

SYDNEY FOOTBALL STADIUM REDEVELOPMENT

STATE SIGNIFICANT DEVELOPMENT APPLICATION

Concept Proposal and Stage 1 Demolition

SSDA 9249

APPENDIX M:

Archaeological Assessment

Archaeological Assessment for Sydney Football Stadium, Stage 1 Concept Design.



Prepared for Infrastructure NSW by Curio Projects

5 June 2018

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Executive Summary

Curio Projects Pty Ltd has been commissioned by Infrastructure NSW to prepare an Archaeological Assessment (AA) for the redevelopment of the Sydney Football Stadium (SFS), located at 40–44 Driver Avenue, Moore Park (the subject site).

This report supports a State Significant Development (SSD) Development Application (DA) for the redevelopment of the Sydney Football Stadium which is submitted to the Minister for Planning pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). A staged approach to the planning applications is proposed which includes:

- Stage 1—Concept Proposal for the stadium envelope and supporting retail and functional uses as well as development consent for the carrying out of early works, including demolition of the existing facility and associated structures.
- Stage 2—detailed design, construction and operation of the stadium and supporting business, retail and functional uses.

This report relates to the Stage 1 Concept DA and detailed Early Works package. Infrastructure NSW is the Proponent for the Stage 1 planning application. This report assesses both the Aboriginal and historical, archaeological potential and significance of the study area.

Prior to 1788, the subject site would have been a rich resource zone for exploitation by the local Gadigal people, due to its presence along the edge of the Botany Aquifer and Wetlands system, providing numerous freshwater resources including fishing and hunting grounds, as well as potentially appropriate ground for short term campsites for use of the landscape resources.

The subject site does not contain any registered Aboriginal sites, however this is likely due to lack of Aboriginal archaeological survey and excavation in the immediate area, and not a reflection of lack of use of the site by Aboriginal people. Aboriginal archaeological investigation in recent years, particularly in relation to the construction of the Sydney Light Rail have demonstrated the presence of Aboriginal archaeological deposits at nearby site such as beneath the carpark of the Moore Park Tennis Centre, and at the Randwick Stabling Yards.

This AA includes an Aboriginal Due Diligence assessment, which has determined that the subject site has the potential for Aboriginal archaeological deposits to be present across the entire site, both within deeper natural soil profiles that exist beneath the layers of historical fill, as well as potentially in a disturbed context within the layers of fill due to historical disturbance.

The subject site has a rich history of historical use extending back to 1811 as part of the Sydney Common. The site has also had a long history of military association, associated with the Victoria Barracks, and used as a Military Rifle Range (1849–1892), and then as the Engineers/Military Depot from 1899–1986 (focused on the eastern side of the site, generally in the area of the current SFS). The north-western part of the site functioned as the Sydney Sports Ground from 1899 to 1986, used for a wide range of sports including cricket, cycling, athletics, football and rugby.

The State Heritage Registered listed Busby's Bore is known to be present within the subject site. Two Shafts of Busby's Bore are confirmed to be located within the subject site (Shaft 9 and 10), one is considered likely to be located within the site ('Intervening Shaft 4') and one shaft is considered to be possibly located within the site (Shaft 11).

The site retains low to moderate archaeological potential for an archaeological resource relating to the Engineers/Military Depot. Should this resource be present within the subject site and require impact through the proposed development, it may require mitigation via archaeological monitoring to record and remove any associated archaeological deposit (if present).

The site retains low potential for remains associated with the Sydney Sports Ground. However, the Sydney Sports Ground is well recorded through numerous sources such as plans, maps, descriptions and photographs, and therefore, it is not considered that subsurface remains associated with the Sydney Sports Ground would be able to contribute in a meaningful way to the archaeological record.

The Stage 1 Early Works as proposed through the Concept Plan SSDA, includes demolition of the existing stadium and associated buildings to ground level only. No below ground works are proposed for the Stage 1 Early Works at the site. Therefore, Stage 1 Early Works will have no potential to physically impact upon any archaeological resource.

Therefore, this Archaeological Assessment Report has been prepared with a view to the potential wider archaeological impact for the future development, to be expanded upon once Stage 2 development works are known. It is understood that the maximum concept plan envelope includes an allowance for a limited basement within the stadium footprint, subject to further detailed design and assessment as part of the Stage 2 Development Application. It should be noted that the location of the basement will be designed to avoid the zone of influence of Busby's Bore, however again, this will be further addresses through the Stage 2 application, particularly in relation to proposed site construction impacts (which are as yet unknown).

Recommendations

The following recommendations are made regarding Aboriginal and historical archaeology within the SFS Redevelopment site, both in relation to the Stage 1 Concept Plan development, as well as in consideration of future development stage works at the site:

- Where possible, development impacts within natural soil profiles (as proposed through Stage 2 development) should be minimised as much as practicable to limit the impact to potential Aboriginal archaeological deposits. Lower impact construction techniques such as piling should be considered for the development where possible.
- As the project will be undertaken as SSD, the requirement for an Aboriginal Heritage Impact Permit (AHIP) in accordance with Section 90 of the *NSW National Parks and Wildlife Act 1974* is removed, however the due process including compliance with OEH statutory guidelines, Aboriginal community consultation etc still applies to the project as a condition of the project consent.
- The formal process of Aboriginal cultural heritage assessment has been initiated for the subject site (discussed in the HIS for the Stage 1 Concept Proposal), in accordance with the NSW Office of Environment and Heritage statutory guidelines, including:
 - Consultation with the local Aboriginal community in accordance with OEH guidelines, *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*;
 - Preparation of an Aboriginal cultural heritage methodology for the site (in accordance with above guidelines);

- Preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR) and Archaeological Technical Report (ATR), including proposed Aboriginal archaeological mitigative strategies, to be developed in consultation with the Aboriginal community (in accordance with OEH guideline *Guide to Investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW*)
- The outcomes of the above process should be detailed in full within the Stage 2 heritage documents for the SFS Redevelopment.
- The ATR should develop a program of Aboriginal archaeological test excavation at the site in collaboration with the identified Registered Aboriginal Parties (RAPs) for the project.
- If possible, early Aboriginal archaeological test excavation is recommended for the subject site, the results of which could provide archaeological sensitivity mapping for the site, identifying areas more appropriate for higher impacts, and areas of higher Aboriginal archaeological sensitivity that should have a lesser impact, to feed into the detailed design work (where possible). Should early test excavation not be possible at the site, Aboriginal archaeological test excavation should be developed in direct association with the main development ground works, i.e. any areas of bulk excavation, piling etc.
- Any works involving Aboriginal Cultural Heritage management should be undertaken in close consultation with the local Aboriginal community.
- There is a need to consider safety and stability issues in the development of any Aboriginal archaeological test excavation (Botany sands profile are known to be unstable to excavate), which should be addressed through the development of the Aboriginal Archaeological Research Design and methodology, to be developed through the ATR.
- Aboriginal cultural heritage, including the results of any Aboriginal archaeological investigations (if undertaken through the course of the project) should be included within a Heritage Interpretation Strategy for the site in order to publically convey the significance of the site and surrounding wetlands area to the Aboriginal community past and present.
- Prior to commencement of Stage 2 construction at the site, an Unexpected Aboriginal Finds Policy should be prepared for the site.
- Any potential impact to the State Significant Busby's Bore should be avoided.
- Protection zones should be established around known Busby's Bore shafts (Shafts 9 and 10) within the SFS site during all stages of development works (including Stage 1 demolition to hard stand), including a subsurface buffer to avoid subsurface disturbance to the path of Busby's Bore as it passes under the northern side of the subject site.
- An attempt should be made to accurately locate and survey Shaft 11 and Intervening Shaft No. 4 of Busby's Bore (and the path of the Bore itself across the subject site, if possible) to ensure location is known, and protection zones can be established during all stages of site development works (i.e. demolition and site preparation).
- A dilapidation survey may be required (to be undertaken by appropriately qualified structural engineers) for Busby's Bore to determine its current location and condition within the subject

site in order to accurately assess potential impacts of the development (either direct, or indirect impacts, i.e. vibration). This will be dependent upon whether the Bore can be located, its existing condition (i.e. some sections are known to have collapsed), and whether safe access can be gained to the Bore.

- A revised Archaeological Assessment should be prepared once the Stage 2 design has been completed and details of the development impacts across the site are known, that reassesses the impacts that the development may have on potential historical archaeological resources, and presents mitigative strategies where appropriate.
- Once the project has been approved as SSD, the requirement for Section 60 and Section 140 permits in accordance with the NSW Heritage Act 1977 will no longer apply to the site.
- Should ground disturbing works in the vicinity of Busby's Bore tunnel and/or shafts, the former Engineers Depot or Sydney Sports Ground be required prior to approval of the SSD, a Section 60 (Busby's Bore) or Section 139 Excavation Exception or Section 140 Excavation Permit will be required to be submitted to the NSW Heritage Division.
- A Historical Archaeological Research Design (ARD) should be prepared to mitigate the impact to, and guide development in proximity to potential historical archaeological resources, notably Busby's Bore, and potential archaeological remains associated with the former Engineers Depot.

1.0 Introduction

1.1. The Purpose of this Report

Curio Projects Pty Ltd has been commissioned by Infrastructure NSW to prepare an Archaeological Assessment (AA) for the redevelopment of the Sydney Football Stadium (SFS), located at 40–44 Driver Avenue, Moore Park (the subject site).

This report supports a State Significant Development (SSD) Development Application (DA) for the redevelopment of the Sydney Football Stadium which is submitted to the Minister for Planning pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). A staged approach to the planning applications is proposed which includes:

- Stage 1—Concept Proposal for the stadium envelope and supporting retail and functional uses as well as development consent for the carrying out of early works, including demolition of the existing facility and associated structures.
- Stage 2—detailed design, construction and operation of the stadium and supporting business, retail and functional uses.

This report relates to the Stage 1 Concept DA and detailed Early Works package. Infrastructure NSW is the Proponent for the Stage 1 planning application.

This report assesses both the Aboriginal and historical, archaeological potential and significance of the study area. This report has been prepared with reference to relevant guideline documents as detailed in the relevant subsections, including but not limited to:

- Godden Mackay Logan, 2013, *Sydney Cricket and Sports Ground—Conservation Management Plan—DRAFT*, prepared for Sydney Cricket and Sports Ground Trust.
- Hassell, 2017, *Moore Park Master Plan 2040, Vol. 1 and Vol. 2*, prepared for Centennial Park and Moore Park Trust
- *Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter*, 2013 (Burra Charter);
- *Assessing significance for archaeological sites and 'relics'*, Heritage Branch 2009.
- *Historical Archaeology Code of Practice* (second edition, 2006)
- *Historical Archaeological Sites: Investigation and Conservation Guidelines* (1993)
- *Archaeological Assessment Guidelines* (1996) update in preparation
- *Assessing Heritage Significance* (2001)
- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (2010)
- *Guide to Investigating, Assessing, and Reporting on Aboriginal cultural heritage in NSW* (April 2011)

1.2. Background

The Sydney Football Stadium (SFS) is a significant component of the sports facilities that comprise the Sydney Cricket and Sports Ground (SC&SG). Completed in 1988, the SFS has hosted numerous sporting events in its 30 years of operation for a number of sporting codes including football (soccer), rugby league and rugby union as well as occasional music concerts.

In 2012, the NSW Government announced the *NSW Stadia Strategy 2012* which provided a vision for the future of stadia within NSW, prioritising investment to achieve the optimal mix of venues to meet community needs and to ensure a vibrant sports and event environment in NSW. A key component of

the strategy included development of master plans for Tier 1 stadia and their precincts covering transport, integrated ticketing, spectator experience, facilities for players, media, corporate and restaurant and provision for entertainment. SFS is one of three Tier 1 stadia within NSW, the others being Stadium Australia (Olympic Park) and the Sydney Cricket Ground.

In order to qualify for Tier 1 status, a stadium is required to include:

- Seating capacity greater than 40,000;
- Regularly host international sporting events;
- Offer extensive corporate facilities, including suites, open-air corporate boxes and other function/dining facilities; and
- Be the home ground for sporting teams playing in national competitions.

Following release of the NSW Stadia Strategy, the Sydney Cricket and Sports Ground Trust (SCSGT) undertook master planning culminating in the 2015 Preliminary SCG Master Plan. This master plan defines the context for future redevelopment of the SCG, SFS and related sports infrastructure to ensure that the precinct continues to meet the needs and expectations of visitors and tenants into the future.

In a competitive national landscape, the existing Allianz Stadium (SFS) is now facing serious commercial and operational challenges to remain relevant and competitive. The SFS was constructed many years ago and therefore it fails to meet certain criteria for modern Tier 1 stadiums. The stadium has aged poorly and fails to meet expectations with regards to patron experience, crowd management, safety/security, accessibility, facilities for core tenants, operational efficiency, premium hospitality and food/beverage offerings and media requirements.

On 24 November 2017, the NSW Premier announced the redevelopment of the SFS into a world-class stadium with up to 45,000 seats. The redevelopment will include demolition of the existing facility and replacement with a modern, globally competitive stadium that achieves the requirements for a Tier 1 stadium to meet future requirements. Redevelopment of the SFS will assist in supporting the realisation of the Master Plan principles to:

- Create a flexible venue suitable for sports, e-sports and major events alike;
- Include technology for the future;
- Create a venue for the growth of men's and women's elite sport, as well as the ability to adapt to new sports and the rise of e-sports;
- Create a publicly accessible entertainment and recreational facility;
- Create a stadium integrated with its surrounds including Centennial and Moore Parks and the surrounding residential and business areas; and
- Create a sustainable future.

1.3. Site Identification

The site is located at 40-44 Driver Avenue, Moore Park within the Sydney Cricket Ground Precinct. It is bound by Moore Park Road to the north, Paddington Lane to the east, the existing SCG stadium to the south and Driver Avenue to the west. The site is located within the City of Sydney local government area.

The site is legally described as Lots 1528 and 1530 in Deposited Plan 752011 and Lot 1 in Deposited Plan 205794. The site is Crown Land, with the SCSGT designated as the sole trustee under the Sydney Cricket

and Sports Ground Act 1978. The site is wholly contained within designated land controlled by the Sydney SCSGT under Schedule 2A of the Sydney Cricket and Sports Ground Act 1978.

In a broader context, the site is largely surrounded by Centennial and Moore Parks, the Fox Studios and Entertainment Quarter precincts and the residential suburb of Paddington. Located approximately 3km from the Sydney CBD and approximately 2km from Central Station, the site is connected to Sydney's transport network through existing bus routes and will benefit from a dedicated stop on the soon to be completed Sydney CBD and South East Light Rail.

The locational context of the Site is shown in Figure 1, whilst the site boundaries and existing site features are shown in Figure 2.



FIGURE 1: REGIONAL SITE CONTEXT

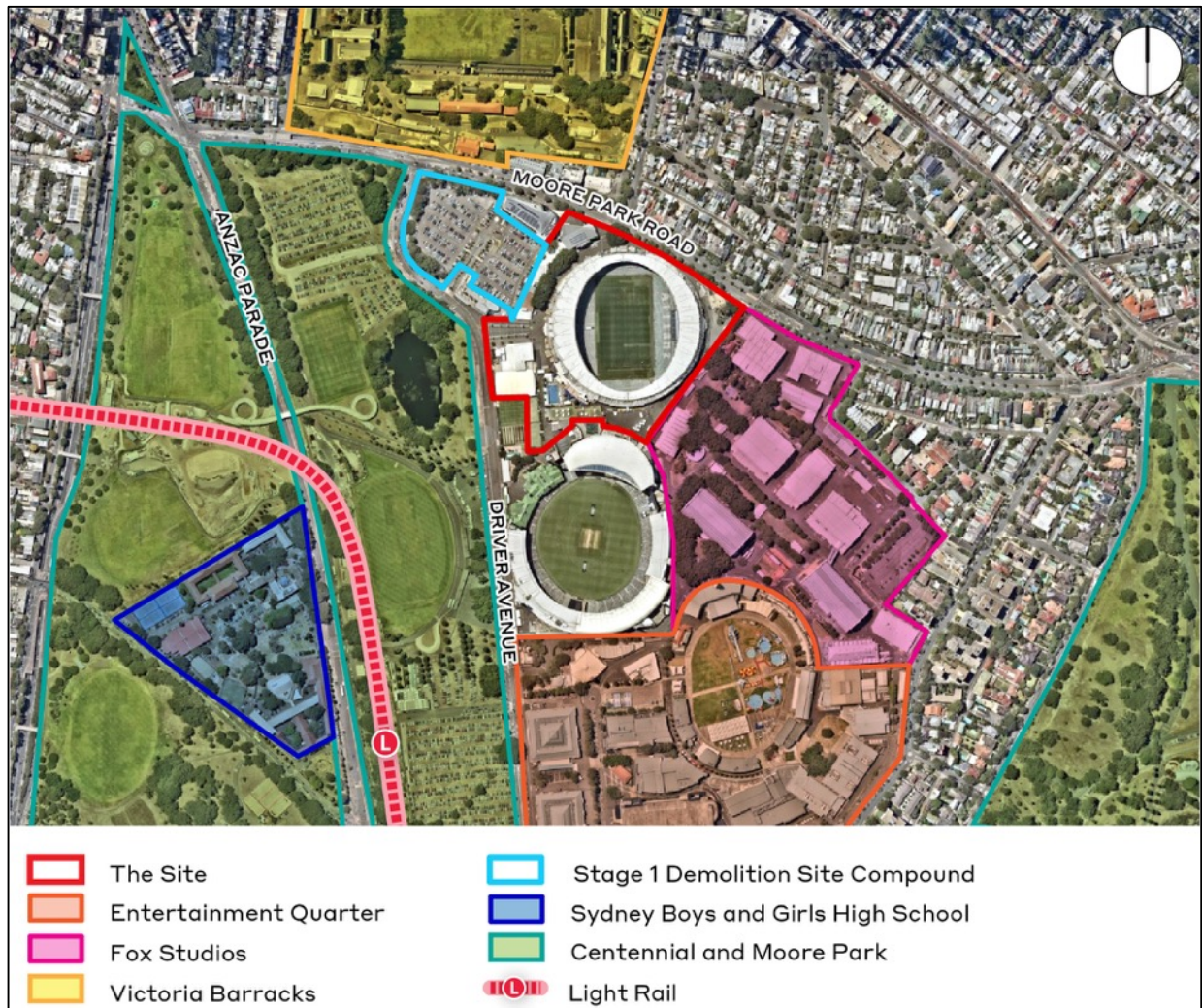


FIGURE 2: SITE AREA AND LOCAL CONTEXT

1.4. Project SEARs—Concept Proposal

The Secretary's Environmental Assessment Requirements (SEARs) for the Stage 1 Concept Proposal of the SFS Redevelopment site were issued on 3 May 2018 (SSD 9249). With respect to historical archaeology and Aboriginal heritage, the SEARs state that:

12. Heritage

- Address any archaeological potential and significance of the site and the potential impacts the development may have on this significance and include a preliminary mitigation strategy.

13. Aboriginal Heritage

- Demonstrate attempts to avoid any impact upon cultural heritage values and identify any conservation outcomes.
- Outline the approach to be undertaken for future stage/s of the development in relation to Aboriginal cultural heritage values that exist across the whole area that will be affected by the development and document these in an Aboriginal Cultural Heritage Assessment Report

(ACHAR), including details of activities undertaken to date. This may identify the need for surface survey and test excavation in addition to the following:

- *Consultation with Aboriginal people must be undertaken and documented in accordance with the guidelines. The significance of cultural heritage values for Aboriginal people who have a cultural association with the lands must be documented in the ACHAR; and*
- *Impacts on Aboriginal cultural heritage values are to be assessed and documented in the ACHAR. The ACHAR must demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, the ACHAR must outline measures proposed to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to OEH.*

This AA report addresses the above SEARs requirements regarding archaeology, with respect to the Stage 1 Concept Proposal SSDA.

1.5. Limitations and Constraints

This report does not assess the impact of any proposed development on built heritage aspects, including listed heritage items or significant views and vistas. For an assessment of the built heritage aspects of the subject site, see Curio Projects, 2018, *Heritage Impact Statement for Sydney Football Stadium, Stage 1 Concept Design SSDA*.

This report presents a desktop assessment of environmental and Aboriginal archaeological context and potential only. Consultation with the Aboriginal community in accordance with OEH Guidelines has commenced and will be ongoing throughout all stages of the development. Therefore, social and/or cultural assessment of Aboriginal heritage values will be provided through subsequent phases of the project. Aboriginal people are recognized as the determinants of their own heritage, and the ongoing process of Aboriginal community consultation for the project seeks to identify social and cultural values of the subject site to the local Aboriginal community, and will incorporate the assessment and acknowledgement of this significance into the Stage 2 DA process for the project.

It should be noted that one of the main tools for assessing the location of potential archaeological resources is the overlay of historical maps and plans over current aerals. While this is undertaken with the highest level of precision available, it should be noted that historical overlays do bear an inherent level of inaccuracy and are used as an indicative location for previous historical and archaeological features, however must be combined with other methods such as historical records, and archaeological techniques, to confirm the location of archaeological features with 100% accuracy.

This AA does not include assessment of any non-heritage related planning controls or requirements.

1.6. Authorship and Acknowledgements

This report has been prepared by Sam Cooling, Senior Archaeologist, and reviewed by Natalie Vinton, Heritage Specialist and Director, of Curio Projects Pty Ltd. All mapping and overlays were prepared by Andre Fleury, Archaeologist and Heritage Specialist of Curio Projects.

Curio Projects would also like to acknowledge the ongoing assistance throughout the project of Tom Kennedy, Director at GTK Consulting, and Anthony O'Carroll, SCG Museum Assistant Curator.

2.0 Statutory Context

2.1. State Legislation—Aboriginal Archaeology

Aboriginal cultural heritage is governed in NSW by two principal pieces of legislation:

- *NSW Parks and Wildlife Act 1974* (NPW Act); and
- *Environmental Planning and Assessment Act 1979* (EP&A Act).

2.1.1. NSW National Parks and Wildlife Act 1974

The NSW National Parks and Wildlife Act 1974 (NPW Act), administered by the NSW Office of Environment and Heritage (OEH), is the primary legislation that provides statutory protection for all ‘Aboriginal objects’ (Part 6, Section 90) and ‘Aboriginal places’ (Part 6, Section 84) within NSW.

An Aboriginal object is defined through the NPW Act as:

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

The NPW Act provides the definition of ‘harm’ to Aboriginal objects and places as:

“...any act or omission that:

(a) destroys, defaces or damages the object or place, or

(b) in relation to an object-moves the object from the land on which it had been situated, or

(c) is specified by the regulations, or

(d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c), “¹

The NPW Act also establishes penalties for ‘harm’ to Aboriginal objects and declared Aboriginal places, as well as defences and exemptions for harm. One of the main defences against the harming of Aboriginal objects and cultural material is to seek an Aboriginal Heritage Impact Permit (AHIP) under Section 90 of the NPW Act, under which disturbance to Aboriginal objects could be undertaken, in accordance with the requirements of an approved AHIP.

2.1.2. OEH Guidelines

In order to best implement and administer the protection afforded to Aboriginal objects and places as through the NPW Act, and EP&A Act (detailed below), the OEH have prepared a series of best practice statutory guidelines with regards to Aboriginal heritage. These guidelines are designed to assist developers, landowners and archaeologists to better understand their statutory obligations with regards to Aboriginal heritage in NSW, and implement best practice policies into their investigation of Aboriginal heritage values and archaeology in relation to their land and/or development. These guidelines include:

¹ NPW Act 1974

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW.*²
- *Guide to Investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW.*³
- *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales.*⁴
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.*⁵
- *Aboriginal Heritage Impact Permits, a Guide for Applicants.*⁶

2.1.3. Due Diligence Assessment Process

The Due Diligence Assessment Process (in accordance with the OEH *Due Diligence Code of Practice* guidelines), is a step by step process that provides proponents with a reasonable method to follow to determine whether their proposed activity has the potential to harm Aboriginal objects, and to identify reasonable constraints and opportunities of the activity, relating to Aboriginal heritage in the activity location. The primary steps of the Due Diligence process are:

- Step 1—Determine whether the activity will disturb the ground surface or any cultural modified trees.
- Step 2a—Database Search of the OEH Aboriginal Heritage Information Management Services (AHIMS), and other known sources to determine whether any registered sites are located within/near the subject site.
- Step 2b—Environmental/Landscape Assessment
- Step 3—Impact Avoidance Assessment
- Step 4—Desktop Assessment and Visual Inspection

Following this process, should the assessment determine that Aboriginal objects are likely to be present and have the potential to be impacted, the Due Diligence Code of Practice advises further investigation and impact assessment (Step 5). Should the assessment determine that Aboriginal objects are unlikely to be present/unlikely to be harmed through the proposed activity, then the activity may proceed with caution.

2.2. State Legislation—Historical Archaeology

Historical archaeology is governed in NSW by two principles pieces of legislation:

- *NSW Heritage Act 1977* (The Act); and
- *Environmental Planning and Assessment Act 1979* (EP&A Act).

2.2.1. NSW Heritage Act 1977

The purpose of the *NSW Heritage Act 1977* (as amended) is to conserve the environmental heritage of the State. *Environmental heritage* is broadly defined under Section 4 of the *Heritage Act* as consisting of the following items:

‘those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.’

The *Heritage Act* protects heritage, but historical archaeological remains are additionally protected from being moved or excavated through the operation of the ‘relics’ provisions. These

² DECCW 2010, *Due Diligence Code of Practice for the Investigation of Aboriginal Objects in New South Wales*.

³ OEH 2011, *Guide to Investigating, assessing and reporting on Aboriginal cultural heritage in NSW*.

⁴ DECCW 2010, *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales*.

⁵ DECCW 2010, *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.

⁶ OEH 2011, *Aboriginal Heritage Impact Permits, a Guide for Applicants*.

protect unidentified 'relics' which may form part of the State's environmental heritage, but which have not been listed on the State Heritage Register or protected by an Interim Heritage Order. An archaeological site is an area of land which is the location of one or more archaeological 'relics'.

Division 9 of the Heritage Act is titled '*Protection of certain relics*', with Section 139 containing provisions for '*Excavation permit [being] required in certain cases*' to '*disturb or excavate land*'. Such permits are issued under Sections 140 and 141 of the Act, or under Sections 60 and 63 of the Act, in cases where 'relics' are situated within sites or places listed on the State Heritage Register. Section 139 prohibits the excavating or disturbing of land leading to a relic being discovered, exposed, moved, damaged or destroyed. To 'excavate and disturb land' in the context of the NSW Heritage Act is an act associated with the activity of digging or unearthing.

Since amendments were made to the Heritage Act made in 2009, a 'relic' has been defined as an archaeological deposit, resource or feature that has heritage significance at a local or State level. (NSW Heritage Branch Department of Planning. 2009. *Assessing Significance for Sites and 'Relics'*).

This significance based approach to identifying 'relics' is consistent with the way other heritage items such as buildings, works, precincts or landscapes are identified and managed in NSW. The key issue is whether a deposit, artefact, object or material evidence that survives from the past is significant. If it is significant, it will need to be managed under the 'relics' provisions of the *Heritage Act*. (Heritage Branch, 2009:1). If an historical deposit, artefact, object or material evidence from the past is deemed not to meet the threshold of local or State significance, then it does not need to be managed as a 'relic' under the Heritage Act.

In addition, Section 146 of the Heritage Act relates to the requirement to report the discovery of relics to the Heritage Council.

Specially, Section 146 of the Heritage Act states:

146 Notification of discovery of a relic

A person, who is aware or believes that he or she has discovered or located a relic (in any circumstances, and whether or not the person has been issued with a permit) must:

(a) within a reasonable time after he or she first becomes aware or believes that he or she has discovered or located that relic notify the Heritage Council of the location of the relic, unless he or she believes on reasonable grounds that the Heritage Council is aware of the location of the relic, and

(b) within the period required by the Heritage Council furnish the Heritage Council with such information concerning the relic as the Heritage Council may reasonably require.

In accordance with the Section 146 provisions of the Heritage Act, the discovery of relics is generally reported to the Heritage Division, in the form of a post-excavation report or similar, depending on the circumstances in which the discovery was made- and in accordance with any requirements of the Minister.

Under Part 4 of the EP&A Act, excavation permits under the Heritage Act are not required for SSD projects. Additional approvals specific to SSD projects may be required instead.

2.2.2. NSW Heritage Division Guidelines

In order to best implement and administer the protection afforded to historical archaeological ‘relics’ and heritage places as through the NSW Heritage Act, and EP&A Act, the NSW State Government have prepared a series of best practice statutory guidelines with regards to historical archaeology. These guidelines are designed to assist developers, landowners and archaeologists to better understand their statutory obligations with regards to historical archaeology in NSW, and implement best practice policies into their investigation of historical archaeological heritage values in relation to their land and/or development.

2.3. Environmental Planning and Assessment Act 1979

Part 4, Division 4.1 of the Environmental Planning & Assessment Act 1979 (EP&A Act) identifies and defines State Significant Development projects (SSD) as those declared under Section 89C of the EP&A Act. The EP&A Act provides for development for ‘recreation facility (major)’ with a capital investment of more than \$30 million to be designated SSD under State Environmental Planning Policy (State and Regional Development) 2011. Thus, the current SFS Redevelopment project is designated SSD.

Where a project is assessed to be an SSD, the process of development approval differs, with certain approvals and legislation no longer applicable to the project. Of relevance to the assessment of Aboriginal heritage for a development, the requirement for an AHIP in accordance with Section 90 of the NPW Act is removed for SSD projects (EP&A Act, Section 89J). However, this does not remove the requirement to undertake Aboriginal cultural heritage and archaeological assessments/investigation in accordance with OEH statutory guidelines (as described above).

Of relevance to the assessment of historical archaeological potential for a development, the requirement for a S140 Excavation Permit under the Section 139 provisions of the Heritage Act (1977) is removed for SSD projects (EP&A Act, Section 89J).

The requirement to report the discovery of a ‘relic’ in accordance with Section 146 of the Heritage Act is still applicable for projects assessed as SSD projects.

2.4. Sydney Local Environmental Plan 2012

Clause 5.10 of the Sydney Local Environmental Plan 2012 (LEP) sets out objectives and planning controls for the conservation of heritage in the City of Sydney, including the conservation of archaeological sites. The site is subject to the Sydney LEP and is zoned SP1 Special Activities–Recreation Facility (major). The site is also located within a Heritage Conservation Area (Sydney Cricket Ground under the Sydney LEP).

The LEP states that development consent is required for works that will involve:

5.10(2)(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed.

(d) disturbing or excavating an Aboriginal place of heritage significance.

(e) erecting a building on land:

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Clause 5.10(7) specifically relates to the management of archaeological sites:

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

Clause 5.10(8) specifically relates to the management of Aboriginal site:

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

2.5. Statutory Heritage Listings

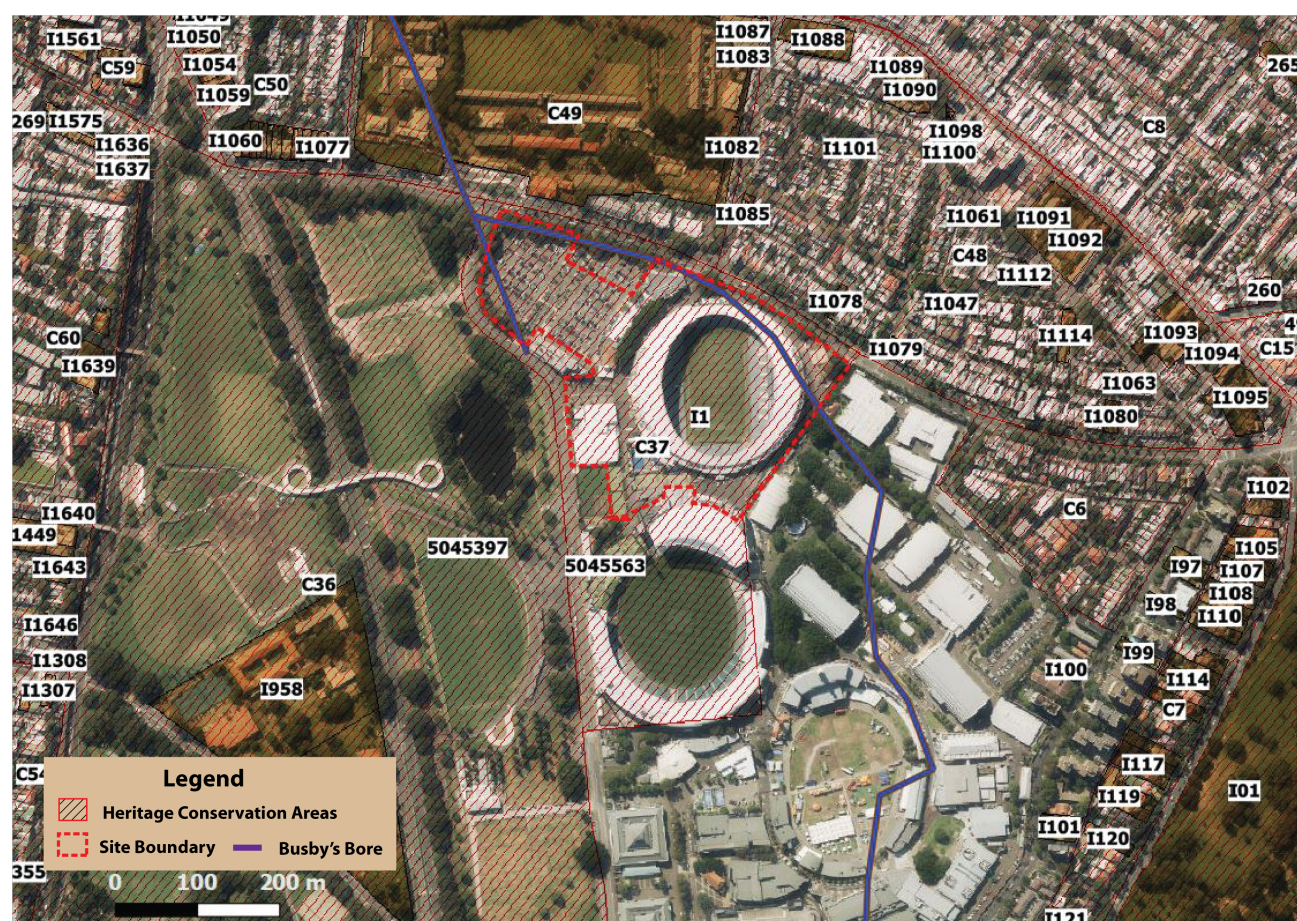
While the SFS itself is not individually listed on any statutory heritage register, the subject site includes part of the State Heritage Register (SHR) listed Busby's Bore (SHR #00568, Database #5045164, LEP #I1) (approximately along the northern boundary of the site), is located within the boundaries of the Sydney Cricket Ground Heritage Conservation Area (HCA) (Sydney LEP 2012, HCA C37), and is also located in close proximity to several other heritage items of both State and local significance, and other adjacent HCAs. No individual heritage items (other than a section of Busby's Bore) are located within the subject site.

The State heritage listed 'Sydney Cricket Ground Members Stand and Lady Members Stand' (SHR 00353, Database #5045563) is located immediately to the south of the subject site. Other adjacent heritage items and HCAs include:

- Victoria Barracks Group—75 Oxford Street/Moore Park Road (LEP Heritage Item #I1086)
- Victoria Barracks HCA (LEP C49)
- Paddington South HCA (LEP C48)
- Moore Park HCA (LEP C36)
- Terrace house "Verulam" including interior and front fence—284 Moore Park Road (LEP Heritage Item #I1078)
- Olympic Hotel including interior—308 Moore Park Road (LEP Heritage Item #I1079)

Busby's Bore is also listed on Sydney Water S170 Heritage and Conservation Register. All heritage items as listed above are presented below in Figure 3. It should be noted at this point, that the path of Busby's Bore as presented in Figure 3, is indicative only, and not 100% geographically accurate. There is some conjecture surrounding the exact path of Busby's Bore, which is discussed in detail further below.

2.6. Non-Statutory Listings



2.7. Draft CMP Conservation Policies—Archaeology

⁷ Busby's Bore, State Heritage Register Listing, Available from:
<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5045164>

and surrounds, it also encompasses the whole of the SFS Redevelopment site, and therefore its policies and recommendations have been acknowledged in the preparation of this AA.

However, it should be noted that the SCG CMP currently remains in draft form only, and has not as yet been finalized or formally approved by the NSW Heritage Division. As a part of the SFS Redevelopment project to which this AA report refers, the SCGT is committed to preparing a final CMP for the whole site.

Draft SCG CMP policies as they relate to archaeology at the SFS Redevelopment site include:

Policy 54—[Aboriginal Heritage] Unexpected Remains. *Should any Aboriginal objects be identified during future site works, all activities should cease within the find vicinity and the Office of Environment and Heritage (OEH) should be notified. Objects should not be 'harmed' (destroyed, defaced, damaged, moved) in any way. Aboriginal community consultation must be undertaken consistent with the consultation guidelines prepared by OEH. It will be necessary to obtain a permit to disturb the site before works can commence.*

Policy 55—Obligations of Contractors. *Suitable clauses should be included in all contractor and subcontractor contracts to ensure that on-site personnel are aware of their obligations and requirements which need to be met relating to the National Parks and Wildlife Act 1979 (NSW) concerning Aboriginal 'objects'. Specifically, relevant on-site personnel should be made aware of the procedure to be followed for notification and stopping work should items of Aboriginal heritage be found during site works.*

Policy 56—Management of Historical Archaeological Remains—General. *The management of the historical archaeological relics at the site will be given a high priority in the management of the place.*

Policy 59—Proactive Archaeological Investigation. *Generally, the excavation of relics will not be undertaken unless:*

- *it is necessary for their protection;*
- *significant relics can be retained in situ; and/or*
- *there would be research benefits not otherwise obtainable.*

(Explanatory Note: Archaeological excavation can be a destructive process. Therefore, where it is possible to leave relics undisturbed, this is favoured.)

Policy 60—Appropriately Conserve Archaeological Relics. *All archaeological relics exposed in the study area will be appropriately conserved, whether they are retained in situ or removed for storage and/or display.*

Policy 61—Busby's Bore. *Ground disturbance shall be avoided in the vicinity of Busby's Bore. Works shall not impact adversely on this relic which should be retained in situ.*

(Note: Busby's Bore is an item on the NSW State Heritage Register (SHR No. 00568). The SHR curtilage around the fabric of the bore extends for three metres from its exterior surfaces, incorporating a two metre diameter of the Bore and shafts.)

Policy 64—Sydney Sports Ground. *Should ground disturbance works be required beneath the Gold Member Car Park, first make an application for an ‘exception’ from the Heritage Branch, OEH, on the grounds that the works would have only a minor impact on relics of local significance.*

Note: the potential relics belonging to the former Sydney Sports Ground building have been assessed as having no archaeological significance.

While the draft SCG CMP includes two policies regarding Aboriginal archaeology, it does not include an Aboriginal archaeological or Aboriginal cultural heritage assessment.

3.0 Historical Summary

This historical summary has been mainly extracted from readily available secondary resources such as the Sydney Cricket and Sports Ground—Conservation Management Plan (Draft) (GML 2013) and Busby's Bore CMP (Sydney Water 2004). Sources have been referenced as appropriate.

3.1. Pre-European Environment and Aboriginal Ethnohistory

The Moore Park area of Sydney is part of the traditional lands of the Gadigal people, which stretches along the southern side of Sydney Harbour from South Head, west to approximately Darling Harbour, and south towards Botany Bay. While there is limited ethnographic records of the use of the Moore Park area by Aboriginal people upon arrival of colonists in the late 1700s, the dune and wetlands of the Botany Basin in this area would have provided the local Aboriginal people with a rich and diverse resource zone to utilize.

At the time of arrival of the First Fleet and Captain Arthur Phillip in January 1788, it is estimated that at least 1500 Aboriginal people would have lived along the coastal region between Broken Bay and Botany Bay. Elders from the La Perouse community have provided personal accounts of the collection of food and camping in Centennial Park in the 1930s, due to the presence of the Lachlan Swamps and the resources this landscape provided.⁹

3.2. Sydney Common

All of the subject site and the surrounding area (including Moore Park, Centennial Park, Sydney Showground, SCG etc), was originally part of the 1000 acres of land known as the 'Sydney Common'. It was dedicated by Governor Macquarie in 1811 as a public recreation area (Figure 4) primarily to discourage people from taking animals into Hyde Park or other public lands to graze. Early on, the Sydney Common began to be further allocated and divided for different uses, with the eastern side including large swamp lands (Lachlan Swamps) declared and protected as a fresh water reserve in the 1820s (now Centennial Park), while the western portion of Sydney Common is generally consistent with the location of Moore Park today.

Early accessibility through the area and to Randwick was very minimal, with the main transportation route from Sydney Cove through to the Botany Bay settlement only officially laid out in the 1840s (i.e. Botany Road).

In 1841, the northern part of the Sydney Common was allocated for the Victoria Military Barracks (along the present day Oxford Street) (Figure 5). Constructed between 1841-1846 using locally quarried sandstone, the Victoria Barracks were occupied by British troops until 1870, at which time the colony became responsible for its own defence, and the colonial forces and Australian Army took up residence.¹⁰

The majority of the Sydney Common has been retained in public ownership, as parklands (Moore Park, Centennial Park, Queens Park) and sporting and recreational facilities, since its establishment in 1811.

⁹ Conybeare Morrison & Partners 2003, *Centennial Parklands Conservation Management Plan—Volume 1*, prepared for Centennial Park and Moore Park Trust, pp 3–6

¹⁰ Radford, N., 2016, 'Victoria Barracks', *Dictionary of Sydney*, available from <https://dictionaryofsydney.org/node/19569#ref-uuid=c6d18b0e-d030-9100-6bd1-785ae97156e5>

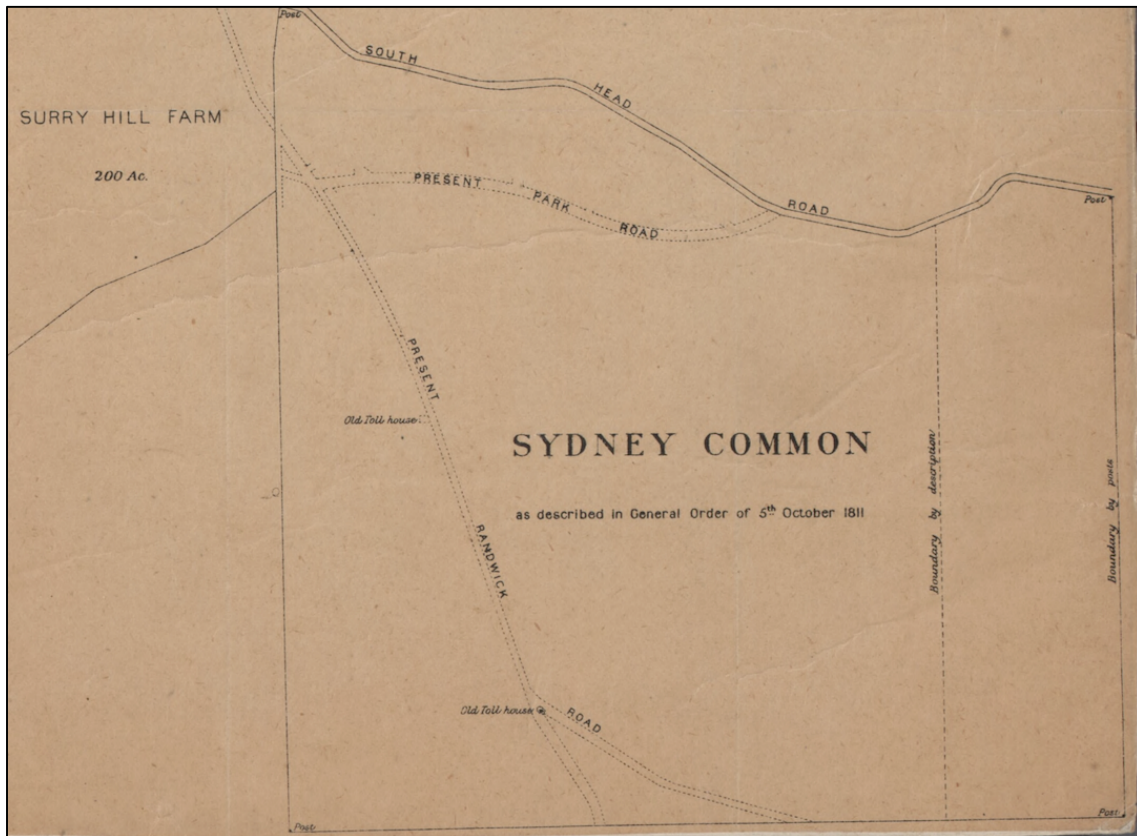


FIGURE 4: PLAN OF TOWN OF SYDNEY NEW SOUTH WALES SHEWING COMMON, 1811 (SOURCE: NLA MAP F 868)

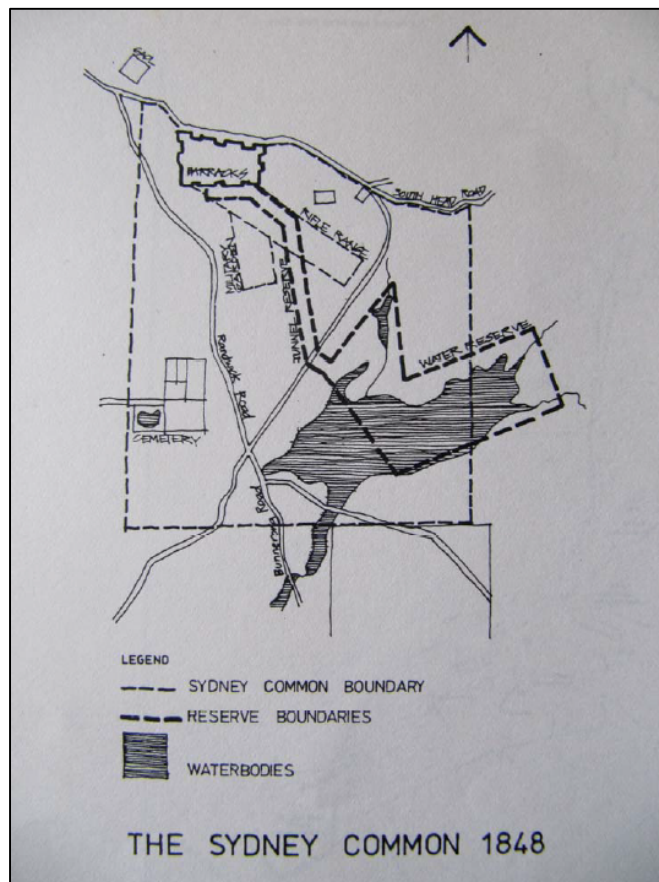


FIGURE 5: SYDNEY COMMON AND ALIENATED LANDS, 1848 (SOURCE: CABCONSULTING PTY LTD)

3.3. Busby's Bore

A large reason that Sydney was founded in its present location from 1788, was the presence of the fresh water stream that flowed into Sydney Cove, which came to be known as the Tank Stream. The sole source of fresh water for the early colony, the Tank Stream quickly became polluted and fouled, and by the 1820s, Sydney's demand for a new source for fresh water was becoming critical.

In 1826, Surveyor and Civil Engineer John Busby, having been engaged to devise a replacement water supply for Sydney, proposed the construction a series of dams on the Lachlan Swamps (now Centennial Park's lakes) which would be connected by a gravity fed tunnel to Hyde Park. Construction of the convict-built tunnel which came to be known as Busby's Bore, commenced in September 1827 from Hyde Park, took ten years to complete, and extends approximately 3.6km. The path of the bore as it passed under the Sydney Common, was dedicated as a reserve in an attempt to preserve the structure of the tunnel (Figure 6).¹¹ The original plan was to construct a 65 million litre reservoir in Hyde Park to collect the water, however following completion of the bore, this plan was abandoned, and instead water was piped across Hyde Park on trestles (Figure 7), to be finally collected near the corner of Elizabeth and Park Streets, before being distributed through the city, initially by horse drawn carts and later by the city's first water pipes, constructed in the 1840s.¹²

Most of the tunnel was cut through the sandstone bedrock, with limited locations cut as open trenches laid with sandstone masonry and slab roof (Figure 8). At completion, the tunnel was 3.6km long, averaged 1.5m in height and 1.2m wide, in some places with dimensions just under 1m square while in others up to 3m high, and varied greatly in depth, in some locations extending to 24 metres deep.

The path tends to be relatively erratic and unpredictable in nature (varying in depth, width, and with many dead ends) which is believed to have been due to the fact that Busby refused to enter the tunnel to supervise, instead directing its excavation from above ground. Excavation of the tunnel was undertaken by convict labour, almost entirely by hand pick and shovel, in confined underground spaces, which often requiring standing in water requiring frequent draining, while convicts were sometimes affected by fumes caused by the use of gunpowder to blast through sections of the tunnel.¹³

Therefore, in the grueling conditions, without the direct supervision of Busby, it is believed that convicts effectively took the path of least resistance during excavation, at times turning around when digging became too difficult, and continuing again along a different route. For this reason, the 'official' surveyed path of the Bore often deviates from the actual orientation of the route and location of the shafts and wells (Figure 10). The route of the tunnel extends in part beneath the northern side of the Sydney Football Stadium, including a 'spur' under the northwest portion of the site, which is likely representative of a path that was abandoned by the convicts during excavation in favour of a more preferable route. Twenty-eight shafts and wells that tapped into the bore at different locations along its route have been located to date, six of which are located within or immediately adjacent to the SFS redevelopment area (Shafts 9 to 13 and 'Intervening Shaft No. 4'). Analysis of the location of Busby's Bore and associated shafts within the SFS Redevelopment site is presented below in Section 6.3.

Busby's Bore was Sydney's sole fresh water source from 1837 to 1859, at which time the growth of the city required additional water options to be investigated. Thereafter, Busby's Bore was initially supplemented by the Botany Swamps scheme from 1859, and completely superseded by other schemes

¹¹ GML 2013: 12

¹² Sydney Water Corporation, 2004, *Busby's Bore, Sydney—Draft Conservation Management Plan*

¹³ Sydney Water Corporation, 2004: 15