

The new Sydney Fish Market


Part Lot 3 DP1018801 &
Parts Bridge Road
Pyrmont

Aboriginal Heritage Due Diligence
Assessment
November 2018

Report to Infrastructure NSW

City of Sydney LGA
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Updated August 2019



 artefact

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NOTE: UrbanGrowth NSW Development Corporation (UrbanGrowth NSW) was abolished on 1 July 2019 with all functions transferred to Infrastructure NSW (INSW). Any reference to UrbanGrowth NSW throughout the report is interchangeable with Infrastructure NSW.

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ABBREVIATIONS

AHIMS	Aboriginal Heritage Information System
AHMS	Archaeological and Heritage Management Solutions
ALR Act	Aboriginal Land Rights Act 1983
Artefact Heritage	Artefact Heritage Services Pty Ltd
ACHAR	Aboriginal Cultural Heritage Assessment Report
the Code of Practice	Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales 2010
DECCW (now OEH)	Department of Environment, Climate Change and Water
Due Diligence Code of Practice	Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales
EP&A Act	Environmental Planning and Assessment Act 1979
INSW	Infrastructure for NSW
LALC	Local Aboriginal Land Council
LGA	Local Government Area
NPW Act	National Parks and Wildlife Act 1974
NPWS	National Parks and Wildlife Service
OEH	Office of Environment and Heritage
PAD	Potential Archaeological Deposit
SEARS	NSW Department of Planning and Environment Secretary's Environmental Assessment Requirements
UrbanGrowth NSW	UrbanGrowth NSW Development Corporation

1.0 INTRODUCTION

1.1 Introduction

Sydney Fish Market is the largest of its kind in the Southern Hemisphere and among the three largest seafood markets in terms of variety in the world. The market sources product both nationally and internationally and trades approximately 14,500 tonnes of seafood annually with up to one hundred sustainable seafood species traded every day and approximately 500 species traded annually. The site attracts over 3 million visits each year.

Infrastructure NSW (INSW) proposes the development of a new Sydney Fish Market at Glebe. This is will be assessed under two State Significant Development (SSD) applications; a Concept and Stage 1 Early Works application, and Stage 2 Main Works application.

The majority of the proposed new Sydney Fish Market has been assessed for Aboriginal archaeological and cultural heritage values in an Aboriginal Cultural Heritage Assessment Report (ACHAR) for the Bays Precinct Rezoning (Artefact Heritage 2017). An addendum (Artefact Heritage 2018) to this ACHAR has been provided to UrbanGrowth. The addendum documents the applicability of the ACHAR findings to the proposed new Sydney Fish Market development.

This Due Diligence report provides assessment of Aboriginal archaeological and cultural heritage values in areas of the proposed new Sydney Fish Market development that were not assessed in the ACHAR or addendum reporting.

This report meets the requirements of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (Due Diligence Code of Practice) (Department of Environment, Climate Change & Water [DECCW] 2010).

This report also satisfies the NSW Department of Planning and Environment Secretary's Environmental Assessment Requirements (SEARS) for the two applications associated with the proposed new Sydney Fish Market development. These are SSD 8924¹ and SSD 8925² as shown in Table 1.

1.2 Study area

The study area is located within the City of Sydney local government area (LGA) and the land of the Metropolitan Local Aboriginal Land Council (LALC). The study area is defined as part of Lot 3 DP1018801 & parts Bridge Road Glebe. The study area is shown in Figure 1.1.

1.3 Limitations

This report has been prepared to assess Aboriginal heritage values only. The report is a desktop study only.

¹ NSW Department of Planning and Environment Secretary's Environmental Assessment Requirements for Sydney Fish Markets – Concept development application and Stage 1 works comprising demolition and early works (SEARS 22 December 2017 – SSD 8924)

² NSW Department of Planning and Environment Secretary's Environmental Assessment Requirements for Sydney Fish Markets – Concept development application and Stage 1 works comprising demolition and early works (SEARS 22 December 2017 – SSD 8925)

1.4 Authorship

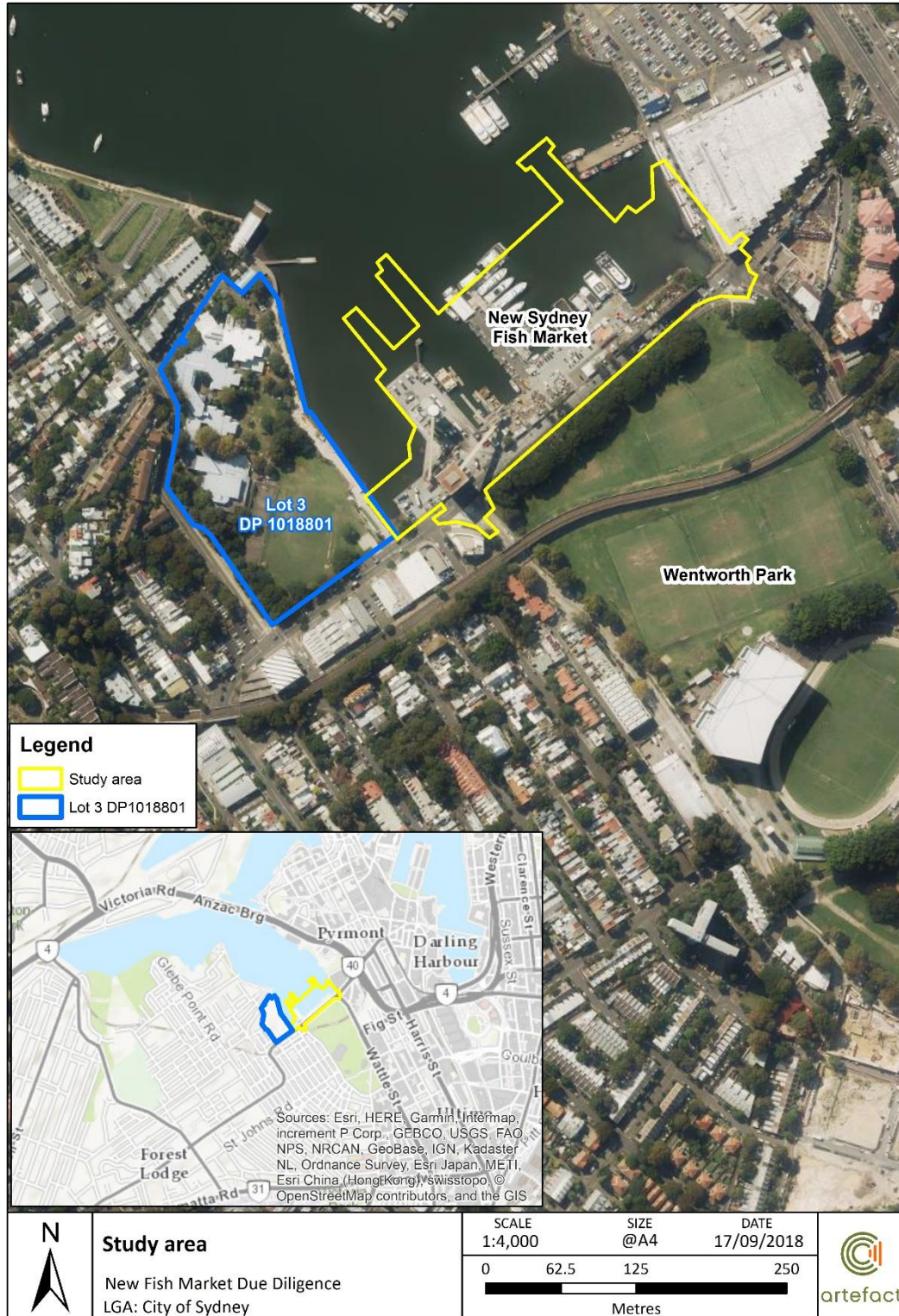
This report was written by Michael Lever (Senior Heritage Consultant, Artefact Heritage). Sandra Wallace (Managing Director, Artefact Heritage) provided management input and review.

1.5 Report methodology

This assessment consisted of the following stages, in line with the Due Diligence Code of Practice:

- Assess the nature of recorded Aboriginal sites in the surrounds of the study area
- Assess the environment and historical background of the study area
- Assess archaeological sensitivity of the study area
- Assess likely impacts of the proposal on identified areas of archaeological sensitivity
- Provide recommendations.

Figure 1.1: Location of the study area



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2.0 LEGISLATIVE CONTEXT

2.1 National Parks & Wildlife Act 1974

The *National Parks & Wildlife Act 1974* (NPW Act) provides statutory protection for all Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) and for 'Aboriginal Places' (areas of cultural significance to the Aboriginal community) under Section 86 of the NPW Act. Aboriginal objects are afforded automatic statutory protection in NSW whereby it is an offence to:

...damage, deface or destroy Aboriginal sites without the prior consent of the Director-General of the National Parks and Wildlife Service (now the Office of Environment and Heritage - OEH).

The NPW Act defines an Aboriginal 'object' as:

...any deposit, object or material evidence (not being a handicraft for sale) relating to indigenous and non-European habitation of the area that comprises New South Wales, being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal European extraction, and includes Aboriginal remains.

The Due Diligence Code of Practice was introduced in October 2010 by the Office of Environment and Heritage (formerly the Department of Environment, Climate Change & Water). The aim of the guidelines is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

A due diligence assessment should take reasonable and practicable steps to ascertain whether there is a likelihood that Aboriginal sites will be disturbed or impacted during the proposed development. If it is assessed that sites exist or have a likelihood of existing within the development area and may be impacted by the proposed development, further archaeological investigations may be required along with an AHIP. If it is found to be unlikely that Aboriginal sites exist within the study area and the due diligence assessment has been conducted according to the Due Diligence Code of Practice, work may proceed without an AHIP.

This due diligence assessment seeks to comply with the NPW Act, by assisting the proponent in meeting their obligations under the NPW Act. Note that approvals under the NPW Act are not required for projects assessed as SSD although the SEARs specify use of the OEH guidelines that are used to prepare applications under the NPW Act.

2.2 Native Title Act 1994

The *Native Title Act 1994* was introduced to work in conjunction with the *Commonwealth Native Title Act 1993*. Native Title claims, registers and Indigenous Land Use Agreements are administered under the Act. No active Native Title claims were identified in the study area.

2.3 Aboriginal Lands Right Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) established Aboriginal Land Councils (at State and Local levels). These bodies have a statutory obligation under the ALR Act to:

- (a) take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law, and
- (b) promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.

The study area is within the boundary of the Metropolitan LALC.

2.4 Environmental Planning and Assessment Act 1979

The primary law regulating land use in NSW is the *Environmental Planning and Assessment Act 1979 (EPA Act)*. The *EPA Act* is administered by the NSW Department of Planning and Environment (DPE) and provides provision for plans to be made which guide the process of development and regulate land use, such as the Local Environmental Plans (LEPs).

2.4.1 NSW Department of Planning and Environment Secretary's Environmental Assessment Requirements (SEARS)

The SEARS for the two stages of development application are reproduced below in Table 1.

Table 1: SEARS for applications SSD 8924 and SSD 8925

SSD 8924 Sydney Fish Markets – Concept development application and Stage 1 works	SSD 8925 Sydney Fish Markets – Stage 2 main works	How satisfied by this report
Identify and describe the Aboriginal cultural heritage values that exist across the whole area that will be affected by the development. This may include the need for surface survey and test excavation. The identification of cultural heritage values should be guided by the Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW (DECCW, 2011) and consultation with OEH regional officers.	If required for the detailed design, identify and describe the Aboriginal cultural heritage values that exist across the whole area that will be affected by the development. This may include the need for surface survey and test excavation. The identification of cultural heritage values should be guided by the <i>Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW</i> (DECCW, 2011) and consultation with OEH regional officers.	This report has investigated Aboriginal cultural heritage values that exist across the study area. This investigation has been guided by the Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW (DECCW, 2011) This report has identified that no further assessment of Aboriginal cultural heritage values is required. This report will be supplied to OEH regional officers as part of the approvals process.
Where Aboriginal cultural heritage values are identified, consultation with Aboriginal people must be undertaken and documented in accordance with the <i>Aboriginal cultural heritage consultation requirements for proponent 2010</i> (DECCW). The significance of cultural heritage values for Aboriginal people who have a cultural association with the land must be documented in the EIS.	Where Aboriginal cultural heritage values are identified, consultation with Aboriginal people must be undertaken and documented in accordance with the <i>Aboriginal cultural heritage consultation requirements for proponents 2010</i> (DECCW). The significance of cultural heritage values for Aboriginal people who have a cultural association with the land must be documented in the EIS.	No Aboriginal cultural heritage values have been identified in the study area. It is considered unlikely that Aboriginal cultural heritage values will be present in the study area.

SSD 8924 Sydney Fish Markets – Concept development application and Stage 1 works	SSD 8925 Sydney Fish Markets – Stage 2 main works	How satisfied by this report
<p>Assess and document the impacts on Aboriginal cultural heritage values and demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable outline the proposed measures to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to OEH.</p>	<p>Assess and document the impacts on Aboriginal cultural heritage values and demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, outline the proposed measures to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to OEH.</p>	<p>No impacts on Aboriginal cultural heritage values have been identified in the study area.</p>

3.0 BACKGROUND

The purpose of this section is to assist in the prediction of:

- The potential of the landscape over time to have accumulated and preserved Aboriginal objects

3.1 Aboriginal Heritage Information System (AHIMS) Search

The location of Aboriginal sites is considered culturally sensitive information. It is advised that this information, including the Aboriginal Heritage Information System (AHIMS) data appearing on the heritage maps be removed from this report if it is to enter the public domain.

During preparation of the addendum ACHAR (Artefact Heritage 2018), an AHIMS search was carried out on 31 July 2018 for an area including the study area of this report (Michael Lever. Client ID 361043).

Search coordinates were From Lat / Long: -33.8771, 151.182 To Lat / Long -33.8677, 151.1969 with a buffer of 50 meters.

No recorded Aboriginal sites were identified within the study area of this report.

The only identified nearby areas of Aboriginal cultural heritage sensitivity were three Potential Archaeological Deposits (PAD) that had already been identified and assessed in the ACHAR and addendum ACHAR (Artefact 2017, 2018). The Bays Precinct PAD01 AHIMS ID 45-6-3339 is at nearest 130m from the study area. The Bays Precinct PAD02 AHIMS ID 45-6-3338 is at nearest 420m from the study area and PAD Jackson Landing Shelter AHIMS ID 45-6-2960 is at nearest 530m from the study area.

These sites are shown combined with illustration of historical coast line in Figure 4.1.

3.2 Historical and environmental context

The location of the proposed new Sydney Fish Market is within the traditional country of Aboriginal people who are speakers of the Dharug language. There is some uncertainty as to whether the study area lies within the clan lands of the Cadigal or the Wangal people (Attenbrow 2010:22). The Pyrmont area, known as *Pirrama* to its first inhabitants, was a location of rich resources. It was adjacent to the swamp and wetlands of Blackwattle Swamp, the marine resources of Blackwattle Bay, and contained rocky shores covered in outcrops which included rock shelters. The eastern shore of Blackwattle Bay also contained freshwater springs and wells, including the named *Tinkers Well* that remained until destroyed through quarrying. The location maintained a distinct Aboriginal presence up to 1836 (Ross, 1988), with visits by Aboriginal people noted up to the 1870's (Matthews 1982, Smith 2004). Aboriginal attachment to country incorporates all aspects of place, including spiritual dimensions, water, land, air, vegetation and fauna (Stanner 2011). Even the effects of drastic changes to landform such as through land reclamation, do not diminish Aboriginal attachment to country, although these processes may greatly diminish the archaeological evidence of past Aboriginal life.

Previous reporting for rezoning and development at Blackwattle Bay (Artefact Heritage 2014, 2017, 2018) has identified historical large-scale land reclamation and disturbance in the surrounds of the study area. Reclamation in relation to the study area is briefly outlined below.

To the south of Blackwattle Bay, the area now occupied by Wentworth Park and Bridge Road was once harbour cove swamps into which the various creeks from Glebe, Pyrmont and Ultimo Ridges drained. Most prominent of these was Blackwattle Creek, which ran south from Ultimo and Broadway. The area

was alternatively known as Blackwattle Cove and Blackwattle Swamp and was home to abattoirs, tanneries, distilleries and boiling down works during the early to mid-19th Century (Birch 2007). The extreme pollution discharged by these factories led to the enactment of the Blackwattle Bay Land Reclamation Bay Land Reclamation Act of 1878 s2 which decreed the cove was to be infilled and:

...to be set apart and dedicated in perpetuity as a park or place of public recreation. And this enactment shall be construed to extend all the provisions (so far as they can be applied) of the Public Parks Act 1854 to the area reclaimed.

Numerous sea walls and dykes were constructed, and the Wentworth Park area was infilled with silt dredged from the Harbour to many metres depth (Birch, 2007). In the process of this infill, large areas of land were also added to the foreshore of Blackwattle Bay, resulting in considerable alteration to the natural foreshore. The natural coast line of Blackwattle Bay / 'Cove', after infill of the swamp that is now Wentworth Park, is shown in Figure 3.2. Bridge Road (Pyrmont Bridge Road) is evident as built upon an embankment separating between the infilled swamp and Blackwattle Bay. The effects of land reclamation and changes to the foreshore of Blackwattle Bay itself can be seen in Figure 3.2.

Figure 3.1: Natural foreshore of Blackwattle Bay. Sands Directory Map 1887 (Historical Atlas of Sydney)

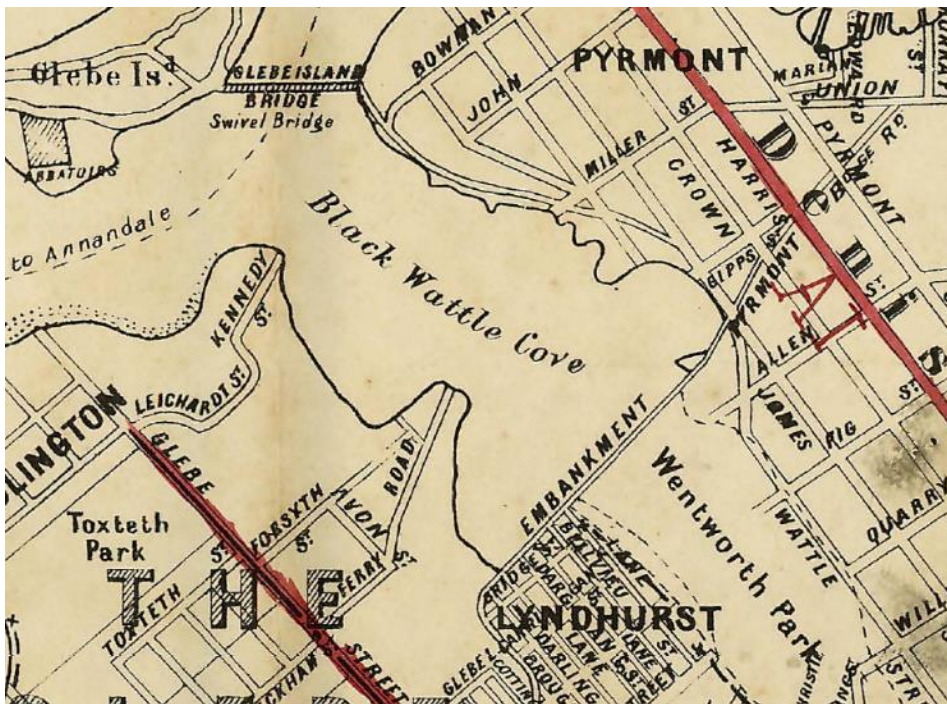


Figure 3.2: Land reclamation at Blackwattle Bay. Higginbotham and Robinson 1886 (NLA Trove)



In Figure 4.1 (in the following section) the 1886 map by Higginbotham and Robinson (NLA Trove) has been georeferenced, and the location of the proposed new Sydney Fish Market has been overlaid in yellow. The natural foreshore of Blackwattle Bay has been highlighted in solid red and the high tide mark of Blackwattle Swamp has been highlighted in dotted red.

4.0 ARCHAEOLOGICAL POTENTIAL

4.1 Previous land disturbance

It is evident from historical mapping shown in Figure 4.1 that the vast majority of Lot 3 DP 1018801 (outlined in in blue) is evident as being land reclaimed from Blackwattle Bay. The part of the proposed new Sydney Fish Market that is located within Lot 3 DP 1018801 is wholly within this reclaimed land. The parts of the proposed new Sydney Fish Market area that are within Bridge Road are entirely located on infilled swampland. The proposed development and its relation to the previous foreshore, swampland and current streetscape is shown in Figure 4.2

It is evident from these figures that the entirety of the proposed development within the study area of Part Lot 3 DP1018801 & Parts Bridge Road Pyrmont is comprised of reclaimed land and infilled swamp.

4.2 Predictive model

Based on the environmental background and assessment of previous archaeological investigations the following conclusions can be made regarding the predicted archaeological sensitivity and potential of the study area.

- The study area is totally comprised of lands reclaimed from Blackwattle Bay or Blackwattle Swamp.
- These alterations to landform do not diminish the traditional Aboriginal values of the study area.
- The study area of this report is however of nil or low predicted Aboriginal archaeological sensitivity or potential.

Figure 4.2: Study area relative to natural foreshore and current streetscape



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5.0 DISCUSSION

5.1 Proposed activity

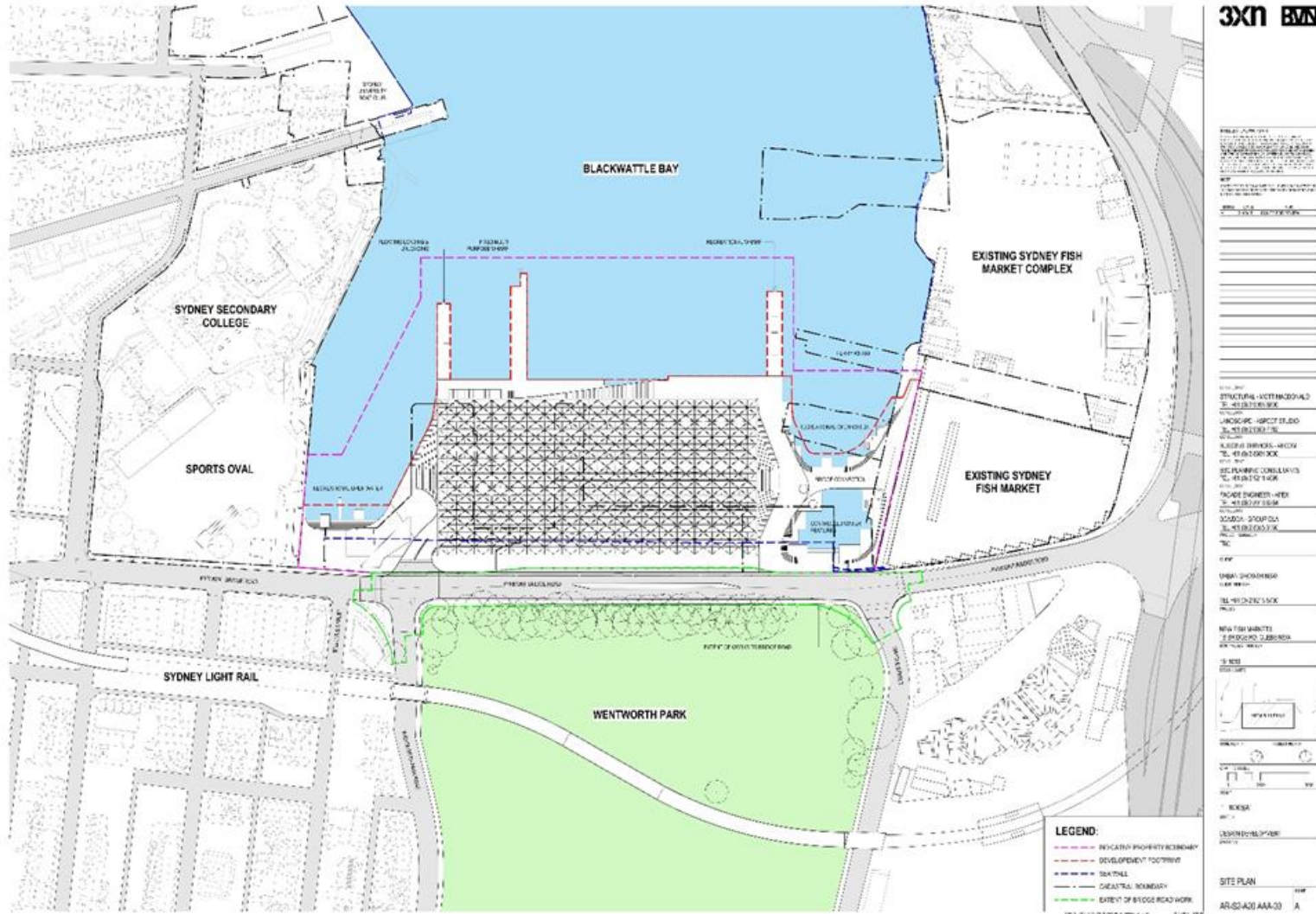
The proposal is to build a new fish market with a contemporary urban design, provide unique experiences for visitors and world-class auction and wholesale facilities. The new facility will be set within an improved public domain including the creation of a waterfront promenade with improved access to Blackwattle Bay and linking to surrounding areas and to public transport.

The development will expand and improve the functions of the existing fish market in a new setting designed to achieve design excellence, functional performance and environmental sustainability.

The new fish market will include retail and food and beverage premises, wholesale facilities and auction rooms, offices and commercial space, Sydney Seafood Schools, back-of-house facilities and car, truck and coach parking spaces.

The new facility is to include a new foreshore promenade and wharves. The new fish market will be purpose built and will be supported by a state of the art back-of-house plant and recycling/waste management facilities

Figure 5.1: Proposed development. Study area limits outlined in magenta and light green



5.2 Conclusions

The entirety of the study area has been assessed as demonstrating nil-low archaeological sensitivity based on extensive levels of historic disturbance comprising land reclamation and swamp infill. These alterations to landform do not diminish the traditional Aboriginal values of the study area. Areas of reclaimed land are however of nil Aboriginal archaeological potential. Areas of swamp infill are of very low to low Aboriginal archaeological sensitivity.

In accordance with the Due Diligence Code of Practice no further archaeological investigation is recommended for the proposed development, and works may proceed with caution.

6.0 RECOMMENDATIONS

The following recommendations regarding Aboriginal heritage are based on consideration of:

- Statutory requirements under the National Parks and Wildlife Act 1974
- Due Diligence Code of Practice
- SEARS
- The results of background research, site inspection and sensitivity assessment
- The likely impacts of the proposed development

It was found that

- The entirety of the study area has been subject to extensive levels of historic disturbance. This includes land reclamation and swamp infill.
- These alterations to landform do not diminish the traditional Aboriginal values of the study area
- As a result of historic disturbance the study area is assessed as demonstrating nil-low Aboriginal archaeological sensitivity

The following recommendations are made

- No further archaeological assessment or investigation is required prior to works commencing in the study area
- Registered Aboriginal Parties must be kept updated as to any significant changes to the designs so far provided to them
- All Aboriginal objects are protected by the National Parks and Wildlife Act 1974. If objects, or potential objects, are uncovered in the course of the activity, work in the vicinity must cease, and the Office of Environment and Heritage contacted for advice. Additional assessment and consultation would be required prior impacts.
- If human remains, or suspected human remains, are found in the course of the activity, work must cease in the vicinity, the site must be secured, and the NSW Police notified as soon as possible. A Forensic Anthropologist must be engaged if required to confirm whether the identified remains are human.

7.0 References

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