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Little Manly Beach Kiosk, Little Manly Aboriginal Due Diligence Assessment

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Report to:	BJB Architects
LGA:	Northern Beaches Council
Date:	January 2021
Version:	B.2021.1037
AHIMS No.:	

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Version:	Project Number: UA/1037.BJB	
A.2021	Author(s):	Tory Stening
	Date:	11 th January 2021
	Status:	Draft
B.2021	Author(s):	Tory Stening
	Date:	12 th January 2021
	Status:	Final

Executive Summary

The Little Manly Beach Kiosk proposes the construction of pathways to their bin storage area and the installation of condensers and a new grease trap. Northern Beaches Council have requested an Aboriginal due diligence assessment as part of Development Application DA2020/1027.

Unearthed Archaeology & Heritage were engaged by BJB Architects to undertake an Aboriginal due diligence assessment. This Aboriginal due diligence assessment has been undertaken in accordance with the DPIE's (formerly the Office of Environment and Heritage) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*.

The site inspection was undertaken on 9th December 2020 and the whole of the study area was inspected on foot with particular attention being paid to the historic topography and the disturbance from European development. The areas of the proposed works were inspected carefully to understand the potential impacts of the works. No Aboriginal objects or sites were recorded during the site inspection. An AHIMS search dated 7th December 2020 indicates that no Aboriginal sites had previously been recorded within the study area. However, AHIMS 45-6-2973 is the burial of the partial remains of an Aboriginal female and is located approximately 70m to the west of the present study area in the same landscape feature, the foreshore sand dunes. No Aboriginal objects or any other evidence of Aboriginal occupation was observed during the site inspection, however the ground surface was obscured by grass and concrete.

The present study area is comprised of the coastal shoreline sand dunes sitting atop Hawkesbury Sandstone. The modern kiosk building with lavatory facilities is constructed on the sand dunes above the sandstone beach wall. It is surrounded by a grassed reserve overlooking the sand below the beach wall.

The predictive model presented by Attenbrow (2002) indicates that evidence of Aboriginal occupation is likely to be found on the valley bottoms and shorelines and within the coastal and estuarine landscapes on Hawkesbury Sandstone, such as within the present study area. Therefore, Aboriginal sites including burials, rock shelters, art, middens or stone artefacts could be expected within the study area. The study area does not contain any outcropping of sandstone suitable for habitation structures such as rock shelters, however it is possible that sandstone bedrock located below the sand could contain rock engravings or grinding grooves created by sharpening ground edged implements. The surface of the sand dune on which the kiosk building sits has been modified to create a flatter surface above the sandstone beach wall. The sand dune behind the kiosk has also been truncated during its construction, however it is anticipated that any burials or subsurface archaeological deposits could remain.

Therefore, it is recommended that:

1. Aboriginal consultation should be undertaken in accordance with OEH's *Aboriginal cultural heritage consultation requirements for proponents 2010*. The results of that consultation must be detailed in an Aboriginal Cultural Heritage Assessment Report (ACHAR);
2. Archaeological testing in accordance with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* cannot be undertaken due to the possibility of a burial within the study area and the proximity to a registered Aboriginal burial. Therefore, it will be necessary to apply for an Aboriginal Heritage Impact Permit (AHIP) to undertake test excavations to determine the nature and extent of the archaeological deposit;
3. Following test excavations, it may be necessary to apply for a subsequent AHIP for harm, including relevant mitigation, which could include salvage excavations, depending on the results of the test excavations, prior to the proposed development.

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1.0 Background Information

1.1 Introduction

The Little Manly Beach Kiosk proposes the construction of pathways to their bin storage area and the installation of condensers and a new grease trap.

Northern Beaches Council have requested as part of Development Application DA2020/1027, the following in respect of Aboriginal heritage:

2. Aboriginal Heritage Referral

Reference is made to the proposed development at the above area and Aboriginal heritage. There are known Aboriginal sites in this area. While no sites are recorded in the proposed development area, the area of the proposed development is considered as having high potential for unrecorded Aboriginal sites, including burials. An archaeological assessment under the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (2010) is recommended based on the following:

- *A number of registered Aboriginal sites are located within 200m of the subject area*
- *The subject area does not appear to have been extensively developed or modified in the past (based on review of aerials from 2005-2019)*
- *The subject area includes archaeologically sensitive landforms defined in the Due Diligence Code of Practice including:*
 - *Lands within 200m of waters*
 - *Located within a sand dune system*

A Due Diligence Aboriginal heritage assessment should be completed for the subject area to confirm if Aboriginal objects are located or are likely to be located within the subject area. All Aboriginal objects, including those which are not registered, are protected under the NPW Act. Inadvertent impacts are considered harm under the NPW Act (1974). If inadvertent impacts do occur, works should cease and Council, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council should be contacted.

Unearthed Archaeology & Heritage were engaged by BJB Architects to undertake an Aboriginal due diligence assessment. This Aboriginal due diligence assessment has been undertaken in accordance with the DPIE's (formerly the Office of Environment and Heritage) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*.

1.2 Study area location

Little Manly Beach Kiosk is located at Little Manly Beach on Stuart Street in Manly, approximately 10km to the north east of the Sydney Central Business District (CBD). It is situated in the Northern Beaches Council Local Government Area (LGA) and comprises Lot 1 DP 1159168 and Lot 1 DP 1129384. Little Manly Beach Kiosk is bound by Stuart Street to the north and Little Manly Beach to the east, south and west.

Figure 1 below shows the location of the suburb of Manly. Figure 2 shows the location of Little Manly Beach on the topographic map. Figure 4 shows the existing site plan for the Little Manly Beach Kiosk.

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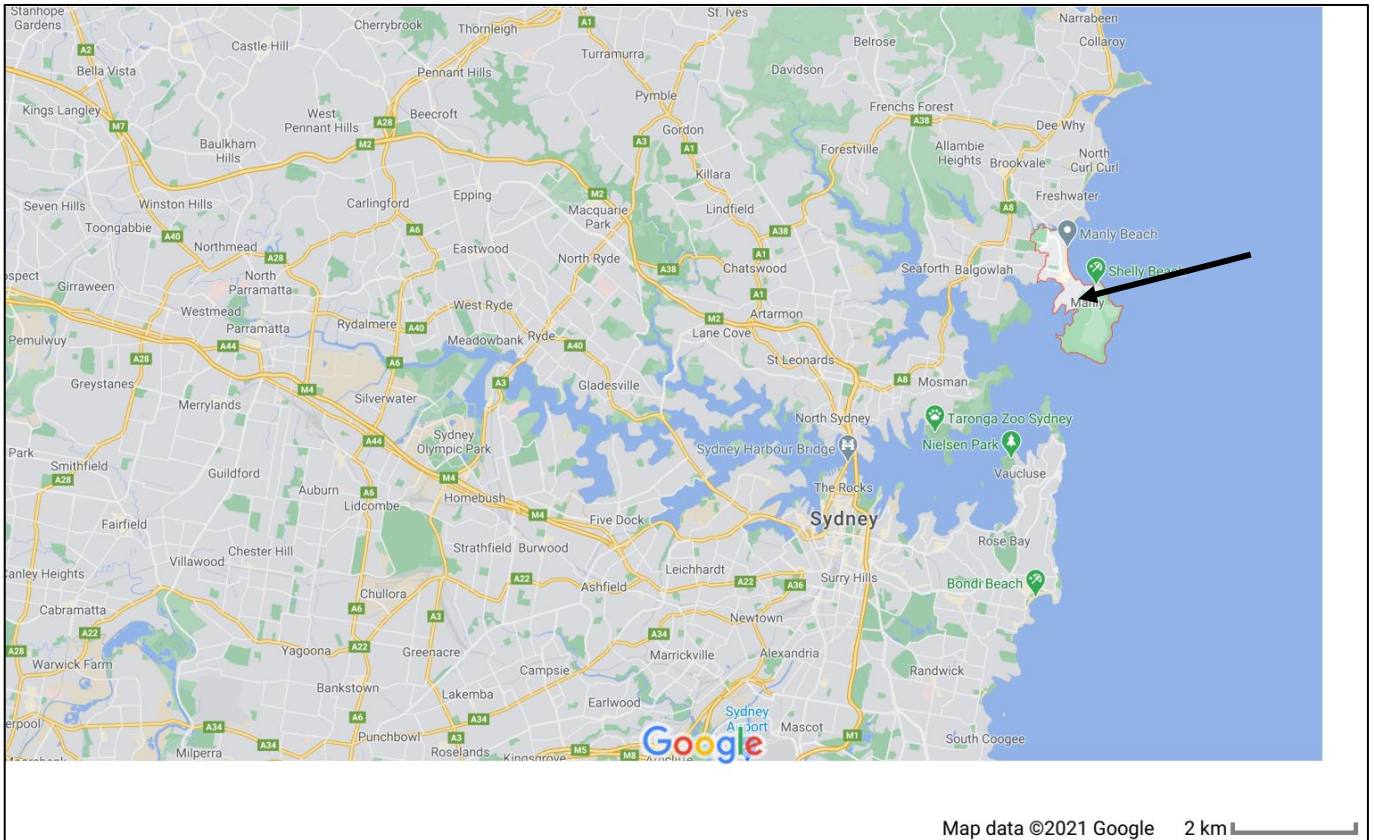


Figure 1: Showing the location of Manly shaded red and indicated by the arrow (map courtesy of Google Maps).

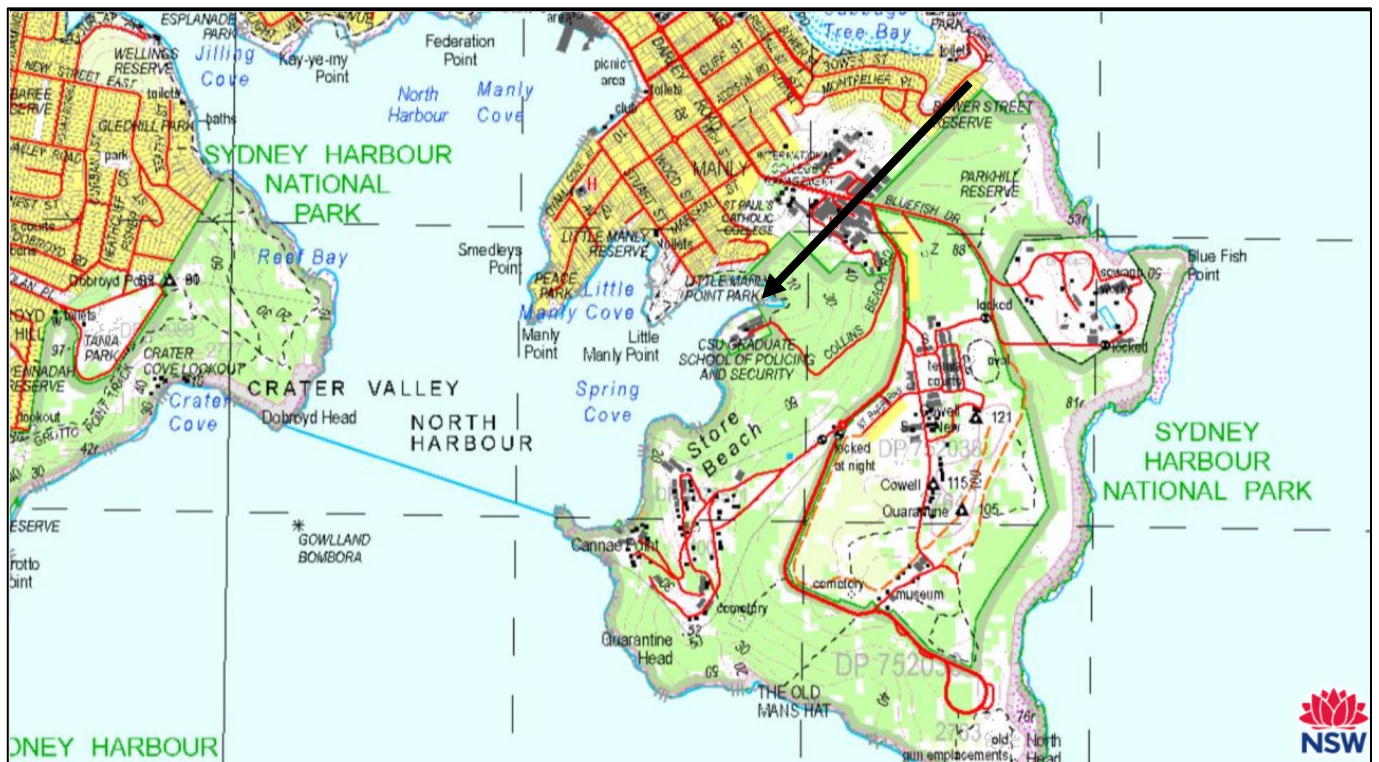


Figure 2: Showing the location of Little Manly Beach indicated by the arrow on the topographic map (map courtesy of www.maps.six.gov.nsw.au).



Figure 4: Showing the location of the Little Manly Beach Kiosk on the 2020 aerial photograph (aerial photograph courtesy of www.maps.six.gov.nsw.au).

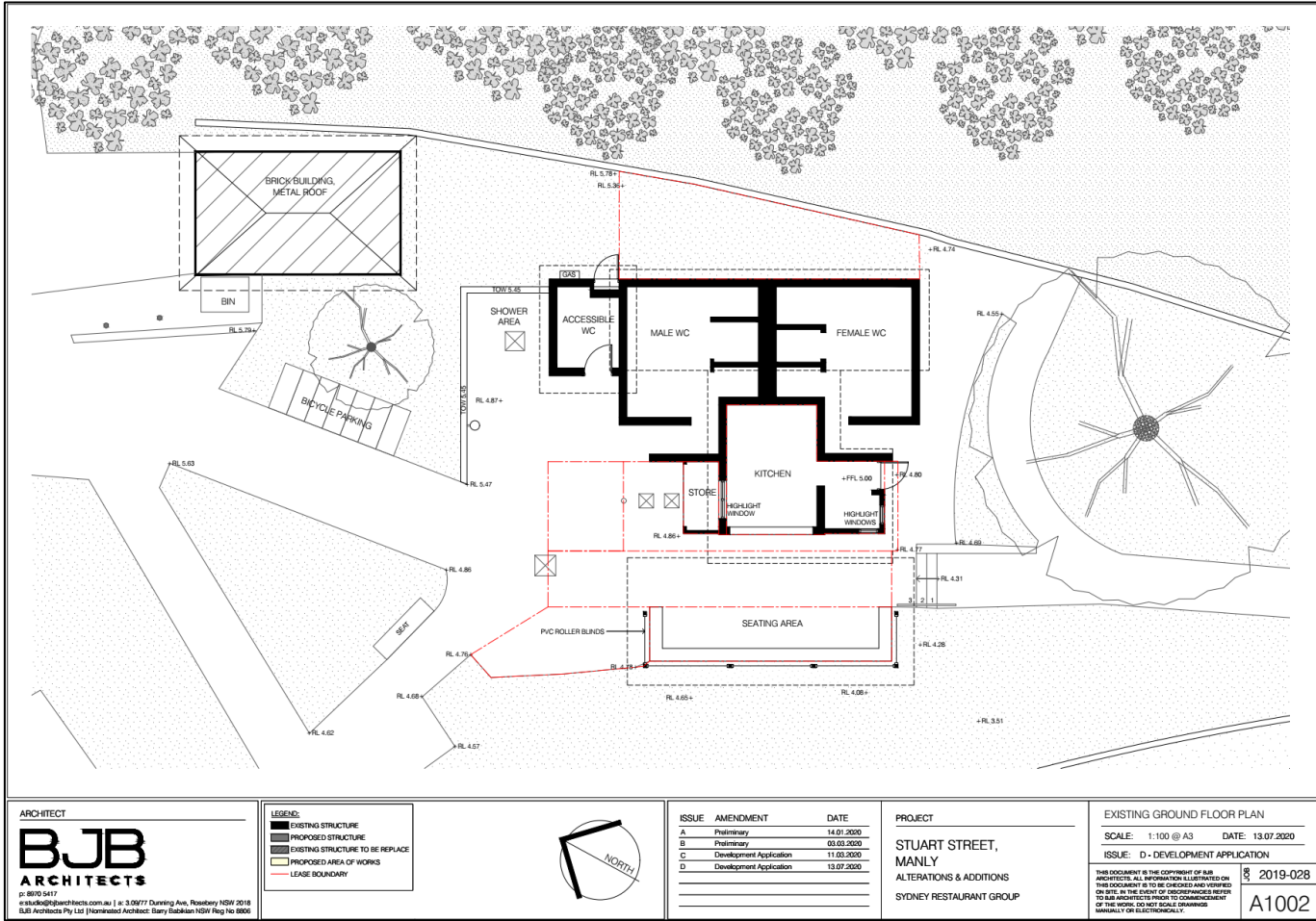


Figure 5: Showing the existing site plan for the Little Manly Beach Kiosk (plan courtesy of BJB Architects).

1.3 Proposed works

The Little Manly Beach Kiosk have already constructed the cool room, freezer room and bin storage. No excavation was required for the construction of these. They now propose the installation of condensers and a grease trap and the construction of pathways to the new bin storage area as well as the internal reorganisation of the interior of the building. Following is a description of the proposed works:

Internal Reorganisation

- Demolish door, walls and roof of store on northern side of kitchen;
- Demolish the existing kitchen fit out and northern kitchen window;
- Demolish awning above bench on western side of kitchen;
- Construct and install new kitchen fit out;
- Relocate kitchen ventilation to match new fit out;
- Construct new take away café area on the northern side of the existing café.

Rear Addition

- Condensers will be located on an enclosed slab behind the new cool room;
- A new pathway will be constructed to the bin area.

Outdoor Seating

- Remove existing PVC roller blinds to allow for new glazing;
- Install new sashless glass windows into existing structure, to replace blinds;
- Extend outdoor seating by five tables (accommodating 10 patrons) on northern side with removable umbrella providing shelter.

Existing Works (to be subject of Building Certificate)

- Rear cool room, freezer room and bin storage area at the rear of the existing café with external access.

Excavation to an approximate depth of 1m is proposed for the installation of pathways and bin storage in the area to the north of the existing kiosk. Excavation to a depth of approximately 1.8m is proposed for the installation of the new grease trap as indicated in Figure 6.

Figure 6 below shows the proposed concept plan. Figure 7 and Figure 8 show the proposed ground floor works.



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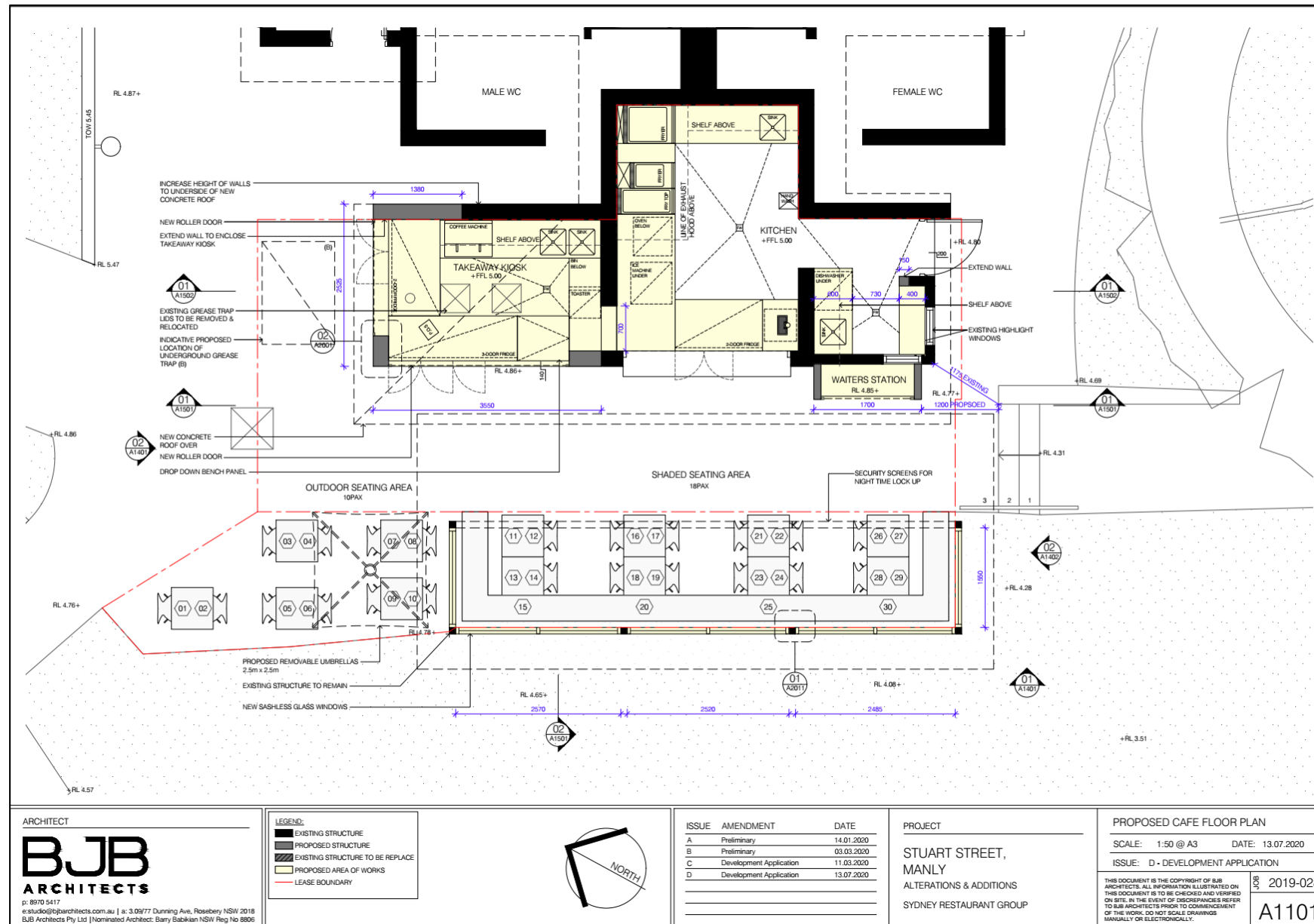


Figure 7: Showing proposed ground floor plan (plan courtesy of BJB Architects).

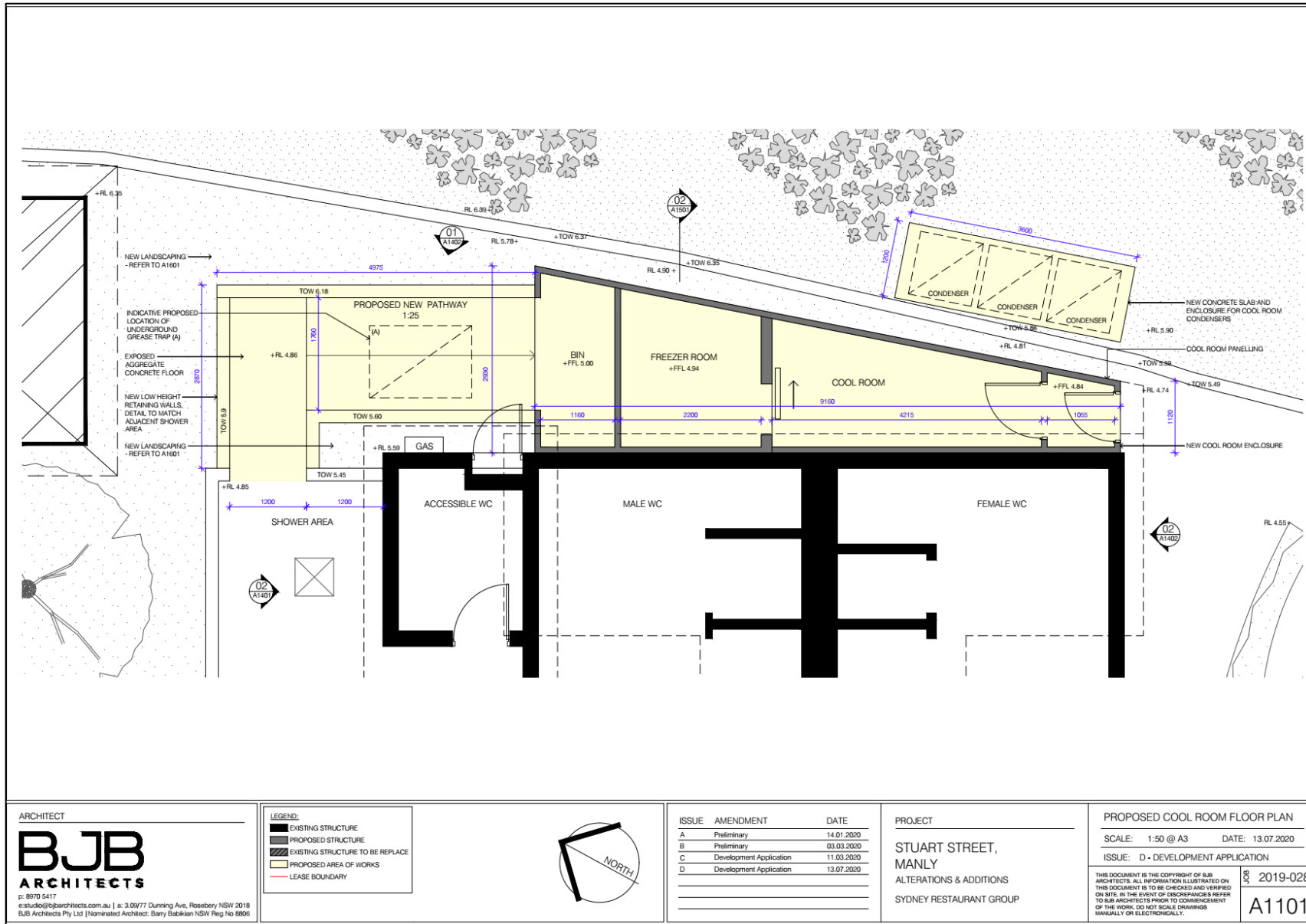


Figure 8: Showing the proposed ground floor cool room plan (plan courtesy of BJB Architects).

2.0 Landscape and Environmental Context

2.1 Topography

Little Manly is located within the central portion of the Sydney Basin. The Sydney Basin is a geological basin of the Permian-Triassic era that covers an area of 64,000km² on the central eastern coast of Australia (<http://www.environment.nsw.gov.au/bioregions/SydneyBasin-Landform.htm> 12/10/2017). The Sydney Basin is comprised of sandstone and shales which has been subjected to erosion, creating a landscape of steep sandstone cliffs and escarpments, plateaus over areas of shale and coastal sand dune and wetland systems (Herbert 1980: 21).

These sand dune and wetland systems were formed as a result of inundation of low lying areas due to sea level rises approximately 6000 years BP. Sea level rises of up to 130m formed sand dunes which overlaid earlier Pleistocene sands (Nutley 2005). Manly comprises the remnants of the frontal coastal sand dunes which protected a number of inland wetland and water catchment areas. Low lying areas of the sand dune system would have periodically flooded creating lagoons and soaks (Stening 2018) which would have provided Aboriginal people with a variety of floral and faunal resources.

2.2 Geology and soils

The geology of the Sydney CBD is characterised by Hawkesbury Sandstone with areas of overlying Wianamatta Shales (Stening 2018:6).

Little Manly is situated on the Hawkesbury Sandstone. The Hawkesbury Sandstone weathers into overhangs and shelters suitable for habitation and protection from the elements and provides surfaces suitable for the manufacture of ground edge implements and for the engraving and painting of art. Outcrops of materials suitable for small tool manufacture, such as chert, silcrete, tuff and quartz, weather from the Hawkesbury Sandstone (Stening 2018: 6).

Hawkesbury Sandstone weathers into overhangs suitable and shelters suitable for habitation and protection from the elements and provides surfaces suitable for the manufacture of ground edge implements and for engraving and painting of art. Outcrops of materials suitable for small tool manufacture such as chert, silcrete, tuff and quartz weather from the Hawkesbury Sandstone (Stening 2017:5). Basalt is a favoured raw material for ground edged implements.

Figure 10 below shows the location of Little Manly Beach on the geological map.



Figure 10: Showing the location of Little Manly Beach on the Sydney 1:100.000 geological map.

2.3 Vegetation

Historically the coastal regions of the Sydney Basin would have been vegetated by Turpentine Ironbark Forest which is characterised by *Eucalyptus saligna* (Sydney blue gum), *Eucalyptus pilularis* (blackbutt), *Syncarpia glomulifera* (turpentine), *Eucalyptus paniculate* (grey ironbark), *Eucalyptus punctate* (grey gum), *Corymbia maculate* (spotted gum), *Eucalyptus sieberi* (Australian black ash/silver top ash) and *Eucalyptus botryoides* (bangalay). The Turpentine Ironbark Forest comprises understorey of *Macrozamia communis* (burrawang), *Livistona australis* (cabbage tree palm), *Pittosporum undulatum* (sweet pittosporum), *Polyscias sambucifolia* (elderberry panax) and a variety of banksia species (Baker 1986).

Those low lying areas within the dune system that periodically flooded, would have supported a vegetation community of swamp species such as *Melaleuca quinquenervia* (paperbark) and tea tree with an understorey of wet heath shrubs and grasses (Steele 2009: 39).

Flowers of the many eucalypt and banksia species provide a rich nectar that was eaten by Aboriginal people and the wide variety of vegetation provided a food source for animal species, such as small marsupials and birds, which are associated with the Aboriginal diet. The large trees provided bark and wood for coolamons (a shallow carrying vessel for food or water), shields, spears and canoes (Low 1989). Freshwater sources would have provided drinking water and fresh water animals for consumption while the nearby harbour foreshore would have provided a range of edible salt water species.

2.4 Land use history and current land use

Little Manly beach was mapped by surveyor James Meehan in 1809 and granted to Richard Cheers. In May 1880 men's baths at the western end of Little Manly Beach were opened. Little Manly Boatshed was constructed in 1916 from weatherboard and iron. This was demolished in 1977 (Dictionary of Sydney https://dictionaryofsydney.org/entry/little_manly). The 1943 aerial photograph of Little Manly Beach shows several large buildings at the western end of Little Manly Beach although the area of the kiosk is a undeveloped, vegetated sand dune. The kiosk was constructed by Manly Council sometime after a severe storm destroyed the baths in the 1970s.

3.0 Archaeological Context

3.1 Sydney Basin

Research into the regional and local archaeological context of the study area can be used to develop an understanding of the patterning of Aboriginal land use and enable the preparation of a predictive model to determine the likelihood of particular site types being located within the study area.

The Last Glacial Maximum (LGM), the last period when Earth's ice sheets were at their maximum glaciation, occurred between 15,000 – 18,000 years ago. Sea levels were up to 130m below current sea levels during this period (Nutley 2006: 1). As temperatures started to rise at the end of the LGM, the polar ice caps started to melt and sea levels began to rise, and in doing so helped to form the present day Sydney landscape.

As sea levels rose, people were forced to move inland, abandoning formerly coastal sites which were now being inundated by the sea (Nutley 2006). Sea levels began to stabilise about 6,000 years ago and the majority of sites around the Sydney region date to the last 5,000 years after sea levels had stabilised. Research into submerged Aboriginal sites has demonstrated that several submerged sites in the Sydney region date to more than 10,000 years BP.

Rock engravings were commonly created by Aboriginal people around the Sydney region and the Sydney Harbour foreshore. The *Journal of the Royal Anthropological Institute* (1880) and the published *Aborigines of Australia* (Sadler 1883) record an engraving of either a whale or a shark at Dawes Point (AHIMS 45-6-0030). The site has been destroyed, most likely during construction of the Sydney Harbour Bridge. While engravings of a whale, kangaroo and a fish were recorded on “upright surfaces in creek bed” at Goat Island (AHIMS 45-6-0811). Other engravings are recorded on sandstone throughout the Sydney Basin.

McDonald (2008) undertook an extensive analysis of engraving and shelter art sites throughout the Sydney Basin as part of her PhD thesis. Her analysis of the nature and distribution of these sites concluded the following about the Sydney Basin:

- The majority of engraving sites are located on open expanses of sandstone on ridge lines and hill slopes;
- These engravings are likely to be outlines of figurative motifs with little or no decorative infill;
- Assemblages of engravings at a site are likely to be small, representing less than 20 motifs at an individual site with a singular motif being common;
- The ancestral being's footprint, known locally as a *mundoe*, is the most commonly occurring motif “followed by fish, macropods, bird tracks and men” (McDonald 2008:130);
- At the time of her analysis, 15% of previously recorded engravings were no longer identifiable due to sandstone weathering;
- Fish and marine animals are the most likely motifs in coastal areas with the prevalence of land animals increasing as distance from the coast increases.

Aboriginal middens are commonly encountered along the foreshore and islands of Sydney Harbour and the coast of Sydney. Three middens (AHIMS 45-6-0811; 45-6-1957; 45-6-2382) were recorded on Goat Island, which was recorded in 1798 as belonging to Bennelong, the first account of Aboriginal land ownership. Goat Island is also documented as being used by Aboriginal people for imprisonment (Comber and Stening 2015:np).

On the eastern shore of Darling Harbour, Comber (2012) excavated a redeposited midden. Ten retouched flakes and flaked pieces were uncovered in association with the midden material. On the western shore of

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Darling Harbour, a series of middens along the Harbour foreshore were uncovered during archaeological excavations for the new International Convention Centre. These middens were dated to between 1690 and 1850 and a discreet knapping floor was recorded on the edge of one of the middens (Comber and Stening 2015).

Artefact scatters have also been recorded throughout the Sydney CBD, including a large assemblage of 952 artefacts which was uncovered by Steele (2006) during archaeological excavations at a site bounded by Kent, Erskine, Napoleon and Sussex Streets (the KENS site). Steele indicates that the site was occupied by Aboriginal people between 2880BP and 1788.

A large artefact scatter (AHIMS 45-6-2169) was uncovered on Bondi Beach following a large storm in 1899. A description given in the Australian Museum's Curator Report for 1900 (Etheridge 1901) states the following:

The old land surface at Bondi, as I saw it, in company with the discoverer, was covered in thousands of these chips, some of them exquisitely made, with core pieces, chippers and rubbers ... These 'workshops' at Bondi revealed that the whole length of the back of the beach was covered with tons of stones, and that they had been taken there. In a kind of delta in the centre of the beach coarser materials were deposited. While chips and flakes were few and far between, thousands of implements which had been used there were (Etheridge and Whitelegge 1907:233–35).

A letter from the Australian Museum curator, Mr Etheridge, to a Mr Johnston, described the Aboriginal objects collected at the beach further, stating:

The weapons collected were very valuable, including tomahawks, grindstones, a nose ornament, knives, scrapers, gravers, drills and spear points, and lastly, a very peculiar lancet like surgical knife or scarifier.

Two engraving sites (AHIMS 45-6-0720 and 45-6-0750) were recorded by the surveyor WD Campbell in 1899. These represent fish, a seal, a shark and a whale located at Ben Buckler Point on the north Bondi headland (AHIMS 45-6-0720) and at Marks Park, Tamarama on the south Bondi headland (AHIMS 45-6-0750). Although not registered with AHIMS, a partial female Aboriginal skeleton was exposed by a sand drift at Bondi Beach (Sydney Morning Herald 1855:5). These sites indicate the significance of the region to the Aboriginal inhabitants of the area.

A study of Aboriginal subsistence patterns and cultural change across the Sydney region was undertaken by Attenbrow in 2002. She determined that the Sydney region was not intensively occupied until sea levels rose about 5,000 years ago. She concluded that middens and open campsites comprised over half of the over 4000 Aboriginal sites registered on the AHIMS database at the time and that the main focus of Aboriginal occupation was "on the valley bottoms and shorelines" (2002:47). Her analysis also determined that Aboriginal people were more likely to occupy the coastal and estuarine landscapes on Hawkesbury sandstone rather than the hinterland and freshwater environments on the Wianamatta shales.

The study area is located in the coastal estuarine landscape on Hawkesbury sandstone, conforming to the predictive model presented by Attenbrow (2002).

3.2 Little Manly

A search of the Aboriginal Heritage Information Management System (AHIMS) on 7th December 2020 indicates that there are 8 registered Aboriginal sites within 200m of the study area.

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The eight registered AHIMS sites within 200m of the study area are predominantly comprised of rock shelters with either deposit, art or midden material.

AHIMS 45-6-2973 is located approximately 70m to the west of the Little Manly Beach Kiosk. The site is comprised of the burial of a female. Forensic anthropologist, Denise Donlon, investigated the burial and determined that the burial comprised the partial remains of an Aboriginal woman dating likely to the early 1800s. Two femurs, two tibias and a portion of pelvis were recovered at a depth of approximately 1m during excavation of a storm water trench. It was considered likely that the burial had been moved in the 1920s from the excavation of a 2m deep stormwater pipe.

AHIMS 45-6-0722 which is comprised of two small rock shelters is located approximately 100m to the west of the Little Manly Beach Kiosk. The site was recorded by Frederick McCarthy and no further details are provided.

Table 1 below shows the details of the eight registered Aboriginal sites within the vicinity of the study area. Figure 11 shows the location of the registered sites.

AHIMS No.	Site location	Site type
45-6-0722	Near the foreshore south of Manly Baths.	Two small rock shelters.
45-6-1262	On the foreshore of Spring Cove opposite Little Manly Point.	Shelter with red ochre kangaroos on the walls and mounds engraved into the floor.
45-6-2493	Shelter in cliff line at south western end of Collins Beach.	Shelter with deposit.
45-6-1351	Rock shelter overlooking Store Beach.	Shelter with art of hand stencils and a ground edge axe.
45-6-2849	Collins Beach by the intersection of the beach, grassed area and cliff line.	Two shelters with midden.
45-6-3031	Ten metres below the cliff line at the southern end of Peace Park on the foreshore of Manly Point.	Two shelters with midden including cockle and limpet shells.
45-6-2973	38 Stuart Street.	Burial of a female.
45-6-0725	In the garden of 8 Osborne Street.	Rock engravings showing a large (15 inches long) marsupial figure, a figure of a man and an emu figure under the house.

Table 1: Showing the details of the eight registered AHIMS sites within 200m of the study area.

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Figure 11: Showing the location of Little Manly Beach (indicated by the arrow) and the eight registered AHIMS sites (indicated by the Aboriginal flags).

3.3 The Study Area

A search of the AHIMS database dated 7th December 2020 indicates that there are no registered Aboriginal sites within the study area, however AHIMS 45-6-2973 is located within 70m and AHIMS 45-6-0722 is located approximately 100m to the west of the present study area. AHIMS 45-6-2973 comprises the burial of partial female Aboriginal remains dating to the early 1800s in the sand dune close to the foreshore of Little Manly Beach. AHIMS 45-6-0722 is comprised of two small rock shelters close to the foreshore of Little Manly Beach.

3.4 Predictive Model

The above environmental and archaeological research indicates that Little Manly was a significant landscape for Aboriginal people.

The background research and the predictive model provided by Attenbrow (2002) for the Sydney Region, indicate that the main focus of Aboriginal occupation was “on the valley bottoms and shorelines” (2002: 47). Her analysis also determined that Aboriginal people were more likely to occupy the coastal and estuarine landscapes on Hawkesbury sandstone, such as the present study area, rather than the hinterland and freshwater environments on the Wianamatta shales.

Across Little Manly, evidence of Aboriginal occupation including, but not limited to rock shelters, midden material, art and engravings, stone artefacts and burials could be expected.

The study area does not contain any outcropping sandstone suitable for rock shelters, however it is located within the sand dunes close to the foreshore of Little Manly Beach and therefore, burials or artefact scatters could be expected within the study area.

4.0 Methodology

4.1 Background research

A search of the OEH's AHIMS database was undertaken on 7th December 2020. Research was undertaken into the environmental background of the study area, outlining the topographic, geological and vegetation context of the study area. An analysis of the archaeological background of the Sydney Basin and Little Manly was undertaken. This background research facilitated an understanding of Aboriginal land use patterns within the region and the preparation of a predictive model of occupation.

A review of plans for the proposed development of the study area enabled an understanding of the impact of the proposed works on the potential archaeological deposit.

4.2 Site inspection

A site inspection was undertaken on 9th December 2020 by Tory Stening.

The entire study area was inspected on foot to develop an understanding of the environmental and potential archaeological context and to record any evidence of Aboriginal occupation.

The surrounding landscape was also examined to facilitate an understanding of the environmental context of the study area and to attempt to locate previously recorded Aboriginal sites within the vicinity of the study area.

4.3 Effective survey coverage

The study area is comprised of the beach and associated grass reserve, concreted paths and the kiosk building itself. Ground visibility during the site inspection was nil due to the presence of grass and concrete surfaces.

4.4 Report

This Aboriginal due diligence assessment report was prepared in accordance with DPIE's *Due diligence code of practice for the protection of Aboriginal cultural heritage in New South Wales* and *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*.

5.0 Results and Mitigation

5.1 Results

The site inspection was undertaken on 9th December 2020 and the whole of the study area was inspected on foot with particular attention being paid to the historic topography and the disturbance from European development. The areas of the proposed works were inspected carefully to understand the potential impacts of the works. No Aboriginal objects or sites were recorded during the site inspection.

An AHIMS search dated 7th December 2020 indicates that no Aboriginal sites had previously been recorded within the study area. However, AHIMS 45-6-2973 is the burial of the partial remains of an Aboriginal female and is located approximately 70m to the west of the present study area in the same landscape feature, the foreshore sand dunes. No Aboriginal objects or any other evidence of Aboriginal occupation was observed during the site inspection, however the ground surface was obscured by grass and concrete.

The present study area is comprised of the coastal shoreline sand dunes sitting atop Hawkesbury Sandstone. The modern kiosk building with lavatory facilities is constructed on the sand dunes above the sandstone beach wall. It is surrounded by a grassed reserve overlooking the sand below the beach wall.

The predictive model presented by Attenbrow (2002) indicates that evidence of Aboriginal occupation is likely to be found on the valley bottoms and shorelines and within the coastal and estuarine landscapes on Hawkesbury Sandstone, such as within the present study area. Therefore, Aboriginal sites including burials, rock shelters, art, middens or stone artefacts could be expected within the study area. The study area does not contain any outcropping of sandstone suitable for habitation structures such as rock shelters, however it is possible that sandstone bedrock located below the sand could contain rock engravings or grinding grooves created by sharpening ground edged implements. The surface of the sand dune on which the kiosk building sits has been modified to create a flatter surface above the sandstone beach wall. The sand dune behind the kiosk has also been truncated during its construction, however it is anticipated that any burials or subsurface archaeological deposits could remain.

5.2 Impact and Mitigation

The proposed works include excavation into the sand dune in the areas proposed for construction of the condensers, pathways and grease trap; and it is considered possible that Aboriginal burials or subsurface artefact scatters could be located within the area of disturbance associated with the proposed works. Any excavation of the sand dune associated with these works would have a significant impact on any potential archaeological deposits or burials.

Therefore, it will be necessary to undertake consultation with the Aboriginal community in accordance with OEH's *Aboriginal cultural heritage consultation requirements for proponents 2010*. The results of that consultation must be detailed in an Aboriginal Cultural Heritage Assessment Report (ACHAR) and this Aboriginal due diligence assessment report be appended to that ACHAR.

DPIE's *Code of Practice for the Investigation of Aboriginal Objects in NSW* states that archaeological test excavations to determine the nature and extent of the archaeological deposit are required "regardless of whether or not there are objects present on the ground surface" if it can be demonstrated that the study area has archaeological potential. However, the Code of Practice states that test excavations in accordance with the Code cannot be undertaken "in or within 50m of an area where burial sites are known or are likely to exist". While the present study area is located 70m from a registered Aboriginal burial, it is suspected that further burials could exist throughout the sand dune system at Little Manly Beach. Therefore, test

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excavations in accordance with the Code of Practice cannot be undertaken and it will be necessary to apply for an Aboriginal Heritage Impact Permit (AHIP) prior to undertaking test excavations. A representative of the Metropolitan Local Aboriginal Land Council (MLALC) must be present during the test excavations due to the suspected presence of burials.

If those test excavations reveal the presence of a burial or suspected burial, it will be necessary to undertake the following steps:

1. Not further disturb or move these remains;
2. Immediately cease all work at the particular location;
3. Notify NSW Police;
4. Notify DPIE's Environment Line on 131 555 as soon as practicable and provide available details of the remains and their location;
5. Not recommence any work at the particular location unless authorised in writing by DPIE.

Any Aboriginal ancestral remains must be recorded and reported under the direct supervision of a specialist physical anthropologist, such as Dr Denise Donlon at the University of Sydney.

Depending on the results of those test excavations, it may be necessary to apply for a further AHIP to undertake archaeological salvage excavations.

6.0 Legislation

6.1 The National Parks & Wildlife Act 1974 (as amended)

The *National Parks & Wildlife Act 1974* (NPW Act) provides statutory protection to all Aboriginal objects and Aboriginal places within New South Wales. The Office of Environment & Heritage (OEH) is the State Government agency responsible for the implementation and management of this Act.

Part 6 of the *National Parks & Wildlife Act* provides provision for the protection of all Aboriginal “objects” which are defined 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”. In particular, Part 6 of the Act states that it is an offence to harm or desecrate an Aboriginal object or Aboriginal place, without an Aboriginal Heritage Impact Permit (AHIP).

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This assessment was undertaken in accordance with OEH’s *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*. This assessment has concluded that it is likely that burials and/or Aboriginal “objects” could exist within the study area and would be harmed during the proposed works.

OEH’s *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW* states that archaeological test excavations are required “regardless of whether or not there are objects present on the ground surface” if it can be demonstrated that the study area has archaeological potential. However, the Code of Practice states that test excavations cannot be undertaken in the following areas without an AHIP:

1. In or within 50m of an area where burial sites are known or are likely to exist;
2. In or within 50m of a declared Aboriginal place;
3. In or within 50m of a rock shelter, shell midden or earth mound;
4. In areas known or suspected to be Aboriginal missions or previous Aboriginal reserves or institutes;
5. In areas known or suspected to be conflict or contact sites.

As it is considered possible that the study area contains burials and given that it is located approximately 70m from a registered burial, it will be necessary to apply for an AHIP to undertake test excavations.

Prior to applying for an AHIP, it will be necessary to undertake consultation with the Aboriginal community in accordance with OEH’s *Aboriginal cultural heritage consultation requirements for proponents 2010*. An Aboriginal Cultural Heritage Assessment Report (ACHAR) will need to be prepared which details the results of the consultation. A summary of the consultation guidelines is presented in Table 2 below:

<p style="text-align: center;">Consultation stage (in accordance with OEH's <i>Aboriginal cultural heritage consultation requirements for proponents 2010</i>)</p>
<p>Stage 1 – Notification of project proposal and registration of interest</p> <p>4.1.2 Write to the following government agencies to seek the names of Aboriginal people or organisations who may have an interest for the proposed project area and hold knowledge relevant to determining the cultural significance of Aboriginal objects and/or places (and allow 14 days to respond):</p> <ul style="list-style-type: none"> • DPIE • Metropolitan Local Aboriginal Land Council (MLALC) • Registrar, Aboriginal Land Rights Act 1983 • National Native Title Tribunal • Native Title Services Corporation (NTSCORP) • Northern Beaches Council • Catchment Management Authority <p>4.1.3 Write to the Aboriginal people whose names were obtained in step 4.1.2 and the MLALC to notify them of the proposed project and allow 14 days to respond.</p> <p>Place an advertisement in the local paper circulating a brief overview of the project and inviting Aboriginal people who hold cultural knowledge of the area to register an interest and allow 14 days to respond.</p> <p>4.1.6 Create a record or log of the names of each Aboriginal person or organisation who registered an interest and provide a copy of this log to DPIE and MLALC.</p>
<p>Stage 2 – Presentation of information about the proposed project</p> <p>4.2.1 The proponent must initiate arrangements for presenting the proposed project information to the registered Aboriginal parties (RAPs) at a meeting and provide RAPs an opportunity to visit the site. Send out invitation to the RAPs allowing one week for RSVPs.</p> <p>Provide a copy of minutes from the meeting to the RAPs.</p>
<p>Stage 3 – Gathering information about cultural significance</p> <p>4.3.1 Provide a copy of the proposed methodology for archaeological investigation to the RAPs and allow 28 days for review and response.</p>
<p>Stage 4 – Review of draft cultural heritage assessment report</p> <p>4.4.1 Prepare a draft Aboriginal Cultural Heritage Assessment Report (ACHAR) which documents all responses, feedback and details of the consultation process in an Aboriginal Cultural Heritage Assessment Report (ACHAR).</p> <p>4.4.2 Provide a copy of the draft ACHAR to the RAPs for their review and comment and allow 28 days to respond.</p> <p>4.4.4 Finalise ACHAR to support the Aboriginal Heritage Impact Permit (AHIP) application (allow seven days to finalise and include all final comments from the RAPs).</p>

Table 2: Summary of the Aboriginal cultural heritage consultation requirements

If those test excavations reveal the presence of a burial or suspected burial, it will be necessary to undertake the following steps:

1. Not further disturb or move these remains;
2. Immediately cease all work at the particular location;
3. Notify NSW Police;
4. Notify DPIE's Environment Line on 131 555 as soon as practicable and provide available details of the remains and their location;
5. Not recommence any work at the particular location unless authorised in writing by DPIE.

If, like within the present study area, it is reasonably suspected burials or human remains may be encountered, an Aboriginal community representative must be present. Any Aboriginal ancestral remains must be recorded and reported under the direct supervision of a specialist physical anthropologist.

Depending on the results of those test excavations, it may be necessary to apply for a further AHIP to undertake archaeological salvage excavations.

7.0 Recommendations

The following recommendations are made in accordance with:

- The legal requirements of the *National Parks & Wildlife Act 1974* (as amended) which states that it is an offence to harm or desecrate an Aboriginal object without gaining prior consent of the Director General of DPIE;
- Research into the environmental and archaeological record of the study area;
- The results of this Aboriginal due diligence assessment which concludes that it is possible that subsurface archaeological deposits including burials remain within the study area.

Therefore, it is recommended that:

1. Aboriginal consultation should be undertaken in accordance with OEH's *Aboriginal cultural heritage consultation requirements for proponents 2010*. The results of that consultation must be detailed in an Aboriginal Cultural Heritage Assessment Report (ACHAR);
2. Archaeological testing in accordance with OEH's *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* cannot be undertaken due to the possibility of a burial within the study area and the proximity to a registered Aboriginal burial. Therefore, it will be necessary to apply for an Aboriginal Heritage Impact Permit (AHIP) to undertake test excavations to determine the nature and extent of the archaeological deposit;
3. Following test excavations, it may be necessary to apply for a subsequent AHIP for harm, including relevant mitigation, which could include salvage excavations, depending on the results of the test excavations, prior to the proposed development.

References

- Attenbrow, Val. 2002. *Sydney's Aboriginal Past: Investigating the Archaeological and Historical Records*. Sydney: UNSW Press.
- Comber, Jillian. 2012. *Darling Quarter (Formerly Darling Walk), Darling Harbour: Aboriginal Archaeological Excavation Report. Unpublished Report to Casey + Lowe on Behalf of Lend Lease (#103583)*.
- Comber, Jillian, and Tory Stening. 2015. *Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP): Aboriginal Archaeological Excavation Report. Unpublished Report to LendLease Developments*.
- Etheridge, R. 1901. 'Report for the Year 1900'. *Records of the Australian Museum* 4(4):145–74. doi: 10.3853/j.0067-1975.4.1901.1092.
- Etheridge, R., and T. Whitelegge. 1907. 'Aboriginal Workshops on the Coast of New South Wales, and Their Contents'. *Records of the Australian Museum* 6(4):233–50. doi: 10.3853/j.0067-1975.6.1907.1005.
- Kass, Dr Terry. 2019. *A History of the Castle Cove Country Club Clubhouse Site, Deepwater Road, Castle Cove. Unpublished Report to Casey + Lowe*.
- McDonald, Jo. 2008. *Dreamtime Superhighway: An Analysis of Sydney Basin Rock Art and Prehistoric Information Exchange*. Vol. 27. ANU, Canberra: ANU E-Press.
- Nutley, David. 2006. 'The Last Global Warming: Archaeological Survival in Australian Waters'. Flinders University.
- Nutley, David. 2017. *Gap Bluff Centre, Watsons Bay - Revised Exhibition Draft: Aboriginal Archaeological Assessment. Unpublished Report to Beaucon Pty Ltd (#103797)*.
- Sadlier, Richard. 1883. *The Aborigines of Australia*. Sydney: T.Richards, Government Printer.
- Steele, Dominic. 2006. *Aboriginal Archaeological Excavation Report: The KENS Site (Kent, Erskine, Napoleon and Sussex Streets), Sydney, NSW. Unpublished Report to Leighton Contractors Pty Ltd. (AHIMS 99857)*.
- Steele, Dominic. 2009. *Waverley Aboriginal Cultural Heritage Study. Waverley Local Government Area. Unpublished Report to Waverley Council in Association with the NSW Heritage Office and the NSW Department of Planning*.
- Stening, Tory. 2017. *The Mercantile Hotel, 25 George Street, The Rocks: Aboriginal Archaeological Assessment. Unpublished Report to HMBS Pty Ltd. (AHIMS #103821). Aboriginal archaeological assessment. B.2017.1004*.
- Stening, Tory. 2018. *Bondi Beach Post Office - 20-24 Hall Street, Bondi Beach: Aboriginal Archaeological Assessment. Unpublished Report to Casey & Lowe on Behalf of Taylor*.
- Sydney Morning Herald. 1855. 'Donations to the Australian Museum During February 1855.' *Sydney Morning Herald*, March 5, 5.
- The Anthropological Institute of Great Britain and Ireland. 1880. *The Journal of the Anthropological Institute of Great Britain and Ireland*. Vol. IX. Ludgate Hill, London: Trubner & Co.

Unearthed

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Photographs



Photograph 1: Looking towards the rear of the existing kiosk building where the works will occur.



Photograph 2: Showing the proposed works area at the rear of the existing kiosk building.

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Photograph 3: Looking across the existing kiosk building toward Little Manly Beach.



Photograph 4: Looking across the rear of the existing kiosk area where the proposed works are to occur.

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Photograph 5: Looking towards the rear of the existing kiosk building towards the area where the proposed works are to occur.



Photograph 6: Looking to the east of the kiosk building at the retaining walls constructed to hold back the sand dune.

Appendix A: AHIMS Extensive Search Results



AHIMS Web Services (AWS)
Extensive search - Site list report

Your Ref/PO Number : Manly
Client Service ID : 555302

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
45-6-0722	Manly;	AGD	56	341381	6258028	Closed site	Valid	Artefact : -	Shelter with Deposit	
	Contact	Recorders	Fred McCarthy					Permits		
45-6-1262	Spring Cove;Red Roos Cave;	AGD	56	341600	6257300	Closed site	Valid	Art (Pigment or Engraved) : -	Rock Engraving,Shelter with Art	
	Contact	Recorders	Michael Guider					Permits		
45-6-2493	North Head deposit	AGD	56	341630	6257490	Closed site	Valid	Shell : -, Artefact : -	Shelter with Midden	
	Contact	Recorders	Kate Sullivan					Permits		
45-6-1351	Spring Cove;Perfect Hand Cave;	AGD	56	341700	6257300	Closed site	Valid	Art (Pigment or Engraved) : -	Shelter with Art	
	Contact	Recorders	Michael Guider					Permits		
45-6-2849	Willemarrin Reserve	AGD	56	341760	6257650	Open site	Valid	Habitation Structure : 1, Earth Mound : 1		
	Contact S Scanlon	Recorders	Mr.Phil Hunt					Permits		
45-6-3031	Peace Park, Addison MAN 076	GDA	56	341114	6257710	Closed site	Valid	Shell : -		
	Contact	Recorders	Aboriginal Heritage Office					Permits		
45-6-2973	Stuart Street	GDA	56	341409	6257995	Open site	Valid	Burial : -		
	Contact	Recorders	Miss.Cheryl Stanborough					Permits		
45-6-0725	Manly.	GDA	56	341484	6258350	Open site	Valid	Art (Pigment or Engraved) : -	Rock Engraving	
	Contact	Recorders	Michael Guider,Fred McCarthy					Permits		