

Appendix 6.12

Aboriginal Heritage Due Diligence Report

Prepared by Godden Mackay Logan

Letter from MLALC

Godden Mackay Logan

Heritage Consultants



UTS 14–28 Ultimo Rd

Aboriginal Heritage Due Diligence Report

Report prepared for University of Technology Sydney
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Godden Mackay Logan Pty Ltd
ABN 60 001 179 362

78 George Street Redfern
NSW Australia 2016

T +61 2 9319 4811

F +61 2 9319 4383

www.gml.com.au

Report Register

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1.0 Introduction

Godden Mackay Logan (GML) has been engaged by the University of Technology, Sydney (UTS), to prepare a Due Diligence Aboriginal Heritage Report for the proposed development of the former Dairy Farmers site at 14–28 Ultimo Road, Ultimo (the subject site). This report forms part of the Environmental Assessment for the subject site prepared under Part 3A of the *Environmental Planning and Assessment Act 1979*.

Consideration of Aboriginal heritage was not addressed in the Department of Planning (DoP) Director General's Requirements (DGRs) for the project; however consistent with the Department of Environment, Climate Change and Water (DECCW) Due Diligence guidelines this report aims to identify whether the subject site possesses or has the potential to possess Aboriginal heritage sites, places, objects and/or values.

This report does not provide a significance assessment of any Aboriginal sites, places and/or values. This project does not follow the DECCW guidelines for Aboriginal community consultation. Recommendations are provided as to whether further Aboriginal heritage assessment and management will be necessary.

This report was prepared by Dr Tim Owen, Senior Consultant, with input and review by Reece McDougall, Special Advisor, of GML.

1.1 NSW Legislation Relevant to Aboriginal Heritage

In NSW, Aboriginal heritage is principally protected under two Acts:

- the *National Parks and Wildlife Act 1974* (NPWS Act 1974); and
- the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

On 1 October 2010 the mechanisms for the protection and management of Aboriginal heritage places and objects changed with the adoption of the *NPW Amendment (Aboriginal Objects and Places) Regulation 2010*.

New offences relating to the harm to, or desecration of, an Aboriginal object or declared Aboriginal Place were introduced. The definition of 'harm' now includes to destroy, deface, damage or move an Aboriginal object or declared Aboriginal Place. The DECCW has stated:

The most significant change is the introduction of tiered offences and penalties. Offences committed with knowledge, in aggravating circumstances or in relation to an Aboriginal Place will attract higher penalties than previously. There is a new strict liability offence of harming Aboriginal objects and of harming or desecrating Aboriginal Places.¹

The strict liability offence of harming Aboriginal objects has a number of defences. The defence relevant to this project is the statutory defence of due diligence through complying a specific industry code or complying with a generic code of practice (see due diligence below).

1.2 Approach to Aboriginal Heritage Management

In order to administer the NPWS Act 1974 and EP&A Act 1979, the DECCW has issued a series of best practice guidelines and policies. The applicability of these depends upon the approval mechanism for a project. The current project will be assessed and granted approval under Part 3A of the EP&A Act 1979. Therefore the approach to the preparation of this document was based on the following current best practice guidelines:

- DoP DGR's (reference MP09_0153), issued 27 August 2009;
- Department of Planning's (DoP) *Part 3A EP&A Act Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (2005);
- Department of the Environment and Climate Change (DECC) *Interim Community Consultation Requirements for Applicants* (2005);
- DECCW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (13 September 2010); and
- The *Australia ICOMOS Burra Charter 1999* (Burra Charter).

1.3 Due Diligence Approach

The DECCW has issued a code of practice guideline that defines a 'due diligence' approach to Aboriginal heritage: DECCW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (13 September 2010). This guideline is designed to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and/or Aboriginal Places, and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

Activities declared Part 3A project under s.75B of the EP&A Act normally follow to the 2005 (draft) *Part 3A EP&A Act Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*. However, a due diligence approach to Aboriginal heritage management has been taken for this project because the project's DGR's do not include any requirement for adherence to the above guideline. UTS has adopted the *Due Diligence Code of Practice* as a best practice management tool for potential Aboriginal heritage objects, place and values which could be associated with the project.

If this project is approved under Part 3A of the EP&A Act, but subsequent applications to a consent authority (such as a local council) necessitate determination under Part 4 of the EP&A Act (ie staged development or concept plan approvals), any Aboriginal heritage matters not already covered by the Part 3A approval may still require an AHIP. In such a case then adherence to the following guidelines will be necessary:

- DECC *Guide to Determining and Issuing Aboriginal Heritage Impact Permits* (2009);
- DECC *Operational Policy: Protecting Aboriginal Cultural Heritage* (February 2009);
- DECCW *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks and Wildlife Act 1974* (April 2010); and

- DECCW *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (24 September 2010).

The *Due Diligence Code of Practice* sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

- identify whether or not Aboriginal objects are, or are likely to be, present in an area;
- determine whether or not their activities are likely to harm Aboriginal objects (if present); and
- determine whether an AHIP application (or further investigation under Part 3A of the EP&A Act) is required.

The DECCW has defined due diligence thus:

Due diligence is a legal concept describing a standard of care. Exercising due diligence means turning your mind to the likely risks of your proposed course of action. It is not enough to perform activities carefully. Due diligence requires consideration of your obligations under, in this case, the NPW Act, and the consideration and adoption of a course of action that is directed towards preventing a breach of the Act.

In the context of protecting Aboriginal cultural heritage, due diligence involves taking reasonable and practicable measures to determine whether your actions will harm an Aboriginal object and if so avoiding that harm.²

The steps that are required to follow the due diligence process are:

- searching the Aboriginal Heritage Information Management System (AHIMS);
- checking for landscape features which may indicate the presence of Aboriginal objects;
- strategies to avoid harming Aboriginal objects; and
- desktop assessment and visual inspection to confirm the presence of Aboriginal objects.³

It should be noted that in undertaking due diligence there is no requirement to consult with the local Aboriginal community at this early stage of assessment.

In preparing this report, GML complied with the guidelines set out in DECCW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (13 September 2010). The extent of land covered by the due diligence process is described as the subject site (see below).

1.4 Description of the Subject Site and Context

The subject site is located at 14–28 Ultimo Road, Ultimo, and is currently vacant and operating temporarily as a carpark (Figure 1.1). The 2,816m² subject site was previously occupied by the Dairy Farmers building that has recently been demolished. The subject site has two street frontages (Ultimo Road and Mary Ann Street), a laneway frontage (Omnibus Lane) and adjoins a narrow strip of land (varying in width between approximately 4–10m) owned by TransGrid that abuts the heavy rail corridor serving the Powerhouse Museum.

The overall context of the area is characterised by mixed uses, including late-nineteenth-century terraces, commercial buildings and educational buildings. This includes the Sydney Institute of Technology, TAFE NSW and the UTS City campus. The area contains a mixture of old and new

buildings, including the recent Australian Broadcasting Corporation Headquarters building, which is situated south of the subject site facing Harris Street. The Powerhouse Museum is north of the site on the corner of Harris and Macarthur Street. The area is largely dominated by masonry buildings, particularly in the immediate vicinity of the subject site, but is also characterised by a diversity of scale, colours and materials.

1.5 Due Diligence Process—Step 1

In accordance with Step 1 of the DECCW *Due Diligence Code of Practice* it is identified that the proposed activity will disturb the ground surface of the subject site. Therefore the following due diligence steps have been undertaken:

Step 2a—AHIMS database search (Section 2 of this report);

Step 2b—the identification of landscape features that indicate the presence of Aboriginal objects (Section 2);

Step 3—discussion with respect to the extent of the development footprint (Section 3);

Step 4—desktop assessment and visual inspection (Section 4); and

Step 5—further investigation and impact assessment (Section 5).

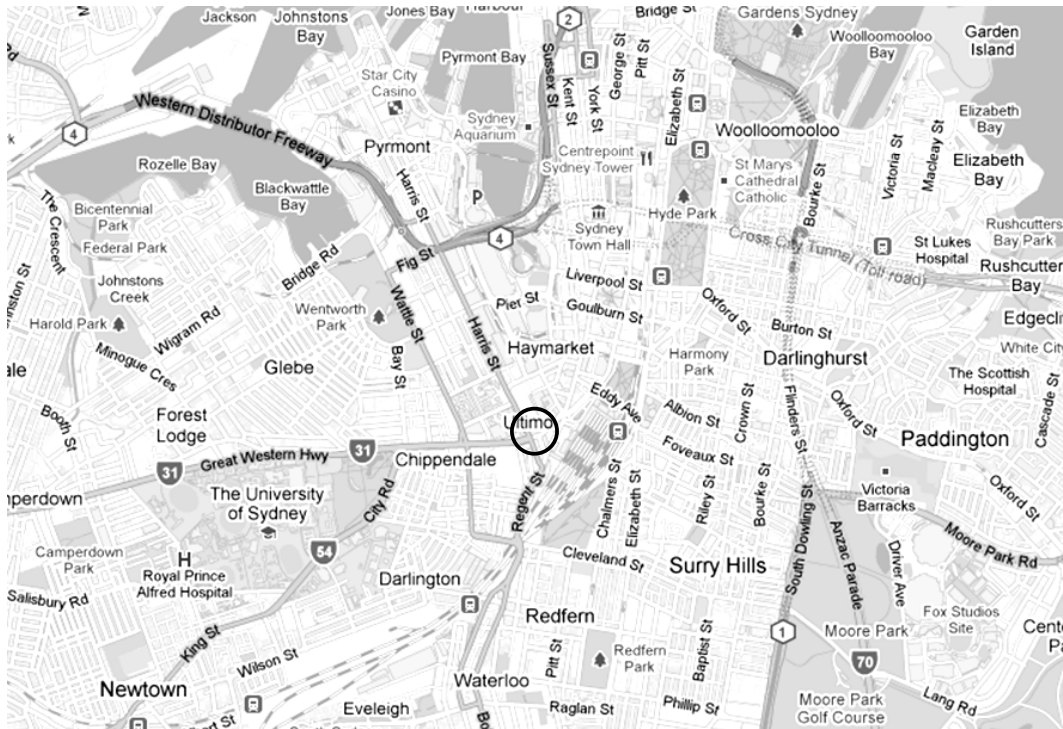


Figure 1.1 Location map of the subject site. (Source: Google maps with additions by GML, December 2010)

2.0 AHIMS and Environment Context

2.1 AHIMS Search

A search of the DECCW AHIMS database for a zone with a 1km buffer surrounding the subject site was undertaken on 20 December 2010. The results of the search are shown in Table 2.1. The search identified six recorded Aboriginal sites were: a midden, two artefact sites and four Potential Archaeological Deposits (PADs)—one PAD was associated with one of the stone artefact sites.

No Aboriginal sites or areas with PADs have been recorded within or immediately adjacent to the subject site.

Table 2.1 Results of AHIMS search

Site Features	Frequency
Stone Artefacts	2
Midden	1
PAD	4

The general patterning of Aboriginal sites is difficult to interpret within a local landscape context because of major modifications through extensive land reclamation and development. The pre-1788 context and setting of all the recorded sites has been lost and would require considerable analytical effort to reconstruct (beyond the scope of this report).

However, two of the previously recorded sites appear to be located around the former margin of Cockle Bay (east and west sides). A third site was located on the margins of Black Wattle Creek. An association between Aboriginal sites and the water 'bodies' was to be expected and represents typical Aboriginal site patterning in the Sydney region.⁴

2.2 The Environment Context

The purpose of this section is to provide environmental contextual information for use in developing a predictive model of Aboriginal site locations associated with the subject site. Interactions between people and their surroundings are of integral importance in both the initial formation and the subsequent preservation of the archaeological record. The nature and availability of resources including water, flora and fauna and suitable raw materials for the manufacture of stone tools and other items had (and continues to have) a significant influence over the way in which people utilise the landscape.

Alterations to the natural environment also impact upon the preservation and integrity of any cultural materials that may have been deposited, while current vegetation and erosional regimes affect the visibility and detectability of Aboriginal sites and objects. For these reasons, it is essential to consider the environmental context as a component of any heritage assessment.

2.2.1 Geology

The 1:100,000 geological map of Sydney indicates that the subject site is underlain by fill, above alluvial deposits and sandstone bedrock. Geotechnical investigations by Jeffery and Katauskas (J&K) have indicated the subject site has a 'subsurface profile below the concrete paved surface

comprising fill over natural soils then sandstone bedrock at moderate depth. Dolerite corresponding to an igneous dyke was encountered at depth over the south-western corner of the site.⁵

2.2.2 Landforms and Landscape Features

The subject site can be described as a flat landform with low relief. The subject site is located adjacent to a simple slope (with a shallow slope angle), which would have risen up on the western side to form a crest or ridge line approximately 5–10m higher than the subject site.

2.2.3 Soils

As the subject site is covered by a concrete slab, no surface visibility was available during the inspection. Descriptions of soil profiles within the subject site can be deciphered from the geotechnical logs:

Beneath the floor slab and the traces of old brick footings, walls, floor slabs ... fill was encountered in all the boreholes and test pits. The fill extended to depths ranging between 1.25m (BH119) and 3.6m (BH112 and BH113) but was typically of the order of 2m to 3m thick...

The fill was heterogeneous and comprised clay with varying sand, silt and gravel content, sand with varying 'fines' and gravel content and gravel with varying 'fines' and sand content. The gravels comprised brick, concrete, igneous, sandstone, ironstone and slag.

Alluvial soils were encountered in all the boreholes beneath the fill and extended to depths ranging between 4.3m (BH108) and 9.4m (BH103)... The alluvial soils were predominantly clays with sand bands...

Residual soils were encountered beneath the alluvial soils in BH101, BH102, BH105, BH106 and BH108 at depths ranging between 6m and 8m and extended to the top surface of the weathered bedrock at depths ranging between 7.15m and 9.8m. The residual soils comprised medium dense or dense silty and/or clayey sands or sandy and/or silty clays assessed to be of low to medium plasticity and stiff to hard strength. Often, thin bands of extremely weathered bedrock were encountered within the residual soils.⁶

The synopsis of the geotechnical investigation is that the upper layers of the site contain fill to an approximate depth between 1.25 and 3.6m. This fill has little or no Aboriginal archaeological potential. Below the fill are alluvial soils with depths between 4.3 and 9.4m. These alluvial soils appear to be comparable to those observed and excavated at other development sites near the subject site (ie the Broadway Quadrant site⁷). Nearby recent archaeological works have revealed that the upper layers of alluvium (and particularly the interface between the alluvium and fill) have the potential to contain Aboriginal objects and sites.

2.2.4 Hydrology

The pre-1788 hydrology of the subject site cannot be easily determined by a visual inspection today. Early historical plans clearly show the course of a creek, as well as a marshy swamp it drained into, associated with the subject site (Figures 2.1 to 2.4). Modifications to this watercourse have resulted in considerable changes to an original creek's course.

The earliest plan to feature the subject site (Figure 2.1 from 1837) shows Cockle Bay (now referred to as Darling Harbour) abutting a marshy wetland. This wetland extended south from the Bay draining a 'brook', which extended through the subject site. To the immediate south of the subject site a small pond was present. This plan suggests that the subject site was located on the periphery of the marsh wetlands, an ideal location from which Aboriginal people could have accessed the resources contained therein.

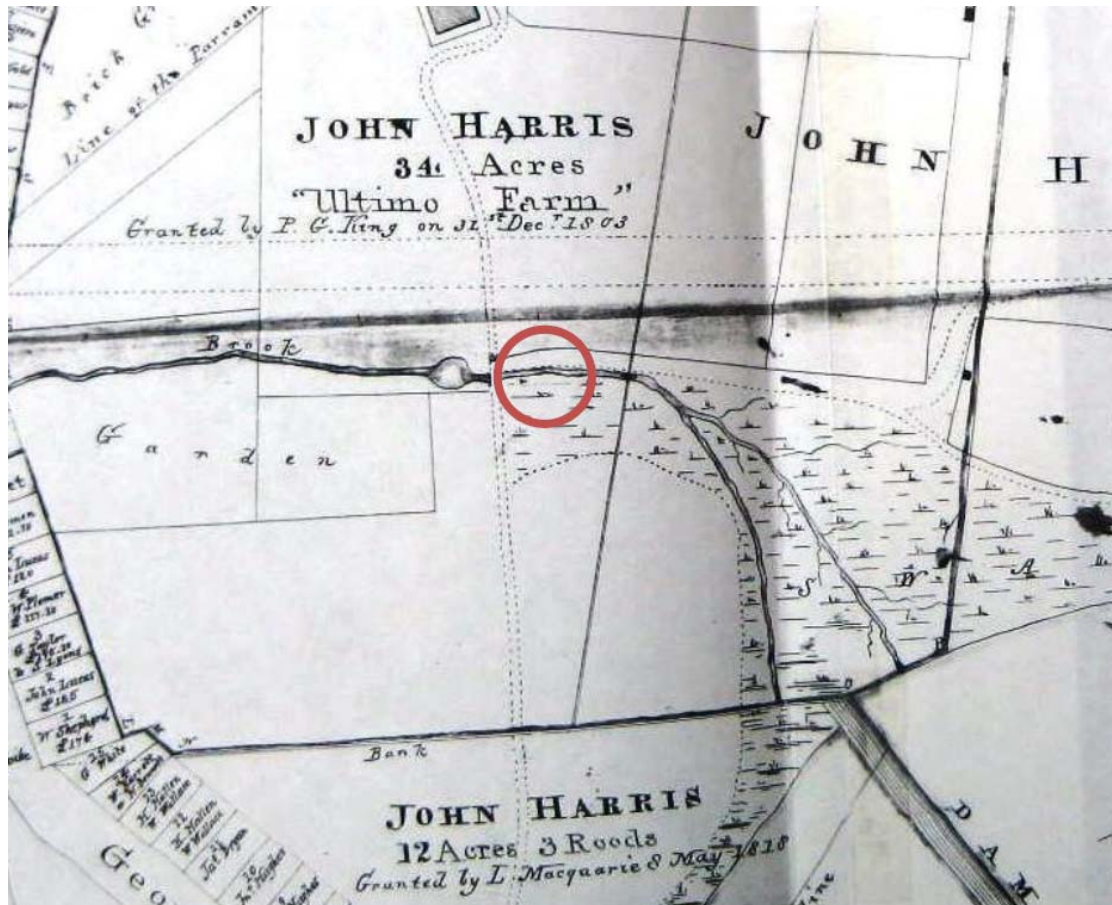


Figure 2.1 Extract from a plan of John Harris' Ultimo Estate prepared in 1837. The approximate location of the subject site is circled. Source: Taken from Casey and Lowe 2010⁸. Original Harris Family—Papers concerning John Harris, ML MSS 4897.

Land reclamation of the swamps and marshes around Cockle Bay proceeded during the 1820-1860s⁹, resulting in infilling of the swamp abutting the subject site. In 1853 a small creek transversed the subject site (Figure 2.2); although land reclamation may have moved the course of the creek, it is suggested that the path shown possibly reflects the original 1788 drainage course.

Between 1853 and 1953 the water course does appear to have been modified to suit new hydrological purposes and in 1953 the creek was described as an 'open drain put in by the government'.¹⁰ Further modification to the creek arose from issues associated with boggy ground and upgrades to the bridge and roads. These would have affected the creek and adjoining landforms, resulting in some disturbance to the original soil horizons. However, the extent of such disturbance can not be determined through the available historical documentation. As shown in Figures 2.3 and 2.4, the presence of a creek connected to the subject site continued until at least 1953.

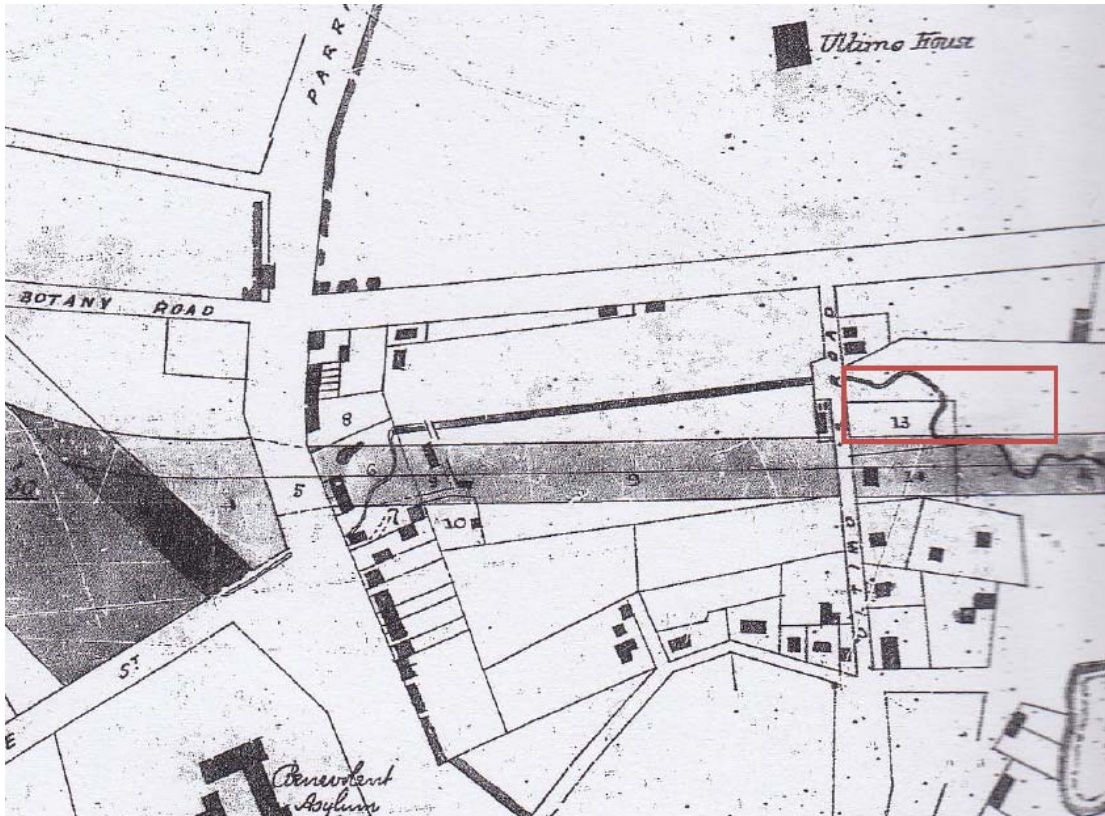


Figure 2.2 Part of the 'Plan of the Darling Harbour Branch of the Sydney Railway' c1853. Note the creek extending through the subject site. (Source: Taken from Casey and Lowe 2010¹¹. Original SRNSW AO Map No 6381.)



Figure 2.3 Portion of Block V of the Trigonometrical Survey of Sydney 1855-65. Note the creek running beneath Ultimo Road. (Source: Taken from Casey and Lowe 2010¹². Original Historical Atlas of Sydney, CCS Archives.)

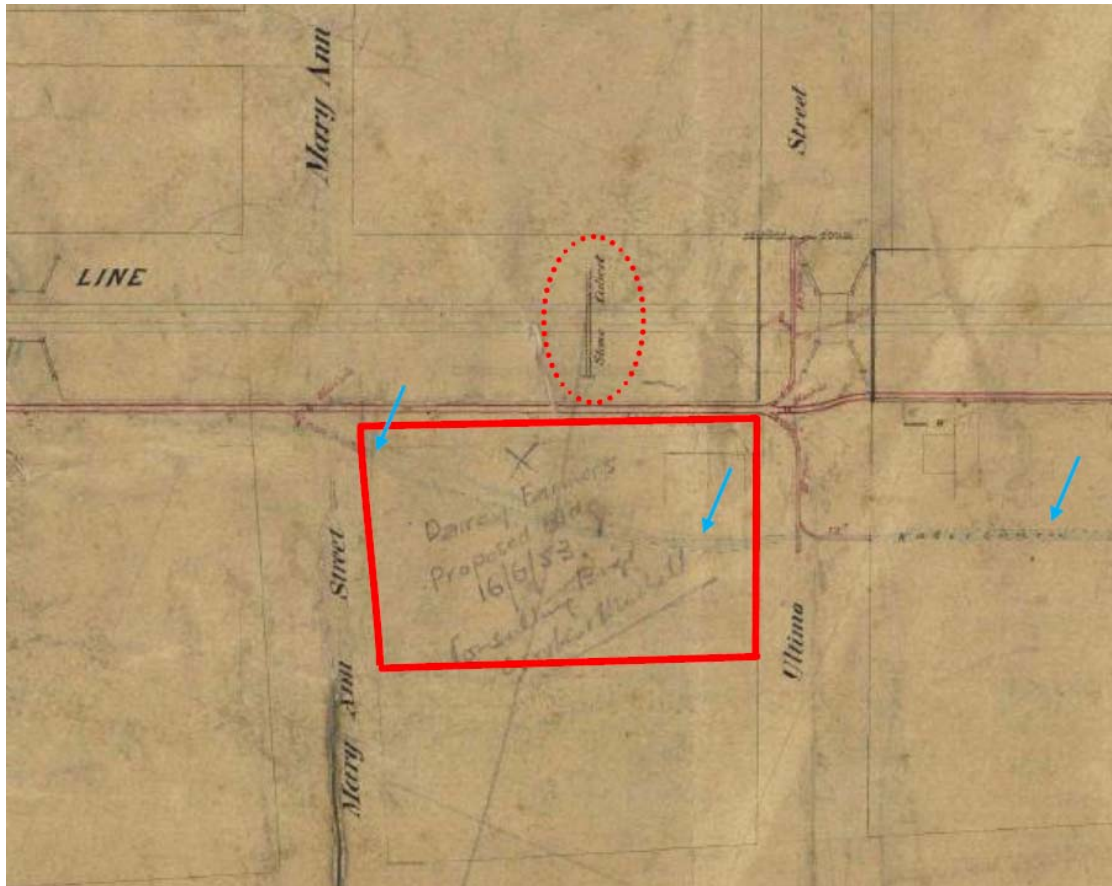


Figure 2.4 Sydney Sewerage Works plan 1880. 'This plan also shows the alignment of the watercourse through this area apparently as late as 1880. It is unclear if it is being channelized into the red coloured services but it is most likely that this creek disappears at this time. Pencil notes on the subject site date to 1953 prior to the construction of the Dairy Farmers building.' (Source: Taken from Casey and Lowe 2010¹³. Original OCP No 276, first issued 23 Sep 1880, Sydney Water.)

It may be concluded that prior to British colonisation the subject site was located on the margins of a creek, which possibly had a year round flow of water into an adjoining wetland. From a late Holocene Aboriginal habitation and subsistence point of view, this location would have been favourable for the collection of food stuffs and other resources, such as plants, timber, etc. Any particular location around the swamp at Cockle Bay may have been used by Aboriginal people (resulting in an archaeological signature); however, the presence of the creek may have made this particular location more favourable, with higher visitation over a long period. Conversely, during the late Holocene the subject site could have been located within the margins of the swamp itself and therefore may not have been suitable as a location for undertaking activities that resulted in an archaeological signature. Such a question cannot be answered without subsurface archaeological and geomorphological testing.

2.2.5 Fauna and Flora

The subject site is located on sandstone bed rock and was probably previously covered by the trees of Blackbutt, *Eucalyptus pilularis*; Red Bloodwood, *Eucalyptus gummifera*; Sydney Peppermint, *Eucalyptus piperita*; and smooth barked *Angophora costata*. The open woodland abutted the alluvial swamp forests, with the species of Swamp Mahogany, *Eucalyptus robusta*, on the higher parts and Swamp Oak, *Casuarina glauca*, nearer the salt water.¹⁴

The subject site's location adjacent to the creek and marsh would possibly have been located within an ecotone—that is a change between two vegetation communities. Location between such communities frequently represent landscape positions that were attractive to Aboriginal peoples because of a wider range of plant species from which to gather resources.

2.2.6 Geomorphology

The geomorphology of the subject site appears to be similar to that observed at other nearby locations associated with creeks, the mudflats and deep alluvial soils¹⁵. These areas developed around Sydney Harbour over the last 100,000 years (the Pleistocene) and are associated with shallow valleys that slowly filled as water borne (alluvial) soils moved from the inland zones to the coast.

Following the last glacial maximum (c17,000 years before present [BP]) the climate in Australia slowly became warmer, with a corresponding slow and gradual rise in sea level. Of key interest to the subject site (and connected to potential Aboriginal archaeological deposits) would be the alluvial soils associated with the mid-late Holocene. Around 6-5,000BP the climate was similar to today, with similar sea levels. Between c4,150-3,500BP sea level rose by 1-2m resulting in flooding of all low lying areas, including all present day shoreline areas and the current subject site. From c3,500-2,800BP sea levels fell by around 1m and the climate became slightly colder, re-stabilising to that experienced today.

Environmental and climatic stabilisation during the late Holocene period eventuated in a more consistent climate and the opportunity for Aboriginal people to occupy the modern day coastal locations.

With respect to the subject site, the bands of alluvium identified by the geotechnical analysis represent the gradual deposits of soils over the periods described above. Each of these geomorphological phases could contain distinct and separate archaeological deposits created by Aboriginal people of the time. If present, each archaeological deposit would have been created during considerably different environmental conditions and represent different Aboriginal subsistence activities relevant to climatic regimes and sea levels of the particular period.

2.3 Synopsis of the AHIMS Search and Environmental Context

The subject site possesses deep alluvial soils, which have been laid down over the past 100,000 years. The stratigraphy of these alluvial bands could contain Aboriginal archaeological deposits, chronologically older with depth. However, the most likely geomorphological phases to contain Aboriginal archaeological deposits would be those associated with sea levels comparable to those today, that is 6-5,000BP and from the past 3,000 years.

During these two periods sea levels would have been similar to today and the subject site may have been located on the margins of a creek and swamp lands. These zones would have represented landforms that supported plant and animal species that Aboriginal people would have collected and used on a daily basis.

The subject site's landforms would have been similar to any on Cockle Bay, without any particular interest of immediate focus, other than the creek. Realistically, the likelihood of Aboriginal activities being undertaken, which resulted in an archaeological signature, is no more likely at this location than at any other associated with Cockle Bay. However, from a theoretical point of view, it is likely that during the last five to six thousand years, Aboriginal people would at some point have occupied

and used the landforms within the subject site. Such activities could have created an archaeological signature, which may or may not have been preserved from the effects of alluvial flooding, erosion and inundation by rising and falling sea levels (c4000BP), the consequential land reclamation (from the 1850s onwards) and industrial use post 1860.

Based upon the environmental and historical background, the subject site has a low to moderate archaeological potential to contain Aboriginal objects from the late Holocene. Such sites are most likely to be stone artefacts and/or shell midden material

.

3.0 The Proposed Development

3.1 Description of the Proposed Development

The following proposal description has been drawn from design description provided by RPS Group Plc.

The development of the subject site involves the construction of the new Business Faculty. The building is proposed to have 12 levels above ground in the centre and six levels closer to the boundary. A basement level carpark would accommodate 28 cars along with bicycle parking and shower rooms. The development steps in from the boundaries of the site, although preparation of the site requires excavation of a basement across the site and construction of a barrier to prevent water ingress into the site.

Therefore the development will require the removal of approximately 5m of fill and underlying deposits from the current surface level across the entire site.

3.2 Impacts Arising from the Proposed Development

The impact arising from the excavation of 5m of fill and deposits across the subject site (from the current surface level) would be the removal (destruction) to any Aboriginal site and/or object contained therein.

3.3 Heritage Avoidance Strategy

The limited and small size of the subject site, coupled with the extent of the planned development, does not allow for the retention of soil deposits within the development site. Therefore there is no option available for the avoidance and/or retention of potential Aboriginal objects and/or sites, if such were to be uncovered during the excavation process.

3.4 Synopsis of Impacts Arising from the Proposed Development

Should Aboriginal objects be present within the subject site, the proposed development, as described above, cannot avoid harm to the landforms where such Aboriginal objects may be located. Therefore relevant Aboriginal heritage management and mitigation measures should be planned prior to site development works commencing.

If any Aboriginal objects are discovered during site works, work in the area of discovery should cease and advice be sought from an Aboriginal archaeologist and/or the MLALC.

4.0 Desktop Assessment and Site Inspection

4.1 Aboriginal Ethno-history

The Sydney region was occupied by several clans or bands belonging to a number of language groups, including the Darug (Dharug), Dharawal or Tharawal, Gundungarra and Kuringgai (cf Attenbrow 2010¹⁶ and Kohn 1993¹⁷). The precise nature of the division between languages and dialects is not certain.

It is believed that the linguistic groups were split into numerous smaller bands, which possibly occupied defined territories, from which they gathered food and material resources and in which they undertook cultural and traditional practices. Again the names and boundaries of these groups cannot be precisely defined, rather the names recorded by early authors (such as Watkins Tench¹⁸) have been used to describe many of the groups.

The traditional owners of the subject site are the Cadigal, who today are united under the Metropolitan Local Aboriginal Land Council (MLALC). It is believed that the Cadigal's territory extended from South Head to Petersham, although the Aboriginal people of this clan moved into lands adjacent to the CBD when British colonists established their settlement adjacent to the Tank Stream in 1788.

It is suggested that the Cadigal occupied the coastal zone on a year round basis. Their diet was predominantly based upon marine proteins, such as shellfish and fish, supplemented by plants, vegetables, grubs, birds and small marsupials. Fresh water was available all year round from the springs, creeks and ponds located in the hinterland. Movement of the Cadigal would have occurred regularly within their territory and onto the Cumberland Plain for the purposes of trade, ceremony and communication with neighbouring clan groups.

4.2 Relevant Local Literature and Studies

A large number of archaeological studies and academic works have been prepared that either encompass or were undertaken for land near to the subject site. Only those works and reports of direct relevance to this due diligence assessment are detailed below. Such works principally include archaeological excavations where Aboriginal objects have been discovered, or the development sites which have been found to contain no residual topsoil (and thus no Aboriginal objects). The range of recent archaeological works illustrates the variable nature of residual Aboriginal archaeological deposits across the Sydney CBD area.

CRM 2010¹⁹—157–163 Cleveland St, Redfern

Thorpe undertook an Aboriginal Archaeology assessment of 157 to 163 Cleveland Street (this site has a similar development history to the current subject site) and determined this site had a moderate to high potential for extant Aboriginal heritage remains. These remains would most likely be open-camp sites, middens, stone artefacts and/or isolated objects. A program of archaeological testing was recommended.

Steele 2001²⁰—Quadrant Site, Broadway

Archaeological test excavation of intact soil deposits beneath the historical archaeological remains revealed 14 Aboriginal objects (nine manuports) conserved in a dark soil layer beneath a thick band of red brick dust. The Aboriginal objects were recovered from late Holocene alluvial soil, similar to

that present within the current subject site. Extensive geomorphological works revealed that nature of deep alluvial soils across this site.

Steele and Czastka 2006²¹—KENS Site, CBD

952 Aboriginal objects comprising quartz (including bi-polar flakes), silcrete, quartzite, tuff/indurated mudstone, volcanic rock and glass exhibiting backed artefacts and microlithic technologies were recovered from in situ soil profiles. It was observed that the natural soil profiles has been truncated, disturbed and rapidly buried by historical activities. The artefact assemblage was considered comparable to that recovered from other CBD Aboriginal sites such as Moore's Wharf, Angel Place, William Street and the Quadrant.

Steele and Barton 1998²²—Angel Place, CBD

54 Aboriginal objects comprising silicified volcanic tuff, indurated mudstone, silcrete and quartz were recovered from largely disturbed alluvial sand sheet deposits. These objects included flakes, cores, flaked pieces, including some that had been heat treated.

ERM 2004²³—William Street and Riley Street, Woolloomooloo

388 Aboriginal objects comprising artefacts made from material determined to have originated in the Hunter, Cumberland Plain and Shoalhaven regions. Assemblage included backed artefacts and a possible fishhook file.

ERM 2007²⁴—420 George Street, Sydney

Owen and Baker undertook a review of environmental factors, historical plans and impacts on 420 George Street, in consultation with the MLALC, to assess the archaeological potential at that address in Sydney. They found the area significantly impacted by nineteenth- and twentieth-century development, but two zones within the area were identified as having moderate potential to contain Aboriginal remains. Archaeological testing of this zone revealed that all remnant top soils had been stripped to basal clay, with no Aboriginal objects or sites being present.

Casey and Lowe 2010²⁵—14–28 Ultimo Road, Sydney

Historical archaeological assessment of the subject site. This report details the history of the subject site and provides an assessment and recommendations for historical archaeological investigations prior to development works. This report has been used to determine historical impacts associated with the subject site.

J&K 2010²⁶—14–28 Ultimo Road, Sydney

Geotechnical evaluation for the subject site. This report includes driller logs that describe the subsurface soil profiles. This report has been used to infer the geomorphology associated with the subject site.

4.2.1 Synopsis of Prior Archaeological Work

The majority of prior archaeological assessment reports have identified that early historical construction activities have, on the whole, resulted in some impact to the original soil horizons (which would have a theoretical potential to yield Aboriginal objects). However, the level of this impact has generally been judged not to have removed all archaeological potential across Sydney's CBD and inner west.

Archaeological excavation of such PADs has revealed that around 50% of PADs do contain Aboriginal objects, albeit frequently in a disturbed context. However, the consequential recovery and assessment of Aboriginal objects and midden material has furthered scientific understanding of the Cadigal peoples' culture and use of the CBD area. A few sites have been identified with deep alluvial fill, dating back to the commencement of the Pleistocene. Such sites have, so far, only yielded Aboriginal archaeological deposits from the uppermost levels (ie the past 3000 years).

4.3 Site Inspection of the Subject Site

An inspection of the subject site was undertaken on 5 January 2011 by Kevin Telford (MLALC), Sally - Anne Vaughton (UTS) and Dr Tim Owen (GML). The subject site was located at the bottom of a shallow slope (to the west), which provided evidence for the supposition that this location was located within a low point in the pre-1788 landscape (Figure 4.1 and 4.2). Historical activities had culminated in covering the subject site with a thick concrete slab that prevented all ground surface/soil visibility (Figure 4.3). It was evident that the slab, and the associated historical archaeological sites located beneath, was raised above the surrounding street level by approximately 1–1.5m.

No determination with respect to the presence or absence of archaeological material within the subject site could be attained from the visual inspection. Therefore, an assessment of the subject site's archaeological potential must be based upon the interpretation of the local environmental context (Section 2.2) and the desktop assessment (Section 4.2).

4.4 Aboriginal Community Consultation

In order to determine whether the subject site held any sites and/or values known to the local Aboriginal community consultation was undertaken with the MLALC. The timeframes for the preparation of this due diligence report prevented adherence to the DECCW Aboriginal community consultation guidelines. However, the MLALC are recognised as the Aboriginal custodians of the Sydney CBD area and have been the only stakeholder group consulted for all recent archaeological assessment work which has adhered to these guidelines.²⁷

On-site discussion between GML and the MLALC covered the topics of: the historical build up of material above natural soil levels, the long-term build up of alluvial soils, Aboriginal late Holocene subsistence patterns, the nature of potential Aboriginal deposits, site formation and impacts therein, the significance of Aboriginal deposits to the MLALC should any Aboriginal objects or midden material be present, and possible Aboriginal social values connected to this area.

The key issues and management requirements raised by the MLALC included:

- the concrete slab covering the subject site prevented any ground surface visibility;
- the subject site was noted to be located at the edge of a late Holocene wetland and associated with a creek. These landforms were favourable for Aboriginal habitation activities which may have created an archaeological signature;
- historical activities may have impacted some Aboriginal archaeological deposits but a low to moderate level of potential still exists for Aboriginal objects to be present;
- deposits associated with shell and bone are unlikely to have survived due to acidic soil conditions;

- if present, archaeological deposits that are extensive (such as a midden larger than 2m or a large artefact scatter) would be viewed by the MLALC as culturally significant. Smaller sites would have to be judged on their merits;
- given the unknown nature of soil deposits beneath the concrete slab, the MLALC wish to be present after the removal of the slab to assess the condition of soil horizons and determine whether any Aboriginal cultural material is present; and
- the MLALC wish to see the development of an Aboriginal Heritage Plan of Management prior to any development activity on the site, including historical archaeology.

4.5 Synopsis of the Desktop Assessment and Visual Inspection

The desktop assessment has determined that the subject site has been historically subjected to modification through the processes of land reclamation and consequent repeated building development. However, the subject site is likely to retain residual soils and alluvium that in comparable local situations have previously yielded Aboriginal objects.

The upper alluvial layers of the subject site, below the layers of fill, are assessed to have a low to moderate level of archaeological potential to contain Aboriginal objects. The condition of an archaeological deposit may only be average (due to historical impacts), while the integrity of such a deposit is likely to be low to moderate (as a consequence of historical impacts). Any Aboriginal objects present are most likely to be in the form of stone artefacts, although some midden material could be present.

The presence of older Aboriginal archaeological deposits (ie mid to early Holocene) within deeper undisturbed alluvium cannot be inferred at the current time, as prior identification of such deposits within the Sydney CBD region has not been previously made. There is potential for construction works to impact on such deposits.

While no further Aboriginal archaeological desktop assessment is recommended, a more detailed investigation by way of test or open excavation may be required. These considerations are detailed in Section 5.

Recommendations on the management of Aboriginal objects, should they be discovered, is also provided in Section 5.0.



Figure 4.1 View to the subject site from the northwest, from intersection of Mary Ann Street and Systrum Street. Note the relatively low-lying nature of the subject site.



Figure 4.2 View to the southern entrance of the subject site from Ultimo Road. Note the difference in elevation between street level and the carpark.



Figure 4.3 View across the subject site's concrete slab, from the northeast corner.

5.0 Recommendations

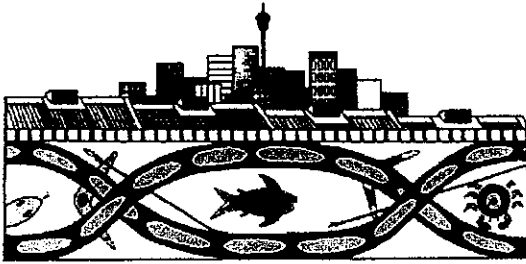
This due diligence report has identified that there may be Aboriginal objects in the area of the proposed activity. Therefore, given the nature and constraints associated with the subject site, the following recommendations for further investigation and impact assessment are made:

- this report should be provided to the MLALC for review and comment. Any letters issued by the MLALC should be attached to this report as an annex;
- further desk-based investigation and analysis of the subject site is unlikely to alter the outcomes and inferences drawn during the preparation of this due diligence study. Therefore prior to undertaking archaeological works within the subject site, no further Aboriginal archaeological assessment is recommended;
- prior to any site development or historical archaeological works, an Aboriginal Heritage Plan of Management (POM) should be developed in consultation with the MLALC. The POM should include:
 - Aboriginal community consultation protocols;
 - details of Aboriginal heritage work required, including when to involve the MLALC representatives and stop work orders;
 - management requirements and protocols, should Aboriginal objects be discovered; and
 - responsibilities with respect to Aboriginal heritage management.
- after the commencement of historical archaeological excavation a Aboriginal archaeological consultant and MLALC representative should be present as a watching brief when the excavations approach the natural geology layers.
- should Aboriginal objects be identified, site works should cease and the advice of an Aboriginal archaeological consultant and/or the MLALC be sought including the preparation of a archaeological research design for test and open excavation of potential Aboriginal sites (this could be included as a component of the POM);
- appointment of an Aboriginal archaeological excavation director, should Aboriginal archaeological excavation be required;
- an AHIP is not required from the DECCW, provided archaeological work can be managed under Part 3A Section 75U of the EP&A Act 1979;
- development of a Statement of Requirements for Aboriginal heritage (associated with project approval) that includes provision for:
 - development of an Aboriginal heritage POM;
 - development of a research design for test and open excavation of the subject site;
 - determination as to whether Aboriginal objects are present; and
 - the presence of Aboriginal objects and an assessment of their significance.

- archaeological excavation of the subject site, if Aboriginal objects are present, in collaboration with the MLALC;
- if required, following excavation, the preparation of an archaeological excavation report, including specialist reports on any Aboriginal objects recovered; and
- if Aboriginal objects are present, post-excavation public interpretation of the site, in collaboration with the MLALC.

6.0 Endnotes

- ¹ DECCW 2010. NPWS Act 1974. *Fact sheet 1*. September 2010.
- ² DECCW. 24 April 2009. *Due diligence guidelines for protection of Aboriginal objects in NSW*. Accessed Online.
- ³ DECCW 2010. NPWS Act 1974. *Fact sheet 2*. September 2010.
- ⁴ Attenbrow, V. 2010:50. *Sydney's Aboriginal Past. Investigating the archaeological and historical records*. Second Edition. UNSW Press. Sydney.
- ⁵ Jeffrey and Katauskas Pty Ltd. 2010: 12. *Factual Report to UTS on Geotechnical Investigation for Proposed Faculty of Business Building at 14-28 Ultimo Road, Ultimo, NSW*.
- ⁶ J&K. 2010:14–16.
- ⁷ Macphail, M. K. 2003. Pollen Analysis of Samples from the Broadway and Mountain Street Development Site, Ultimo, Sydney. Consultancy report to Mider and Associates and Australana Pty Ltd.
- ⁸ Casey and Lowe Pty Ltd. 2010: Figure 2.2. *Archaeological Assessment and Research Design. Dr Chau Building, 14-28 Ultimo Road, Ultimo*. Draft report for UTS. December 2010
- ⁹ Casey and Lowe Pty Ltd. 2010:17
- ¹⁰ Casey and Lowe Pty Ltd. 2010:19
- ¹¹ Casey and Lowe Pty Ltd. 2010: Figure 2.3
- ¹² Casey and Lowe Pty Ltd. 2010: Figure 2.5
- ¹³ Casey and Lowe Pty Ltd. 2010: Figure 2.6
- ¹⁴ Benson, D., and Howell, J. 1990: 42-43. *Taken for Granted. The Bushland of Sydney and its Suburbs*. Kangaroo Press. Kenthurst. NSW.
- ¹⁵ Macphail. 2003.
- ¹⁶ Attenbrow 2010.
- ¹⁷ Kohn, J.L. 1993. *The Darug and their Neighbours. The Traditional Aboriginal Owners of the Sydney Region*. Darug Link in association with Blacktown & District Historical Society. Sydney.
- ¹⁸ Tench, W. 1996 (1789 & 1793). 1788. Edited and Introduced by Tim Flannery. The Text Publishing Company. Victoria.
- ¹⁹ Cultural Resource Management. 2010. 157-163 *Cleveland St, Redfern Archaeological Assessment Aboriginal Archaeology*. Prepared for Hudson Square Pty Ltd.
- ²⁰ Steele, D. 2001. *Aboriginal Archaeological Assessment Report (and Information to Support an Application for a Preliminary Research Permit): Broadway and Mountain Street Development Site, Sydney*. Consultancy report to Australand Holdings Ltd and College Square Residential Pty Ltd.
- ²¹ Steele, D., and Czastka, J. 2006. *Aboriginal Archaeological Excavation Report: The KENS Site (Kent, Erskine, Napoleon and Sussex Streets), Sydney, NSW. Containing DEC Site #45-6-2647 and Associated Areas of PAD*. Consultancy report to Leighton Contractors Pty Ltd.
- ²² Steele, D., and Barton, H. 1998. *Angel Place Project 1997 Volume 3: Prehistory Report, Salvage Excavation of Site #45-6-2581*. Consultancy report to AMP Asset Management Australia.
- ²³ ERM 2004. *Archaeological Salvage of an Aboriginal Site at William Street, East Sydney*. Report to Zonie Construction + Design Pty Ltd.
- ²⁴ ERM. 2007. *420 George St, Sydney. Aboriginal Archaeology Assessment*. Prepared for Bovis Lend Lease.
- ²⁵ Casey and Lowe Pty Ltd. 2010
- ²⁶ J&K. 2010
- ²⁷ For example CRM 2010 (also a Part 3A project) only consulted with the MLALC.



**METROPOLITAN LOCAL
ABORIGINAL LAND COUNCIL**

P.O. Box 1103 Strawberry Hills, NSW 2012
Telephone: (02) 8394 9666 Fax: (02) 8394 9733
Email: metrolalc@metrolalc.org.au

5th January 2011

Mr Tim Owen
Senior Consultant
Godden Mackay Logan
78 George Street
REDFERN NSW 2016

Re: Aboriginal Heritage Site Assessment 14-28 Ultimo Road Haymarket NSW 2000

Dear Tim,

An Aboriginal Site Assessment was conducted on foot at 14-28 Ultimo Road Haymarket NSW 200. This assessment was undertaken to identify any potential Aboriginal heritage constraints associated the proposed development and for the preparation of the Aboriginal due diligence report for University of Technology (UTS).

The site assessment was carried out on foot on the 5th January 2011 by Kevin Telford site office of the Metropolitan Local Aboriginal Land Council (MLALC), and Godden Mackay Logan personnel Tim Owen (Senior Consultant).

This report outlines the findings of MLALC and makes recommendations and constraints that MLALC feels will protect any unidentified sites or existing sites.

Prior to work being commenced discussion had taken place between Rebecca McHugh (Administration Officer MLALC) and Kevin Telford at various times and the proposed development was discussed and any impact which may occur during and after the work.

A careful assessment of the area was conducted; all exposed areas were examined for any Aboriginal cultural materials, there were no Aboriginal cultural materials found within the proposed development site.

MLALC have no objections to the proposed development, any future work on the site would need to be supervised by a MLALC representative or other qualified Consultant.

However, if there are any Aboriginal cultural materials discovered during any stage of the development, all work is to cease immediately and MLALC and NSW National Parks & Wildlife are to be notified immediately.

If you require any further information do not hesitate to contact me on 0412 733 157 or Paul Morris on 0466 110 674.

Regards

A handwritten signature in black ink, appearing to read 'K. Telford', followed by the initials 'P.P.'.

Kevin Telford
Aboriginal Site Officer