seven criteria.

5.1 Statement of Significance

The following Statement of Significance is taken from the SHI Sheet for Rushcutters Bay Park and Yarranabbe Park.¹

Rushcutters Bay Park and Yarranabbe Park are state significant examples of the reservation of land for public recreation by councils in response to community lobbying. Both demonstrate the importance placed on inalienable and accessible public lands in Sydney from the mid to late-19th century and are amongst the largest harbour reclamation schemes for public recreation undertaken in the history of NSW. This broad expanse of open foreshore land, punctuated with rows of huge Moreton Bay figs form a magnificent southern boundary to this bay-side common, located beside the most densely populated area of Sydney, a place of respite from city life, and an opportunity to enjoy sweeping views of inner Sydney Harbour.

Both parks have historic significance marking the second wave of municipal park creation, part of 95 public parks created between 1863 and 1902 in Sydney, and of 50 created in the four-year lead up to 1888’s centenary of the English colony. They reflect the influence of James Jones, Overseer for the Domains who laid out Victoria Park then Wentworth Park, incorporating sports ovals, greens and paths with lines or avenues of trees into the design, which was innovative and reflected practice in England and France in the 1870s. Rushcutters Bay Park was designed by engineer Frederick Augustus (F.A.) Franklin, who also designed Sydney’s Centennial Park. Both parks retain their structure and layout, edged by the distinctive late nineteenth-century sandstone seawall, divided in two by the storm-water canal, which formalised a natural water course in the late nineteenth century, and framed by mature Hills and Moreton Bay Figs.

Both parks have played a central role in the evolving landscape of leisure, sports and sports spectating in this densely-populated quarter of the city over the past 150 years and have strong, state significant associations with several sporting events, including the start of the Sydney to Hobart Yacht Race since 1945 and the international boxing events hosted at the adjacent Sydney Stadium from 1908. The western half of Rushcutters Bay Park is dominated by the Grandstand and Reg Bartley Oval, which has provided an important recreational facility since 1894, and is a rare surviving example of a grandstand associated with a suburban park.

Rushcutters Bay Park and Yarranabbe Park have research potential to inform our knowledge over Aboriginal-settler contact and possible conflict in the early colonial period and 19th century cultural interactions in inner Sydney, shifting camps and settlement, interactions with colonists and increasing suburbanisation. Both have research potential on early and ongoing Aboriginal resistance to colonialization, lobbying for equal rights and for better living conditions. The role of visiting World Champion heavyweight boxer, African-American Jack Johnson in 1908, his winning fight in the

adjacent Sydney Stadium in front of 20,000 people, his meetings with Sydney Aboriginal activists and advocates and influence is but one topic. Rushcutters Bay Park east may retain important archaeological remnants of early colonial rush-cutting skills and implements.

Yarranabbe Park has a strong association with the Navy, from its early international engagements in the Boer War and Boxers Rebellion in China, formed as the NSW Volunteer Naval Brigade, and across the Great War and WW2, with HMAS Rushcutter stationed in the portion of the park now known as Sir David Martin Reserve from its formation in 1911. Training, resting and embarkation took place from this base, where several of the key naval buildings still stand and house continuing naval uses

5.2 Gradings of Significance

The 2021 CMS assessed the relative significance of individual components of the Rushcutters Bay Park and Yarranabbe Park site. Refer to the 2021 CMS for a detailed explanation of these gradings and features. The gradings of significance for elements of Rushcutters Bay Park are reproduced below and are accompanied by summary diagrams. Element codes refer to the elements designation on the summary diagrams.

Table 5.1 Gradings of Significance of Elements within Rushcutter Bay Park. (Source: GML August 2021)

Element code	Comment	Grading of significance
Rushcutters Bay Park (East)	The park as a whole (within the SHR listed parks' boundary)	Exceptional
R1	Early Moreton Bay figs and palms	Exceptional
R2	Early London plane trees and Port Jackson figs	Exceptional
R3	c1930s hills figs	High
R4	Late-twentieth-century paperbarks	Little
R5	Mature eastern tree row (mixed)	Moderate
R6	Stormwater channel trees (modern)	None
R7	Miscellaneous trees (modern)	None
R8	Sports fields	Use: High Fabric: None
R9	Playground planted gardens	Intrusive
RA	Seawall	Exceptional
RB	Pathways	High (Modified alignment: Moderate)
RC	Cricket pitch	High (Fabric: None)
RD	Bridge (c1940s)	Moderate
RE	Bridges (modern)	Location: High Fabric: None

Element code	Comment	Grading of significance
RF	Remnant tram/bus stop	Little
RG	Kiosk courtyard	None
RH	Playground	None
RI	Hardstand concrete area	None (Note that further research is required to determine the purpose of the hardstand concrete area and breakfront of wall.)
RJ	Fitness station	None
RK	Mid-twentieth-century concrete stairs	Moderate
RL	Stormwater drain fence	None
RM	Electricity substation	Intrusive
RN	Sewer vents (early)	High
RO	Light poles (modern, various)	None
RP	Benches (modern)	None
B1	Rushcutters Bay Park Kiosk	Little (Note that further research is required to determine if the existing building contains any remnants of earlier buildings in this location.)

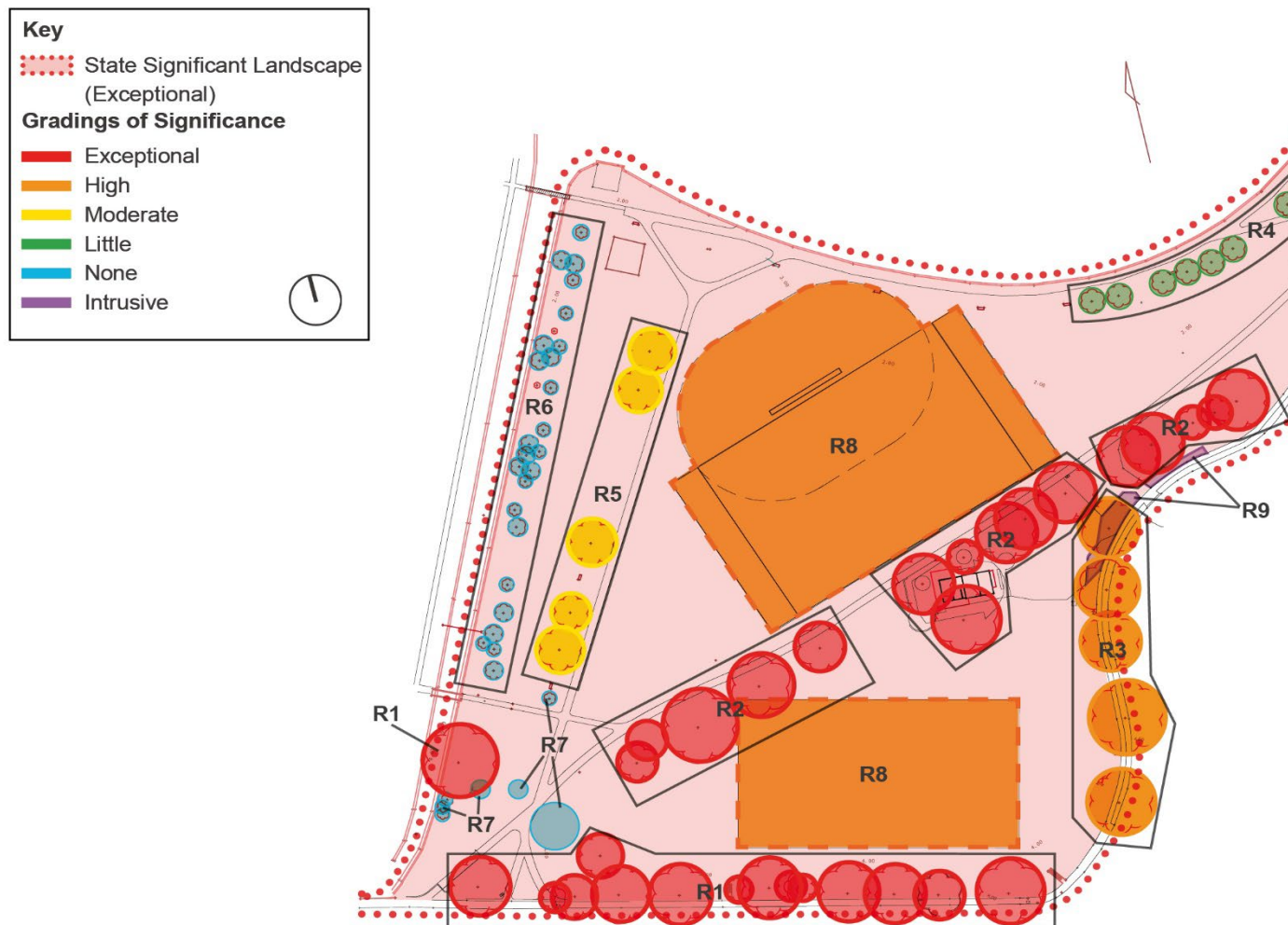


Figure 5.1 Gradings of significance of Rushcutters Bay Park—soft landscape elements. (Source: GML 2021)

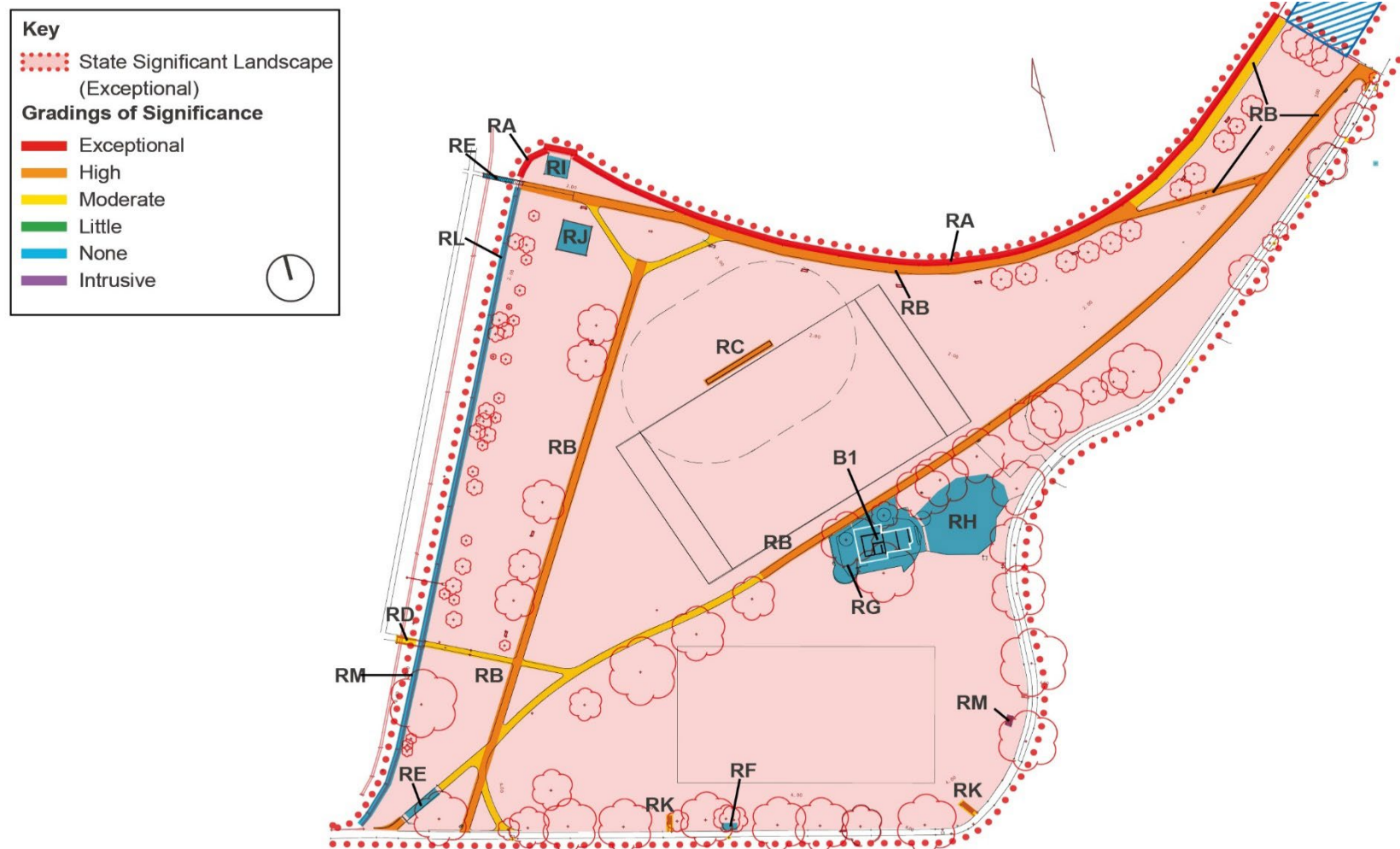


Figure 5.2 Gradings of significance of Rushcutters Bay Park—hard landscape elements. (Source: GML 2021)

5.3 Endnotes

- ¹ Heritage NSW, 'Rushcutters Bay Park and Yarranabbe Park', State Heritage Inventory, viewed 17 March 2021 <<https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5067067>>.

6 Historical and Aboriginal Archaeological Potential

The following section includes a discussion of the Aboriginal and historical archaeological potential of the study area. The historical archaeological potential is taken from the 2021 CMS that assessed the entirety of Rushcutters Bay and Yarranabbe Parks. The Aboriginal archaeological potential is based on the 2021 Wollahra Aboriginal Heritage Study prepared by Coast History and Heritage.¹

6.1 Historical Archaeology

The 2021 CMS concluded that the southern portion of Rushcutters Bay Park contains a section of the natural foreshore, swamp and tidal flats, and the original creek alignment (prior to being canalised) buried below the reclaimed land. This area also has potential to contain evidence of pre-1880s use of the original foreshore and creek. This could include activities associated with convict labour and rush cutting, landscape management, or market gardening by Chinese farmers. The area also has potential to preserve paleoenvironmental data, such as pollen fossils, that could be used to infer information about past environmental conditions around the bay. This could include information on vegetation and the influences of both Aboriginal and European land management practices.

The CMS contained a summary of archaeological potential at Rushcutters Bay Park and Yarranabbe Park, presented in Table 2.7 of the CMS. The relevant part of the table and historical archaeological zones plan is reproduced below (Figure 6.1, Table 6.1).

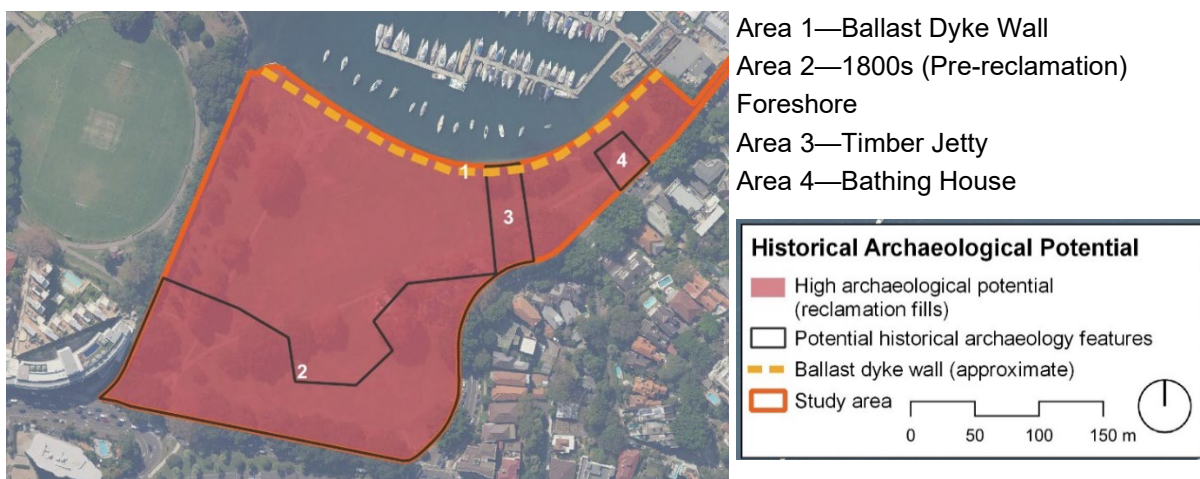


Figure 6.1 Historical archaeology zones and features within the study area. Note the entire study area has historical archaeological potential.

Table 6.1 Summary of Historical Archaeological Potential.

Zone	Possible Archaeological Remains	Potential
Entire study area	<ul style="list-style-type: none"> Reclamation fills. Maritime-related objects (boats, jetties) within the fill. Remains of the original foreshore, swamp and creek buried beneath the reclamation. 	High
Area 2	<ul style="list-style-type: none"> Convict-era resource extraction (ie rush cutting). Chinese market gardening. Paleoenvironmental data (ie fossil pollens). 	Low Low High

6.1.1 Historical Archaeological Potential

The entire Rushcutters Bay Park (East) is assessed as having high archaeological potential, comprising the reclamation fills used to create the parks along with the features buried within and below.

The southern portion of Rushcutters Bay Park (Area 2 in Figure 6.1) contains a section of the natural foreshore, swamp and tidal flats, and the original creek alignment (prior to being canalised) is buried below the reclaimed land. This area has potential to contain evidence of pre-1880s use of the original foreshore and creek that could include activities associated with convict labour, landscape management or market gardening. The area also has potential to preserve paleoenvironmental data, such as pollen fossils, that could be used to infer information about past environmental conditions around the bay. This could include information on vegetation and the influences of both Aboriginal and European land management practices.

6.2 Aboriginal Cultural Heritage

The study area is located in an area of Aboriginal heritage sensitivity based on the 2021 Woollahra Aboriginal Heritage Study (Figure 6-2). The 2021 CMS determined that the Rushcutters Bay Park area consists of varying depths of imported fill overlying a portion of the original foreshore. The original foreshore area has potential to contain in situ Aboriginal archaeological features, including Aboriginal objects and associated deposits. The 2021 CMS concluded that there is low potential for Aboriginal

archaeological remains to be found on the surface of the site or in the surface fills across the site.



Figure 6.2 Aboriginal heritage sensitivity mapping showing the approximate location of the skate park (yellow arrow) in an area of Aboriginal heritage sensitivity (shaded red). (Source: reproduced from the 2021 Woollahra Aboriginal Heritage Study with GML additions)

6.3 Endnotes

¹ Woollahra Local Government Area Aboriginal Heritage Study (Coast, 2021)

7 The Proposal

7.1 The Proposal

Woollahra Council proposes to build a Youth Facility in the southwest corner of Rushcutters Bay Park, close to the southwestern park entry at New South Head Road.

The location for the proposed facility is beside the grassed embankment that runs along the park's southern boundary, and is bordered by groups of exceptionally significant late-nineteenth and early twentieth-century trees. It is also within an area of Aboriginal archaeological sensitivity and the original shoreline.

The location is currently underutilised by the public, and is easily accessible from New South Head Road and the park's pedestrian pathways at the southwestern corner of the park (Figure 7-1).

The proposed Youth Facility includes a skatepark, basketball practice area, seating areas, a shade shelter and associated landscaping.

The total areas of the Youth Facility would be 1225m² comprising:

- skate park, paths and basketball court (concrete)—875m²; and
- landscape—350m².

Seven different hard landscaping finishes (Figure 7-4) are proposed:

- Pedestrian Area Slab—grey concrete (non-slip); and
- Skate Area Slab—burnished finish (grey, green, sand, black finishes).

Other landscaping elements include:

- Sydney Sandstone logs;
- garden beds; and
- bike racks, a water bubbler and waste bins.

Excavation for the Youth Facility is not expected to exceed 600mm—it is aimed at 8–14-year-olds and will not require a professional 'bowl'. No trees are proposed to be removed.

The facility would operate 7-days-a-week during park operating hours (7am to dusk).

Some aspects of the proposal have been modified following heritage advice received as part of the preparation of this HIS—these aim to mitigate visual impacts of the hard landscaping and provide some screening of the new facility. The modified proposal provided for assessment by Woollahra Council and the Heritage Council includes:

- removal of the entry park bench;
- introduction of select soft landscaping and curved intersections to existing / new pathways; and
- the selection of pathway finishes (to match existing paths).

Figure 7.2 and the 3D images provided at Appendix A (in association with the View Impact Assessment) are of the modified design.

The architectural drawings provided at Appendix B (also Figure 7.3 and Figure 7.4) are from 2022 documentation package and are of the modified design.



Figure 7.1 Aerial photograph showing the proposed Youth Facility location outlined in red dashed lines. The sporting fields, including their end of field tolerance zones are shown outlined in blue. (Source: Convic 2018)

CONVIC

WOLLAHRA MUNICIPAL COUNCIL

RUSHCUTTERS BAY YOUTH FACILITY

50% DOCUMENTATION

18013_CD011 B

Rushcutters Bay Park Youth Facility—Heritage Impact Statement, July 2022

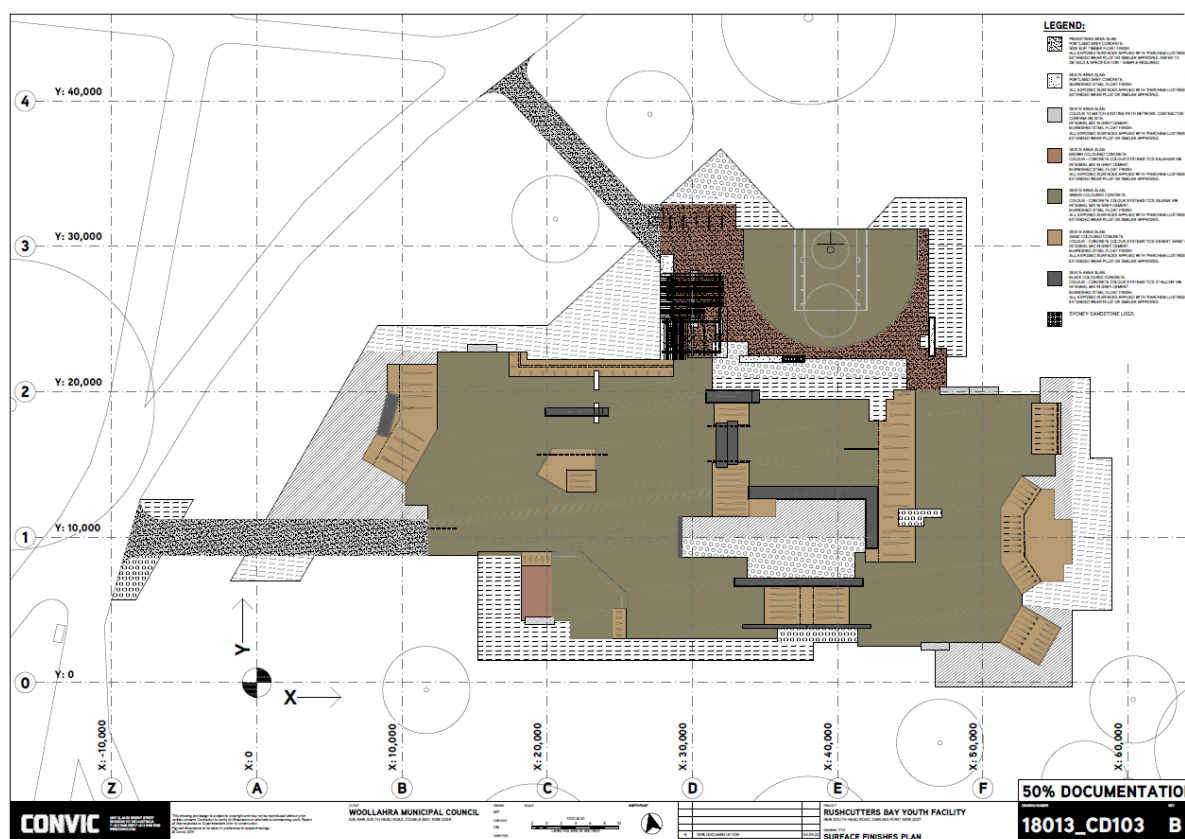


Figure 7.4 2022 site plan showing proposed finishes. (Source: Convic Drawing, 18013_CD103 / B (50% Doc), 04.05.2022)

7.2 Architectural Drawings

This report has assessed the heritage impact of the proposal as shown on the following documents—the documents included at Appendix B and listed below are from the 2019 and 2022 documentation packages (based on concepts developed by Convic in 2018)

Table 7.1 Relevant REF / S60 Documentation.

Drawing No./Issue	Drawing Title	Date
No Number	Site Plan	No date
18013_CD000 / B (50% Doc)	Title Page and Drawing Index	04.05.2022
18013_CD001 / A (50% Doc)	General Notes	12.03.2019
18013_CD010 / A (50% Doc)	Existing Conditions Plan	12.03.2019
18013_CD011 / B (50% Doc)	Demolition Plan	04.05.2022
18013_CD012 / A (50% Doc)	Site Plan	12.03.2019
18013_CD100 / B (50% Doc)	Grading Plan	04.05.2022
18013_CD101 / A (50% Doc)	XY Coordinate Plan	12.03.2019
18013_CD102 / A (50% Doc)	Dimension Plan	12.03.2019
18013_CD103 / B (50% Doc)	Surface Finishes Plan	04.05.2022

Drawing No./Issue	Drawing Title	Date
18013_CD104 / A (50% Doc)	Concrete Joint Plan	12.03.2019
18013_CD105 / B (50% Doc)	Steelwork and Coping Plan	04.05.2022
18013_CD106 / A (50% Doc)	Section Key and Steel Plan	12.03.2019
18013_CD107 / B (50% Doc)	Planting Plan	04.05.2022
18013_CD200 / B (50% Doc)	Sections 01	04.05.2022
18013_CD201 / B (50% Doc)	Sections 02	04.05.2022
18013_CD300 / A (50% Doc)	Details 01	12.03.2019
18013_CD301 / A (50% Doc)	Details 02	12.03.2019
18013_CD302 / A (50% Doc)	Details 03	12.03.2019
18013_CD400 / A (50% Doc)	Steelwork Details 01	12.03.2019
18013_CD401 / A (50% Doc)	Steelwork Details 02	12.03.2019
18013_CD402 / A (50% Doc)	Steelwork Details 03	12.03.2019
18013_CD400 / A (50% Doc)	Shelter Details 01	12.03.2019
18013_CD501 / B (50% Doc)	Shelter Details 02	04.05.2022

7.3 Proposal Background

Information from Your Say Woollahra (<https://yoursay.woollahra.nsw.gov.au/youthrecrearea>) describes the proposal and its background as follows:

In September 2015, Council determined Rushcutters Bay Park as the site for a youth recreation area. Seven months later, we held the first public exhibition of the concept plans. In response to community feedback, Council resolved to not progress with this initial concept and instead to develop revised plans for an alternative location within the park.

In February 2018, Council approved a new location for youth recreation area in Rushcutters Bay Park. In July and August 2018, new concept plans were put on public exhibition.

This revised plan provides convenient options for local kids to have fun and places for parents, carers and park users to meet, relax and enjoy the area. The amended concept plans include:

- *a new location away from the harbour foreshore and below the embankment of New South Head Road to minimise noise and retain harbour views*
- *a basketball practice area and a series of skate and scooter elements designed for 8–14 year olds*
- *landscaping including new trees and garden beds**
- *improved seating, shade shelter, bike racks, a water bubbler and waste bins.*

On 15 October 2018, Council endorsed the Youth Recreation Area at Rushcutters Bay Park concept plan as exhibited, allowing for amendments arising during the detailed design process.

*The proposal no longer includes new trees due to the existing tree cover of the preferred location and to mitigate impacts to the open character of the park and view lines and maintenance issues related to leaf fall. The proposal will have low level landscaping to soften the facility in the park.

An Interim Heritage Order for Rushcutters Bay Park was gazetted following community opposition to the Youth Facility in 2019, and the Youth Recreation Area project was put on hold. In June 2020, Rushcutters Bay Park, Plantation Reserve, Sir David Martin Reserve and Yarranabbe Park were listed on the NSW State Heritage Register as ‘Rushcutters Bay Park and Yarranabbe Park’.

7.4 Concept Development

The 3D aerial and material colour palette provided below provide an overview of the 2018 concept design prepared by Convic in 2018.



Figure 7.5 Aerial photo montage of the proposed Youth Facility and detail of the shade shelter that will separate the skate park from the basketball practice area. (Source: Concept 03 —Perspective 1, Convic 2018)

MATERIAL AND COLOUR PALETTE

1. SYDNEY SANDSTONE

Used as cladding for all exposed vertical faces.

2. BLACKBUTT WOOD

Used for any timber components.

3. CCS IGUANA COLOURED CONCRETE

Used across the majority of the flat skate park surfaces.

4. CCS DESERT SAND COLOURED CONCRETE

Used across the majority of raised skate park features.

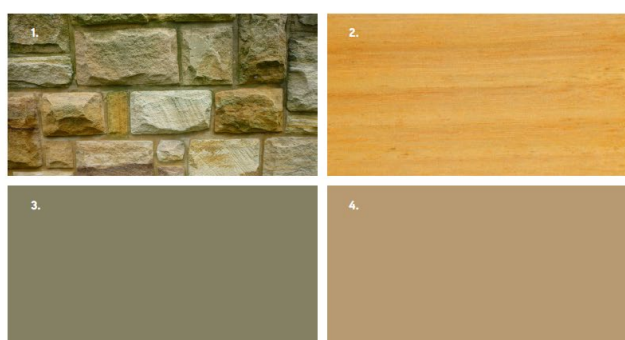


Figure 7.6 Material and colour palette for the proposed Youth Facility. (Source: Concept 03—Perspective 1, Convic 2018)

7.5 Heritage Review and Advice

Council engaged the services of GML to review and advise on the proposal. GML initially recommended that:

- Council reconsider the location of the Youth Facility (to a location either within the park or within the larger local government area).

- Less heritage impacts were likely if the proposed facility was located on the western boundary of the park, ie west of the north / south pathway (Refer to location Options 1 and 2 at Figure 7.10) This area is adjacent to the stormwater channel and contains trees of moderate to no heritage significance. It is also on the periphery of significant viewsheds within the park.

Subsequent to this initial review, Council proposed to proceed with the Youth Facility at location Option 3 (Refer to Figure 7.10). To help mitigate the impacts of location Option 3, GML provided the following heritage advice:

- To be consistent with the policies of the 2021 CMS, any new facility within Rushcutters Bay Park and Yarranabee Park should be of a modest scale, not dominate the park visually (ie not be located at park entries or in open spaces), and be constructed in a reversible manner.
- Additional 3D images of the proposal were requested for review of visual heritage impacts. Viewpoints were recommended to be taken from eye level and at locations identified by GML (with reference to views identified in the 2021 CMS). Relevant near and mid-distant views of the Youth Facility were identified where there was potential for visual impact (refer to Section 8.2).
- Recommendations were also made to:
 - reduce the footprint of the proposed Youth Facility and large areas of hard surfaces in order to minimise visual impacts from within the park and from New South Head Road;
 - provide curved detail at the intersection of the two new pathways with the existing pathways, and match existing path finishes to ensure consistent park language / character in the park;
 - remove additional landscape features that ‘marked’ the entry, such as signage and seating that accentuating the presence of the Youth Facility;
 - screen the proposed facility with select low-level landscaping, but not to the extent that the planting dominates the park’s open character;
 - retain and protect trees of moderate, high and exceptional significance; and
 - avoid additional park lighting as the pole infrastructure and light spill would have a detrimental visual impacts on the character of the park.

All recommendations above, except the reduction in footprint, were addressed by Council. A reduced footprint was not agreed upon as Council had already reduced the size of the facility from the initial concept designs to the proposed facility. Council’s reason was that any further reduction in the facility would reduce the recreational opportunities for users of the facility.

- In relation to archaeology, and as outlined in Section 6.0 above, GML concluded as part of the 2021 CMS that the proposed Youth Facility site:
 - has potential to contain evidence of pre-1880s use of the original foreshore and creek, as well as the potential to preserve paleo environmental resource; and
 - has low potential for Aboriginal archaeology to be found on the surface nor in the surface fills across this site.

- In relation to the requirement for historical archaeological assessment and Due Diligence (Aboriginal) reporting, as required / identified as part of the HIS assessments, review of the recently completed Coasts Aboriginal heritage study is also recommended. Archaeological monitoring should be undertaken in association with ground works in this area.
- Trees of heritage significance are not likely to be adversely impacted by the Youth Facility, but as the proposed site is in the vicinity of trees along New South Head Road which are of exceptional significance, the advice of an arborist should be sought.
- Council should seek the early advice of NSW Heritage and Woollahra Council's inhouse planning / heritage division. Concept documentation accompanied by a copy of the 2021 CMS will be required.
- A HIS will be required to support an REF and S60 Application. The proposal should be assessed against the heritage provisions of the NPW Act, NSW Heritage Act and relevant SEPP, LEP and DCP.

7.6 Alternatives Considered

7.6.1 First concept design

In 2013, Council resolved to consider constructing a skatepark in Paddington. Convic were engaged to undertake consultation and a feasibility study for such a facility. It was intended that the skatepark cater for 8–14-year-olds, with small-scale structures only.

Two locations were shortlisted during this process, Trumper Park (Figure 7.6 and Figure 7.7) and Rushcutters Bay Park (Figure 7.8 and Figure 7.9). Rushcutters Bay Park was chosen as the preferred option due to its proximity to public transport, opportunities for passive surveillance and for to utilise existing facilities in the park, such as lighting, the toilets and kiosk. The locations considered in Rushcutters Bay Park were also further from residential properties than Trumper Park, reducing the potential for amenity impacts (ie noise) on residents. The proposed facility was to be located just south of the fitness equipment beside the stormwater channel.



Figure 7.7 Trumper Park was investigated as a potential location during concept design development for the proposed Youth Facility. (Source: Convic 2014)



Figure 7.8 A 3D visuals showing early concept design for the proposed Youth Facility as it might appear at Trumper Park. (Source: Convic 2014)



Figure 7.9 Early concept design location of proposed Youth Facility within Rushcutters Bay Park. The facility's footprint is indicated by the red dashed lines (Number 1 on the figure). (Source: Convic 2014)



Figure 7.10 An overview of the early concept design for the proposed Youth Facility. (Source: Convic 2014)

7.6.2 Alternative Locations in Rushcutters Bay Park

In 2016, Council exhibited the first concept plans of the potential skatepark at Rushcutters Bay Park.

In response to community concerns, Council resolved not to proceed with the concept plan in its then form. Most responses received during the exhibition period were concerned with loss of character, trees and green space. Noise and anti-social behaviour were also identified as problems. Community members also felt the park was overcrowded in its present state, which would be exacerbated by the introduction of a skatepark. Council resolved to develop revised plans and an alternative location in response to the feedback.

During development of the revised plan, three locations were reviewed for the proposed Youth Facility, all within Rushcutters Bay Park (as shown in Figure 7.10).



Figure 7.11 Locations for the proposed Youth Facility considered during design development. Option 3 was chosen after public consultation. (Source: Woolahra Council 2018)

- Option 1 was the original location proposed in the concept design, ie near the fitness equipment beside the stormwater channel. This option presented good design opportunities. It also required no removal of established trees, was over 100m from residences and had good surveillance. It could also be integrated with the fitness equipment.
- Option 2 was still on the western edge by the stormwater channel, but was located further south. Passive surveillance was considered fair, and it was closer to New South Head Road in an area which was not overly used. It also didn't require the removal of established trees. However low-hanging branches would require pruning and regular maintenance to control leaf fall onto the facility. The roots of the trees would also cause issues with the proposed landscaping and the facility structure.
- Option 3, the present option, was located in an open grassed area closer to New South Head Road. Surveillance was considered good and the area highly accessible. Like the other two options, no established trees needed to be removed. The proximity to New South Head Road

was also considered an effective way to mitigate potential noise. Council considered that there would be no impacts to potential views to the harbour foreshore due to the existing row of trees, which provide a screening effect. This option was also a reduced footprint compared to the concept design.

After review, the preferred option was determined to be Option 3 and a revised concept was developed in response to the preferred option. Council provided the following reasons why Option 3 was preferred:

Impacts on Open Space:

- *Requires no removal of established trees; no major canopy pruning is required; an open grassed area with some natural shade is available and there is good capacity for additional landscape treatment*
- *Located in a section of the park that is under-utilised*
- *The site is away from the foreshore, with no view loss of the harbour*
- *The design will incorporate landscaping consistent with past uses and be sympathetic in colour (ie not white concrete but coloured).*

Anti-social behaviour:

- *Sight lines into and out of the facility from all sides*
- *Passive surveillance is good as the site is close to the main park entry*

Increased noise:

- *The sound from continuous heavy traffic along New South Head Road will help to mitigate any noise actual or perceived from the proposed facility*
- *Location is furthest east of the three options and away from Rushcutters creek/canal and the Vibe Hotel*

Other benefits:

- *Proximity to the southern access bridge over the canal connecting Rushcutters Bay Park with the City of Sydney's active recreation spaces of Reg Bartley Oval and the Rushcutters Tennis Centre*
- *Site is at an intersection of internal paths, adjacent to the path leading to the café/children's playground*
- *Close proximity to regularly serviced public transport makes the location easily accessible.*

7.6.3 Second Concept Design

In October 2018, Council endorsed the revised design and resolved to proceed with the Youth Facility, provided the following design considerations were followed:

- *Slight amendment to the design of the basketball practice area to provide safe movement around the goal post.*
- *Review of elements impacting the flow of the area for skate and scooter riders to allow more participation and control of movement.*
- *Ensure Disability Discrimination Act (DDA) compliant access around the new facility.*

- *All necessary signage is included as part of the facility including dog regulation and safety messages*

This concept was the basis of the documentation listed at Table 7.1.



Figure 7.12 The 2018 Council-endorsed revised design for the Youth Facility at its chosen location (Option 3) near South Head Road. (Source: Concept Perspective, Convic 2018)

8 Views and Vistas

8.1 Woollahra Development Control Plan 2015—Views and Vistas

Significant views and vistas identified in the WDCP 2015 for the Darling Point Precinct, which includes the eastern section of Rushcutters Bay Park, are shown at Figure 8.1 below. Views west from Darling Point are predominantly over New Beach Road and Yaranabee Park towards the bay.

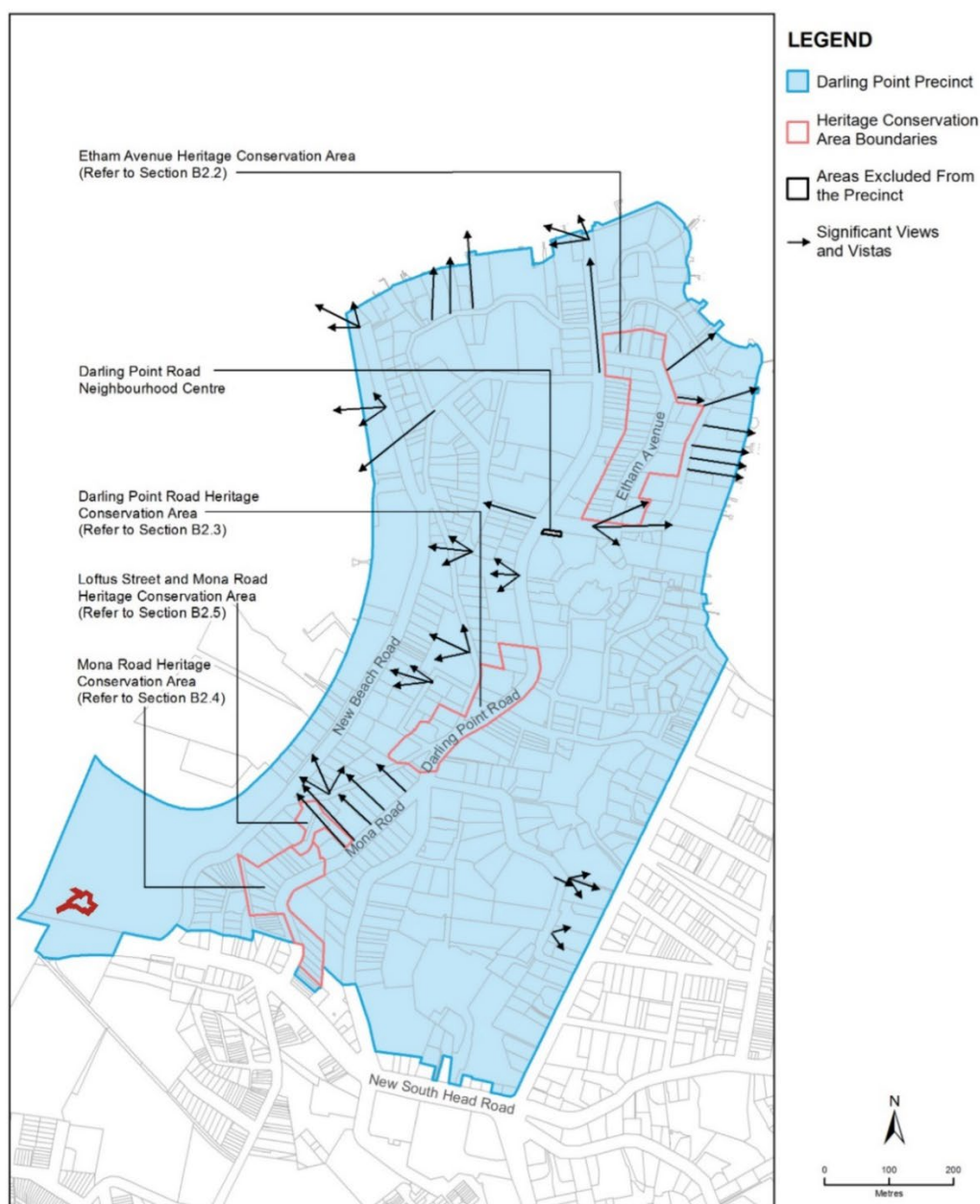


Figure 8.1 Darling Point Precinct. The footprint of the proposed Youth Facility is outlined in red. (Source: WDCP 2015)

8.2 Park Views

View sheds and sight lines from the key approaches to the southwestern corner of Rushcutters Bay Park considered important for view impact assessment are summarised in the figures below. These views are primarily to the proposed Youth Facility site, but also include views across the site to the wider park beyond.

A site inspection confirmed that ‘near’ views, particularly at the park entry and along park pathways, warranted greater consideration than mid-distant views (and beyond) greater than 100m from the Youth Facility site. This was because of the generally horizontal nature of the proposed Youth Facility and historical planting. Views D, E and F are most relevant from 100m and closer.



Figure 8.2 Aerial photograph of Rushcutters Bay Park, 2005. The proposed Youth Facility is outlined in red and the arrows show key park views to the facility (where the 3D images are taken from). (Source: © NSW Department of Customer Service). Overlays show the Skatepark / Youth Facility footprint (outlined in red) and the zone of near views potentially impacted (outlined in blue and indicated with arrows). (Source: GML 2021)

Site of the Proposed Youth Facility

All photographs were taken by GML Heritage (March to August 2021) unless noted otherwise. The dashed red areas indicate the approximate location of the proposed Youth Facility.

Existing View—Near Views



Figure 8.3 View A to the park from New South Head Road pathway. (GML, August 2021)

Existing View—Near Views



Figure 8.4 View D from within the park, looking southwest from the kiosk and open space adjacent. (GML 12 August 2021)

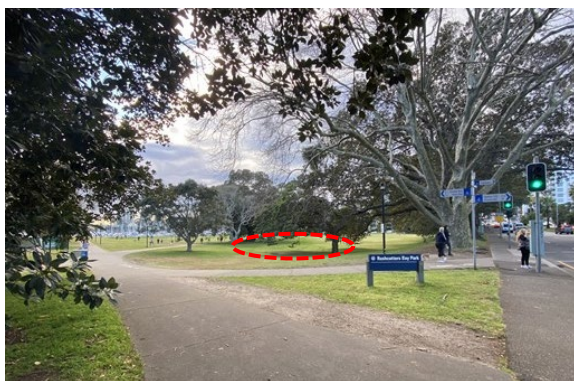


Figure 8.5 View B at entry to the park. View from New South Head Road entry at southwestern corner (GML, August 2021)



Figure 8.6 View E from within the park, looking southwest along main diagonal pedestrian pathway. (GML 12 August 2021)



Figure 8.7 View C from southern bridge over canal. (GML 12 August 2021)



Figure 8.8 View F towards the proposed Youth Facility looking south along the north-south pathway (western side). (GML 12 August 2021)

9 Heritage Impact Assessment

9.1 NSW Heritage Manual Guidelines

This assessment of heritage impact has been prepared following the guideline document 'Statements of Heritage Impact' (2002), contained within the *NSW Heritage Manual*. The assessment includes a summary statement of heritage impacts and addresses the guideline document's recommended checklist of questions that should be considered when assessing the heritage impacts of relevant types of development on the site of a heritage item.

9.1.1 Summary Statement of Heritage Impacts

a) *The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:*

- The location of the proposed Youth Facility is in an underutilised part of the park, and is easily accessible from New South Head Road, the western part of Rushcutters Bay Park and the park's pedestrian pathways at the southwestern corner of the park.
- The proposed Youth Facility is 1225m² in area (875m² of this would be hard surfaces)—it would comprise only 2–3% of the total 54,080m² area of the Woollahra Municipal Council side of Rushcutters Bay Park.
- Visually, the impacts of the proposal would generally be limited to the southwestern corner of the park.
- No trees of moderate, high or exceptional significance are proposed be impacted.
- Soft landscaping of the proposal is limited to select screening of the proposed Youth Facility to mitigate any visual impacts. It has been designed so as to minimise impacts on the open character of the park, and to not dominate it. The location below the embankment along New South Head Road and the use of a natural palette of materials / colours would also soften the visual impact of the Facility.
- As it designed as a junior facility with small-scale skate features that do not involve deep excavation (as would be required for a professional 'bowl'), the Youth Facility would not impact on any subsurface historical features and could be considered to be easily reversible.
- No additional park lighting is involved, avoiding detrimental visual impacts on the character of the park caused by light pole infrastructure and light spill.

b) *The following aspects of the proposal could detrimentally impact on heritage significance.*

- The southwestern approaches and open character of the Rushcutters Bay Park would be impacted by the proposed Youth Facility, in particular in relation to the views and vistas within Rushcutters Bay Park at a radius of approximately 100m from the subject site. The greatest impact on views would be from New South Head Road (the road itself and the pathway) and specifically at the southwestern corner entry point, where the proposed facility location would be in full view.

- The grand scale of the parks, with 'large open spaces, still relatively intact and not compromised by major infill or other incursions' identified in the significance assessment as rare, would be partially impacted by the proposed Youth Facility. However, this impact would be limited to a discreet corner of one of the open spaces / playing fields.

c) The following alternative options have been considered and discounted for the following reasons:

Three alternative options considered by the Woollahra Municipal Council and reviewed with GML included:

- Locating the Youth Facility elsewhere, outside of Rushcutters Bay Park. Rushcutters Bay Park was determined to be the most appropriate location for the facility in the initial concept design phase because Trumper Park, the only other viable location in the Paddington area, is too close to residential areas.
- The original location proposed in the concept design (Option 1) (Figure 7.9), near the fitness equipment beside the stormwater channel, was discounted because of community concern about loss of character, trees and green space. Noise and anti-social behaviour were also identified as problems. As a potentially supportable location within the park, GML advised that there were likely impacts to views of the harbour if the Youth Facility was placed in this area.
- An alternative location, still on the western edge by the stormwater channel (Option 2) (Figure 7.11), was discounted because of maintenance concerns, tree impacts, and poorer surveillance when compared to other options. This was GML's preferred location for the facility as it is on the periphery of significant view lines and the topography of the ground could partially conceal the Youth Facility structures. Trees in this location were also assessed as being of low to moderate significance when compared to the exceptionally significant trees near Council chosen location (Option 3).

9.1.2 New Development Adjacent to a Heritage Item

Table 9.1 Questions for New development Adjacent to a Heritage Item for Statements of Heritage Impact.

Statements of Heritage Impact—New Development Adjacent to a Heritage Item	Impact Assessment
<ul style="list-style-type: none"> • How is the impact of the new development on the heritage significance of the item or area to be minimised? 	<p>The closest heritage item is the stormwater channel (Sydney Water s170). This item will not be physically impacted by the proposal, nor will views along the channel.</p> <p>Sir David Martin Reserve and Plantation Reserve, within the SHR listed parks, are too distant to be impacted by the proposal.</p>
<ul style="list-style-type: none"> • Why is the new development required to be adjacent to a heritage item? 	n/a
<ul style="list-style-type: none"> • How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance? 	<p>The curtilage of the SHR listed parks, defines the parks as bounded by New South Head Road, New Beach Road and the harbour at Rushcutters Bay (in relation to the park area managed by Woollahra Council).</p> <p>The proposed Youth Facility would be located within this curtilage at its southern edge along New South Head Road.</p>

Statements of Heritage Impact—New Development Adjacent to a Heritage Item	Impact Assessment
	No other curtilages of adjacent heritage items have been identified.
<ul style="list-style-type: none"> How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects? 	<p>The stormwater channel (Sydney Water s170) is a discreet low-lying landscape feature. From the southwestern entry to the park, views to and from the channel may be impacted marginally by the proposal. Views along the channel will not be impacted.</p> <p>There will be no impact on views to and from heritage items along New Beach Road, given their distance from the proposal site and general tree cover over the park.</p> <p>Distant and mid-distant views are generally not impacted, including views to and from the park and harbour.</p>
<ul style="list-style-type: none"> Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected? 	Refer to Table 9.3
<ul style="list-style-type: none"> Is the new development sympathetic to the heritage item? In what way (eg form, siting, proportions, design)? 	<p>n/a</p> <p>Within the park, siting and design considerations such as height, low level form, materials and colours are outlined in section 9.1.1 above.</p>
<ul style="list-style-type: none"> Will the additions visually dominate the heritage item? How has this been addressed? 	The closest heritage item is the stormwater channel (Sydney Water s170). The stormwater channel is a discreet low-lying landscape feature and views along it will not be impacted.
<ul style="list-style-type: none"> Will the public, and users of the item, still be able to view and appreciate its significance? 	n/a

9.1.3 New services

Table 9.2 Questions for New Services for Statements of Heritage Impact.

Statements of Heritage Impact—New Services	Impact Assessment
<ul style="list-style-type: none"> How has the impact of the new services on the heritage significance of the item been minimised? 	The proposed Youth Facility will not be lit at night. Inground services are limited to a bubbler at the shelter.
<ul style="list-style-type: none"> Are any of the existing services of heritage significance? In what way? Are they affected by the new work? 	No services of heritage significance have been identified at the site of the proposal.
<ul style="list-style-type: none"> Has the advice of a conservation consultant (eg architect) been sought? Has the consultant's advice been implemented? 	GML have provided heritage advice on the proposal. Refer to Section 7.5 above.
<ul style="list-style-type: none"> Are any known or potential archaeological deposits (underground and under floor) affected by the proposed new services? 	Excavation for new services would be contained within the reclamation deposits (assuming maximum depth of 600mm). There is a low likelihood that excavation for new services would impact historical archaeological remains that may be preserved within these deposits. The reclamation fills are assessed as locally significant and excavation for new services would have a localised impact on these fills.

Statements of Heritage Impact—New Services	Impact Assessment
	<p>It is not anticipated that excavation for new services would reach the depth of the buried original foreshore deposits that lie at around 1.4m below the existing ground surface based on geotechnical information provided by Council. It is not anticipated that the depth required for new services would reach the foreshore deposits and is unlikely to have an impact on historical or Aboriginal objects that may be present within these deposits.</p> <p>Refer to Section 6 above.</p>

9.1.4 New Landscape Works and Features (Including Carparks and Fences)

Table 9.3 Questions for New Landscape Works and Features for Statements of Heritage Impact.

Statements of Heritage Impact—New Landscape Works and Features	Impact Assessment
<ul style="list-style-type: none"> How has the impact of the new work on the heritage significance of the existing landscape been minimised? 	<p>The proposed Youth Facility sits beside (below) the grassed embankment that runs along the park's southern boundary. This embankment is bordered by groups of exceptionally significant late-nineteenth and early twentieth-century trees and is within an area of Aboriginal archaeological sensitivity and the original shoreline.</p> <p>The facility is to be located on level ground visually below the embankment. Deep excavation is not proposed.</p> <p>The facility does not involve removal or alteration of existing trees. However, it will sit within an existing corner of a large open space of exceptional significance—this is bordered by mature trees, also of exceptional significance.</p> <p>Council will engage an arborist to manage any potential impacts of the proposed excavation on trees or their root systems.</p> <p>The visual impact of hard surfaces will be minimised by the use of muted natural colours in the design. The facility will also be screened by low-level planter beds at select locations.</p> <p>The proposed facility is essentially low lying and the tallest features are the shade structure and basketball hoop to the north of the site, otherwise the facility is low-lying.</p> <p>The two new pathways are proposed to provide hard surface access to the facility from the main park pathways. The new pathways will have curved details at the intersection with the existing pathways.</p> <p>In scale, the proposed Youth Facility is a minor addition to the SHR-listed Rushcutters Bay Park and Yarranabbe Park.</p> <p>The location for the proposed Youth Facility was selected as it is considered to be an underutilised part of the park and is easily accessible from New South Head Road and from the park's pedestrian pathways at the southwestern corner of the park. Refer to Section 7.6.2</p> <p>The proposed Youth Facility would be used for outdoor physical activity, which is consistent with park management by a local council. While not sympathetic with the open character of the park (as per the Statement</p>

Statements of Heritage Impact—New Landscape Works and Features	Impact Assessment
	<p>of Significance), it is located discreetly at the southwestern corner and does not involve removal of any significant trees. As such, it would have a relatively modest impact on the significant character of the park as a whole, as per the statement of significance above in relation to open foreshore land and rows of Moreton Bay Fig trees and sweeping harbour views.</p>
<ul style="list-style-type: none"> Has evidence (archival and physical) of previous landscape work been investigated? Are previous works being reinstated? 	<p>Historical research undertaken for the 2021 CMS identified that the original landscape design in this area of the park is largely original—although some pathways have been realigned over time.</p> <p>The proposal does not seek to reinstate evidence of the original landscape design, but does introduce two new pathways leading to the facility.</p> <p>While the introduction of the Youth Facility and two new pathways leading to the facility alters the original design of this area of the park, the existing pathways, embankment and significant trees will be retained.</p> <p>The potential for the facility to impact on the open character of the park has been mitigated to some degree by ensuring that the design is of low height, is positioned below the embankment and it would not be visible from distances greater than 100m within the park.</p> <p>The proposed facility's footprint is relatively small—it will comprise 2–3% of the total 54,080m² area of the Woollahra Municipal Council-managed side of Rushcutters Bay Park. The facility's total footprint will be 1,225m², 875m² of this will be hard surfaces.</p>
<ul style="list-style-type: none"> Has the advice of a consultant skilled in the conservation of heritage landscapes been sought? If so, have their recommendations been implemented? 	<p>The 2021 CMS and its policies was prepared by GML—the team included a landscape specialist.</p> <p>Relevant policies of the CMS are addressed in section 9.2 below.</p>
<ul style="list-style-type: none"> Are any known or potential archaeological deposits affected by the landscape works? If so, what alternatives have been considered? 	<p>A maximum of 600mm depth is proposed to be excavated for footings required for the Youth Facility. The reclamation fill(s) used to create the park are of local significance and have potential to contain historical archaeological remains. The Youth Facility would have a localised impact on historical archaeological remains.</p> <p>The proposed Youth Facility is also situated above the buried original foreshore. Geotechnical information provided by Council, suggests that the original foreshore deposits lie at around 1.4m below the existing ground surface. It is not anticipated that the depth required for excavation would reach the foreshore deposits, and it is unlikely to have an impact on historical or Aboriginal objects that may be present within these deposits.</p> <p>Refer to Section 6 above.</p>
<ul style="list-style-type: none"> How does the work impact on views to, and from, adjacent heritage items? 	<p>The proposed Youth Facility will visually dominate the near views of the park particularly at its entry and also be visible on approach to the Rushcutters Bay Park and Yarranabbe Park from New South Head Road.</p> <p>The stormwater channel (Sydney Water s170) is a discreet low-lying landscape feature. From the</p>

Statements of Heritage Impact—New Landscape Works and Features	Impact Assessment
	<p>southwestern entry to the park, views to and from the channel may be impacted marginally by the proposal. Views along the channel will not be impacted.</p> <p>There will be no impact on views to and from heritage items along New Beach Road given their distance from the proposal site, and general tree cover over the park.</p> <p>Distant and mid-distant views are not impacted, including views to the park from the harbour.</p> <p>Refer to Section 9.5 View Impact Assessment for the assessment of the impact of the proposal on views of Rushcutters Bay Park.</p>

9.2 Conservation Management Strategy Policies

The development proposal's consistency with the policies of the 2021 CMS is assessed in the table below:

Table 9.4 Relevant Conservation Policies for Rushcutters Bay Park and Yarranabbe Park from the 2021 CMS.

Rushcutters Bay Park and Yarranabbe Park Conservation Management Strategy—Conservation Policies	Comment
<p>Policy 2.4—Proposed new park upgrades and facilities should be reviewed against the CMS.</p> <p>Proposed new park upgrades and facilities should be reviewed against the significance assessment and gradings, and policies of this CMS.</p>	<p>This HIS has assessed the proposed Youth Facility's potential impacts on the park in line with this policy.</p>
<p>Policy 3.4—Conserve the parks' significant main landscape areas and key elements.</p> <p>Conservation of the parks includes retaining the parks' key heritage character and elements. Modification of key elements may be allowed for where these do not impact the parks' heritage significance. These include:</p> <ul style="list-style-type: none"> • general layout including open space and original pathways; • seawall; • significant trees; • other elements. 	<ul style="list-style-type: none"> • Pathway layout: The existing pathways are retained. The open space will be impacted at the south-western corner of Rushcutters Bay Park. • Seawall: The proposal is not close to the sea wall. • Significant Trees Significant trees surround the proposal site, but will not be impacted.
<p>Policy 4.3—Avoid changes which compromise the open character of grassed areas / playing fields.</p> <ul style="list-style-type: none"> • Upgrades to the playing fields should not compromise the openness of grassed areas. Substantial upgrades must be sensitively designed and integrated into the landscape and will require consultation with appropriately skilled heritage personnel. • Adjustments to the layout and position of the sports fields in Rushcutters Bay Park to meet future requirements are acceptable provided the open grassed landscape character is maintained. • Open grassed areas and playing fields should continue to be predominantly grass. Synthetic field/ground coverings are inappropriate and 	<ul style="list-style-type: none"> • Open grassed areas will be modestly impacted—the soccer field (and buffer area at the goal end) will remain uncompromised by the proposal. • The proposed Youth Facility is to be located at the southwestern corner of one of the two main open grassed areas of Rushcutters Bay Park. It uses synthetic ground coverings that are not consistent with policy 4.3, but is limited to a relatively small area of the overall parklands.

Rushcutters Bay Park and Yarranabbe Park Conservation Management Strategy—Conservation Policies	Comment
<p>should not be used, except for small features such as the cricket wicket.</p>	
<p>Policy 4.18—New development in the park should be sensitively located and designed.</p> <p>Future design of new structures, facilities and landscape/planting works in the parks should be carefully considered and managed so that new elements do not dominate the park or its setting. Significant trees should be retained.</p>	<ul style="list-style-type: none"> • The proposed Youth Facility is to be located at the southwestern corner of one of the two main open grassed areas of Rushcutters Bay Park.. • While the facility will dominate the park and its setting in the immediate vicinity of the southwestern corner entry, it will not dominate affect the wider park setting from viewpoints at distances greater than 100m. This is largely due to its situation below the embankment and behind significant trees. • Significant trees will be retained.
<p>Policy 4.19—Avoid cumulative impact through ad hoc development and incremental change.</p> <p>Ad hoc development of new facilities, structures and landscape/planting works should not be undertaken without reference to this CMS (and the landscape masterplan when it is developed). Avoid incremental changes, whether small or large in scale, that threaten the significance and values of the parks.</p>	<ul style="list-style-type: none"> • The proposed Youth Facility will have a cumulative impact on the open character of the park, providing another active park facility with built infrastructure (other facilities include small-scale playgrounds and exercise stations). It will impact some 'near' views and the open character of the park at the south western corner.
<p>Policy 4.20—New development in the park should avoid obstruction of the parks' visual and physical connections.</p> <p>Future design of new structures, facilities and landscape/planting works in the parks should be carefully considered and managed. Careful attention should be paid to the various views to, from and through the parks, to ensure that the entire stretch of public land around the bay can be interpreted in the future as an expansive public recreation ground established through phases of large-scale reclamation work.</p>	<p>Refer to comments on views in Table 9.3 above.</p> <ul style="list-style-type: none"> • The greatest impact on views is from New South Head Road: the road itself, the pathway and specifically at the southwestern corner entry point, where the facility is close and in full view. • The proposal will not impact views of the park along the bay or to the bay from the water—if the proposal was to be located along the bay edge, it would impact the parks' visual and physical connections to the water.
<p>Policy 4.23—Avoid or minimise impacts on significant views to, from and within the parks.</p> <p>Adverse impacts on views of exceptional significance in Rushcutters Bay Park and Yarranabbe Park should be avoided.</p> <p>Significant views are identified in Section 2.7.2 and include:</p> <ul style="list-style-type: none"> • views and vistas within the parks, along the main pathways, along the seawall and of open grassed areas; and • views from public places, including from the water, other harbour parks, and on approach from New South Head Road. 	<p>Refer to comments on views in Table 9.3 above.</p>

9.3 Woollahra Aboriginal Heritage Study

Since the 2021 CMS was completed, the final Woollahra Aboriginal Heritage Study has been published. It outlines requirements for the management of Aboriginal heritage. This includes the preparation of an Aboriginal Heritage Impact Assessment (AHIA) for any works requiring excavation within an area of Aboriginal heritage sensitivity. While this assessment has identified that the works are not anticipated to have an impact on the area of Aboriginal sensitivity, an AHIA would be required in accordance with the Woollahra Aboriginal Heritage Study. The AHIA would also satisfy the requirements for due diligence and defence against 'harm' under the NPW Act. The requirements for the AHIA are listed in Section 6.3.4 of the Woollahra Aboriginal Heritage Study.

9.4 Compliance with Heritage Provisions of the Planning Instruments

9.4.1 Woollahra Local Environmental Plan 2014—Heritage Provisions

The proposal has been assessed against the relevant controls of the WLEP 2014 in the table below.

Table 9.5 Woollahra Local Environmental Plan 2014 Compliance Table.

Woollahra Local Environmental Plan 2014—Heritage Provisions	Impact Assessment
<p>Clause 5.10 (5) (a) Heritage assessment</p> <p><i>The consent authority may, before granting consent to any development:</i></p> <ul style="list-style-type: none"> (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), <p><i>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p>	<p>The proposal is within Rushcutters Bay and Yarranabbe Parks which are not included on the WLEP 2014 as a heritage item or heritage conservation area, but are identified to be of State heritage significance on the SHR. The proposal is located in the vicinity of a number of heritage items.</p> <p>This HIS is the heritage management document which assesses the extent that the proposed Youth Facility would 'affect the heritage significance of the heritage item'.</p>
<p>Clause 5.10 (6) Heritage Conservation Management Plans</p> <p><i>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</i></p>	<p>The 2021 CMS was prepared as the heritage management document for Rushcutters Bay Park and Yarranabbe Park. It provides historical information, significance assessment and policies to guide new development in areas of the parks managed by Woollahra Municipal Council.</p>
<p>Clause 5.10 (7) Archaeological sites</p> <p><i>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):</i></p> <ul style="list-style-type: none"> (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent. 	<p>This clause does not apply as Rushcutters Bay Park is listed on the State Heritage Register.</p> <p>Recommendations are made in Section 10.</p>

Woollahra Local Environmental Plan 2014—Heritage Provisions	Impact Assessment
<p>Clause 5.10 (8) Aboriginal places of heritage significance</p> <p><i>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:</i></p> <p>(a) <i>consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</i></p> <p>(b) <i>notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</i></p>	<p>The proposal site is located within an area of Aboriginal archaeological sensitivity that includes the buried original foreshore deposits. However, this HIS has identified that the proposal is not anticipated to reach the depth of the buried foreshore and would not have an impact on these deposits. There is a low potential for Aboriginal objects to be present within the reclamation fills.</p> <p>Recommendations are made in Section 10.</p>

9.4.2 Woollahra Development Control Plan 2015

Section B1.2.1 contains the Precinct Character Statement, which outlines the existing conditions of the Darling Point Precinct. Section B1.2.2 outlines the desired future character statement which is used as the basis to guide future development. The following elements of the desired future character elements are of relevance to the proposal:

The Darling Point precinct is an established residential area with a rich mixture of architectural styles and forms. Development is to retain the visual prominence of the tree canopy, particularly along the ridgeline of Darling Point Road ...

... Development adjoining a contributory item or heritage conservation area is to have regard to the architectural values of the building and establish a sympathetic interface ...

... Attention must also be given to retaining views from the public domain ...

B1.2.2 of the WDCP 2015 outlines key elements of the precinct's character which must be respected and enhanced by development. It also outlines desired future character objectives.

Significant views and vistas identified in the WDCP 2015 are included at section 8.1 of this report. These views and vistas are predominantly from residential areas to the harbour. The WDCP 2015 does not include any significant views or vistas in relation to the proposal location at the southeastern corner of Rushcutters Bay Park.

Part B3.10 of the WDCP 2015 provides controls for land adjoining the Sydney Harbour foreshore. As Rushcutters Bay Park is within the Sydney Harbour foreshore area as defined by the SEPP 2021, it is unclear that the provisions apply.

The proposal's compliance with relevant key elements and character objectives of the WDCP 2015 is discussed in the table below.

Table 9.6 Woollahra Development Control 2015 P B1.2 Compliance Table.

Section	Control	Impact Assessment
B1.2.2—Streetscape character and key elements of the precinct		
<i>Development respects and enhances the existing elements of the character that contribute to the precinct including:</i>		
	<i>c) the significance of heritage items and the adjacent heritage conservation areas of Darling Point Road, Etham Avenue, Mona Road and Loftus Road/Mona Road and individual heritage items;</i>	<p>The adjacent heritage conservation areas (Darling Point Road and Mona Road) would not be impacted by the proposed Youth Facility.</p> <p>There are no heritage items in the immediate vicinity of the proposed Youth Facility. The nearest item (the stormwater channel) is approximately 50m away from the site of the proposed facility.</p>
	<i>j) the highly visible tree canopy providing a dense green backdrop to views from Sydney Harbour and surrounding lands;</i>	<p>The proposed Youth Facility does not involve any change to significant trees, (or other trees) in Rushcutters Bay Park, and will not impact the tree canopy, as indicated in the photos of the setting and proposal site in Section 4.3 of this report.</p>
	<i>k) extensive views afforded from the public spaces including corridors between buildings and the preservation of important iconic and harbour views; and</i>	<p>The views identified in the WDCP 2015 are not impacted by the proposed Youth Facility.</p> <p>Iconic views and harbour views will be preserved, ie will not be impacted by the proposed Youth Facility.</p> <p>Impacts on views from public spaces (ie within the park and along New South Head Road) are addressed in Section 9.5 below. Impacted views include views from New South Head Road at the entry to the park, and 'near' views within the park towards the site.</p>
	<i>l) waterfront reserves and parks.</i>	<p>The impacts of the proposed Youth Facility on Rushcutters Bay and Yarranabbe Parks is addressed in this HIS.</p>
B1.2.2—Desired Future Character Objectives		
	O4—To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.	<p>The proposed Youth Facility will have a visual impact on the southwestern corner of Rushcutters Bay Park, but will not significantly affect the overall heritage significance of Rushcutters Bay and Yarranabbe Parks or individually listed elements.</p>
	O10—To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.	<p>The mature street trees of exceptional significance along New South Head Road will not be impacted. No existing trees are proposed to be removed. New plantings are limited to low soft-edged garden beds.</p> <p>It is recommended that an arborist be engaged to provide advice to manage any potential impacts on trees or their root systems (refer also Section 10).</p>
	O13—To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.	<p>Iconic views and harbour views will not be affected by the proposed Youth Facility. The proposal is located at the southwestern corner of the parks, adjacent to New South Head Road.</p>

9.4.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021—Heritage Provisions

The provisions of the SEPP 2021 apply to the site as it is within the Foreshores and Waterways Area Map.

Part 10.5 of the SEPP 2021 contains heritage provisions for development and provides the following objectives for heritage conservation:

- (a) to conserve the environmental heritage of the land to which this Part applies, and*
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items, and*
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and*
- (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items.*

Rushcutters Bay Park is not listed as a heritage item on the SEPP 2021. Accordingly, most of the heritage provisions do not apply to the site. However, the site is near the HMAS Rushcutter slipways (no. 42), which are listed on the SEPP.

Clause 10.59 comprises provisions for development in the vicinity of heritage items. This clause requires the consent authority (Woollahra Municipal Council) to assess the impact of the proposed development on the heritage significance of the slipways, including physical impacts and its setting.

The proposed development is located a considerable distance from the HMAS Rushcutter Slipways and is visually separated by Cruising Yacht Club of Australia (CYCA) and d'Albora Marinas. There is negligible potential for the proposal to impact the visual setting of the slipways and no potential for direct impacts.

No other adverse heritage impact to any SEPP 2021 heritage item has been identified in relation to the proposal.

9.5 Views Impact Assessment

View sheds and views at the key approaches to the southwestern corner of Rushcutters Bay Park are presented at Section 8.2 of this report. These views are primarily to the proposed Youth Facility, but also include views across the site to the wider park beyond.

'Near' views, approximately 100m from the proposed Youth Facility (and closer), will be impacted by the proposal. Photographs of these views and corresponding 3D images of the proposal (with and without landscaping), as revised by Convic in 2021, are provided at Appendix A of this report.

These 3D images have incorporated some minor changes in hard and soft landscaping since the 2018 concept options.

The greatest potential impacts of the 2021 revised design are:

- View A—Compromise of a portion of the filtered serial views of the open park lands through the row of fig trees of exceptional significance on approach to the park along New South Head Road (by car and along the footpath)

- View B—Loss of some of the view / vista of the open parkland / playing fields—bordered by historical pathways and mature significant trees—at the southwestern entry to the park. From here, a full view of the proposed Youth Facility is available.

Impacts of the proposed facility on views C, D, E and F are generally of a lesser magnitude being mitigated by the flat topography and level approach, as well as the screening effect and backdrop of mature (and significant) trees in this part of the park, as well as the embankment behind.

9.6 Summary Statement of Heritage Impact

Rushcutters Bay Park is part of the State Heritage Register (SHR) listed heritage item 'Rushcutters Bay Park and Yarranabbe Park'. The grand scale of the parks and the large open spaces within them is considered rare.

In the context of the larger park area managed by Woollahra Municipal Council (54,080m²), the facility is relatively small—its total footprint is 1,225m², 875m² of which are hard surfaces. This comprises less than 3% of the total area of managed by Council.

The proposed Youth Facility is located at the southwestern corner of one of the two main open grassed areas of Rushcutters Bay Park with heritage significance (considered rare). This area is identified in the 2021 CMS as being of exceptional significance—it is one of the original open lawn areas of Rushcutters Bay Park and is bordered by groups of exceptionally significant late-nineteenth and early twentieth century trees. In areas within 100m of the proposed Youth Facility, the open character of the park would be compromised. Overall this area would be modestly impacted given the facility's discreet corner location below the grassed embankment along New South Head Road. The soccer field (and buffer area at the goal ends) would remain uncompromised by the proposal.

Views and vistas within Rushcutters Bay Park at a radius of approximately 100m from the proposed Youth Facility would be impacted by the proposal. The greatest impacts are to views from New South Head Road (from the road itself and the pathway)—these were assessed as being of exceptional significance in the 2021 CMS—and to the views from the southwestern corner entry point—which is close to where there the facility will be located. From southwestern corner entry point, the facility will be highly visible.

There are no heritage items in the immediate vicinity of the proposed Youth Facility.

The proposal is surrounded by mature trees, including those of exceptional significance along New South Head Road, but these will not be impacted by the proposal.

Views and vistas of the Darling Point Precinct, the tree canopy and the adjacent heritage conservation areas identified in WDCP 2015 (Darling Point Road and Mona Road) will not be impacted by the proposed Youth Facility. Iconic views to and from Sydney Harbour will not be impacted.

The proposal is generally consistent with the policies of the 2021 CMS, but will have some impact on the open character of grassed areas / playing fields of Rushcutters Bay Park (policy 4.3). It will also contribute to the cumulative impact on the significance of the park and its open grounds through construction of additional modern park infrastructure (exercise stations, small-scale playgrounds) (policy 4.19).

The proposed facility is a considerable distance from the HMAS Rushcutter Slipways, which are listed in the SEPP 2021—it has negligible potential to impact the slipways visual setting and no potential for direct impacts.

9.6.1 Archaeological Impacts

The proposal is located in an area of high historical archaeological potential. The fill used to reclaim the park has historical archaeological significance, and there is also potential for maritime structures to survive within the fills. The proposal site also overlies the pre-1880s foreshore, buried below the reclamation fills, which has historical archaeological potential and is an area of Aboriginal heritage sensitivity. Based on available geotechnical information provided by Council, it is understood that the original foreshore deposits lie at around 1.4m below the existing ground surface. As construction of the Youth Facility will involve excavation to a depth of 300mm below the existing ground surface across most of the construction footprint, with localised excavation to a depth of 600mm, it is not anticipated that the impacts of the proposal would reach the original foreshore deposits and the area of Aboriginal heritage sensitivity. The proposal will have a localised impact on reclamation fills, and any maritime structures or objects buried within it, that are assessed as locally significant in the 2021 CMS.

10 Conclusions and Recommendations

10.1 Conclusions

- The proposed Youth Facility is relatively small in the context of the larger park—it comprises less than 3% of the total 54,080m² of Rushcutters Bay Park managed by the Woollahra Municipal Council.
- Designed as a junior facility, with small-scale skate features, basketball zone and shade / shelter structure, the proposed Youth Facility does not involve deep excavation.
- The proposed Youth Facility will have an adverse visual impact on the significance of Rushcutters Bay Park, but this will be limited to the southeastern corner. Views sheds and sight lines from access points (across the canal bridge, from the southeast entry off New South Head Road and along primary pathways) will be affected within an approximately 100m radius of the facility.
- No trees of moderate, high or exceptional significance will be impacted. Soft landscaping of the proposal is limited to select screening of the Youth Facility to mitigate any visual impacts—it has been designed so as not to detract from the open character of the park or to dominate it.
- The proposed Youth Facility will operate from 7am to dusk and not require lighting, which would be visually intrusive.
- The proposed Youth Facility is located over the original (now buried) foreshore line and the original foreshore deposits are identified as an area of Aboriginal archaeological sensitivity. However, the depth of excavation for the proposed Youth Facility (300mm–600mm) is not expected to reach these deposits.
- The proposal will have a localised impact on locally significant historical archaeological remains, including the reclamation fills and any structures or objects buried within it. The proposal is not anticipated to have an impact on the original buried foreshore deposits that have historical archaeological potential and is an area of Aboriginal heritage sensitivity. Impacts to the reclamation fills and maritime structures or objects would be managed through archaeological mitigation, Mitigation measures are outlined in Section 10.2.

10.2 Recommendations / Mitigation measures

- The early advice of NSW Heritage and Council's inhouse planning / heritage division should be sought, and a copy of the proposal drawings and the 2021 CMS be provided to them for their review and early response.
- Some aspects of the proposal have already been modified following heritage advice as part of this HIS. These include:
 - minor landscape changes to mitigate visual impacts of the hard landscaping and provide some screening;

- removal of the main entry park bench;
- soft landscaping beds at select locations, with low planting;
- curved intersections of existing / new pathways; and
- use of pathway finishes to match existing paths

Further opportunities to mitigate the impacts of the proposal may be warranted. This may include interpretation of the original shoreline in the design of the facility.

- While placement of the facility suggests that trees of heritage significance are not likely to be adversely impacted, it is recommended that an arborist be consulted to ensure any potential impacts to the exceptionally significant trees in the proposed Youth Facility's vicinity are managed.
- An Aboriginal Heritage Impact Assessment (AHIA) should be prepared. While this HIS has identified that the proposal is not anticipated to have an impact on Aboriginal objects, the Woollahra Aboriginal Heritage Study requires that an AHIA is prepared for any excavation carried out in an area of Aboriginal Heritage Sensitivity. The AHIA should be prepared in accordance with the requirements set out in the Woollahra Aboriginal Heritage Study. If an AHIA is not prepared, the following should be undertaken:
 - Consultation with the La Perouse Local Aboriginal Land Council (LALC) regarding the proposal and its location in an area of Aboriginal Heritage Sensitivity.
 - Preparation of an Unexpected Finds Policy to manage Aboriginal heritage.
 - An Aboriginal heritage induction should be presented by a representative from the La Perouse LALC (or a suitably qualified Aboriginal heritage consultant if the La Perouse LALC is not available).
- Historical archaeological monitoring should be undertaken during excavation for the proposed Youth Facility. A Historical Archaeological Research Design should be prepared prior to monitoring works. This would include a methodology for the archaeological monitoring and a research agenda.
- The Plan of Management for Rushcutters Bay Park and Yarranabbe Parks—including Sir David Martin Reserve and Plantation Reserve—should be updated to reflect the State Heritage Register listing and the information in the 2021 CMS. GML understands a draft updated POM has been prepared and will undergo public exhibition shortly.

11 Appendices

Appendix A

3D images, Comparison (Existing vs Proposed)

The tables below provide a comparison of existing view with proposed view using 3D images taken at eye level. 3D images were provided by Woollahra Council/Convic. The proposal is presented with and without additional soft landscaping.











Appendix B

The Proposal Architectural Documentation

View Impact Assessment

Existing View_Near Views	Proposed View (without soft landscaping) - 4 Nov 2021	Proposed View (with soft landscaping)
		
<p>View A to the park from New South Head Road pathway. (GML, August 2021) (3Ds adjacent provided by Convic 4 Nov 2021)</p>		
		
<p>View B towards the skatepark site at the entry to the park. View from New South Head Road entry at South Western corner (GML, August 2021)</p>		
		
<p>View C towards the skatepark site at the entry to the park from the southern bridge over canal. (GML 12 August 2021)</p>		

Mid Distance Views - View Impact Assessment

Existing View_Mid Distance Views	Proposed View (without soft landscaping)	Proposed View (with soft landscaping)
 <p>View D towards the skatepark site from the open space and the café looking southwest from the kiosk. (GML 12 August 2021)</p>	 	
	 	
 <p>View E towards the skatepark site from within the park, looking southwest along main diagonal pedestrian pathway. (GML 12 August 2021)</p>	 	

Existing View_Mid Distance Views



View F towards the proposed Skatepark site looking south along the north-south pathway (western side). (GML 12 August 2021)

Proposed View (without soft landscaping)



Proposed View (with soft landscaping)



Appendix B—The Proposal Architectural Documentation