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Mr Anthony Lean
Chief Executive Officer
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Re: Heritage Listing Rushcutters Bay Park - Yarranabbe Park and seawall

On 25 January 2019, under delegated authority, you granted an Interim Heritage Order (IHO) on Rushcutters Bay Park. This decision related to the proposed development by Woollahra Council for a skate park in Rushcutters Bay Park.

One component of this decision was listed as “Historical significance”, namely:

“The early harbour wall is significant because it is part of one of the earliest and important reclamations in NSW.”

<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5053384>

Following the Darling Point Society (DPS) commissioning and paying for a heritage report on the Yarranabbe and Rushcutter's Bay park seawall, Woollahra Municipal Council duly Heritage listed it in 2016.

On 24 September 2018, Woollahra Council passed a recommendation to “Upgrade the Northern End of Yarranabbe Park.” Part of this upgrade is to remove parts of the (now listed) harbour sea wall to facilitate the construction of stairs to enable direct public access from the Park into the harbour.

https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0006/193488/Council_Minutes_-_24_Sept_2018_V3.pdf

Yarranabbe Park is an extension of Rushcutters Bay Park and the harbour wall that features in your IHO is part of the same seawall that is the subject of the proposal, referred to above, to remove part of the harbour seawall to facilitate construction of sea steps.

Considering the above information, I believe that the scope of IHO No. 146 could be directly used to stay the hand of Council's intention to remove part of the seawall at Yarranabbe Park.

I therefore seek your determination as to whether IHO No. 146 is relevant to Council's decision on 24 September 2018 and, if relevant, request that Council immediately cease work at Yarranabbe Park until the process surrounding IHO No.146 has concluded.

I am attaching the heritage report the Darling Point Society submitted to Woollahra Council to obtain local heritage listing of the seawall from Yarranabbe Park Northern end to the canal in Rushcutters Bay; the seawall west of the canal is heritage listed by City of Sydney Council including its part of the park and to include various heritage items.

It should be noted that as a legacy of the 2000 Sydney Olympics using Rushcutters Bay Park as the yachting centre, one specially erected jetty has remained and is open to public use and is in a much safer position for activities to be conducted from it.

The NSW government delegated power to local councils including Woollahra Council power to issue IHOs. However, the gazettal notice excluded council jurisdiction over Crown Land, such as Yarranabbe Park.

1.0 A heritage study commissioned by the Darling Point Society and attached separately recommends council commission a heritage study with a view to heritage-listing. There has been no response from Council to date.

2.0 Power to issue an IHO over this park now reverts to the Minister.

3.0 This matter was not dealt with by a majority of councillors in that environment committee. There was insufficient social justice. The decision-making process was not sufficiently transparent to other councillors who were absent. The community's pro-heritage views and anti-social concerns were ignored.

4.0 We submit the Woollahra side of the park has very similar characteristics as the heritage-listed City of Sydney Council side, namely

SHR Criteria a) [Historical significance]	The open spaces have been an important early facility since since 1894
SHR Criteria b) [Associative significance]	The open spaces provide evidence of the high standard of design by Thomas Rowe whose name appears on the plaque on the grandstand.
SHR Criteria c) [Aesthetic significance]	The landscaping and open spaces and formations of tree plantings generally demonstrates the aesthetic characteristics of this type of 19 th century park.
SHR Criteria d) [Social significance]	The community research carried out indicates that the park and stand is held in esteem by the local community
SHR Criteria e) [Research potential]	-

SHR Criteria f)
[Rarity]

The park is believed to be a rare surviving example of a late nineteenth century park reclaimed from swamp.

SHR Criteria g)
[Representativeness]

The overall architectural form and detailing of the open spaces are be representative of parks associated with suburban facilities that were built between the 1890s and the 1970s.

The park therefore satisfies the required heritage criteria for heritage listing.



Dolphin



Seal



Penguin

Pictures taken in Rushcutters Bay Darling Point between the Point and Garden Island. It is known that bull sharks frequent that area.

Yarranabbe Park State Heritage Listing – Opening of seawall to make sea steps

State Heritage Listing is requested for Yarranabbe Park and the seawall for the following reasons:

Objection 1.

The City of Sydney wall has been opened for dogs and children to paddle. The opening is located at the area furthest to the mouth of the bay in a very shallow and sandy area where there no danger of shark attacks, waves, boat wash, tidal effect.

Pictures of sea life close to the seawall in Rushcutters Bay:

Objection 2.

Double Bay and Rose Bay have several openings into the harbour. The openings are located a) on the edge of a sandy spot where the water is shallow and graduates slowly to deeper water b) deep and narrow staircase from street level to water to access dinghys.

5.0 Criteria for listing on the State Heritage Register ex: nswheritage.nsw.gov.au

“The State Heritage Register is established under Part 3A of the Heritage Act (as amended in 1998) for listing of items of environmental heritage, those places, buildings, works, relics, moveable objects, and precincts, of state or local heritage significance (section 4, *Heritage Act 1977*), which are of state heritage significance, in relation to the historical, scientific cultural, social, archaeological, architectural, natural or aesthetic value of the item (section 4A(1), *Heritage Act, 1977*).

To be assessed for listing on the State Heritage Register an item must meet more than one of the criteria listed in the Heritage Report:

Reasons for opposing opening the wall:

1. The detrimental impact of the proposed Sea-Steps on the **intertidal area** of the Park to sea-grasses, penguins, seals, dolphins and all marine life and bird life in the area.
2. Impact of possible sea-level increases. Some Councils are building higher sea-walls and other protection infrastructure to better secure land areas which may be inundated by future sea-level rises.
3. No provision for public facilities toilets and change rooms/showers
- 4..Lack of assessment of risk factors.:
 - i) sharks -: navy diver mauled at Garden Island 11/02/2009 lost hand and leg (next point from Darling Point) with bull sharks being the most common sighted in Sydney harbour and also one of the most dangerous species. Sharks are attracted by the smell of dogs. The last reported fatality was Martha Hathaway in January 1963.
 - ii)It is well documented that dogs attract the attention of sharks.
 - iii)A bull shark has been sighted off the point. The Woolloomooloo shark attacks are well documented and a bull shark was caught in 2002.
 - iv)Divers cleaning boats in Rushcutters Bay and off Yarranabbe Park have been recently menaced by bull sharks to the extent that **shark warning signs are now being erected at the CYCA.**
 - iv) Manta rays

Warning sign at CYCA.



5. Sea level rises:

Predicted water levels 2050/2100 NGIS (National Geographic Information System)



By 2100 official predictions of sea level rises will see the sea level breaching regularly into the park (and flooding storm water outlets) up to 2 metres. Openings in the sea wall will cause problems

In recent years there has been an increasing level of boat traffic kayak/sails/motors in close to that area. More marine moorings has been constructed in Rushcutters Bay. Sea-steps could cause a conflict between this busy sea-lane and those using the proposed Sea-Steps. In contrast, the Sydney City Council Sea-Steps are placed in an out-of-the way corner of the Bay.

- i) It is not known who would manage the intertidal area.
- ii) Undesirables from other suburbs enjoying, in their way, the openings in the seawall for a variety or daily or nightly occupations.
- iii) Boat washes affecting picnickers from ferries and large boats entering the mouth of the Bay
- iv) Waves caused by ferries and other large crafts.
- v) Boats affected by people in the water.
- vi) Children in difficulty in the water.
- vii) Unhealthy pollution in the water.

For all of the above, It is recommended that any plans to open the seawall for recreational purposes be abandoned.

It is to be noted that as the seawall is now a Council heritage listed item and therefore an independent Heritage Impact Statement is required to be carried out before any alterations are made.

6.Environmental effect on intertidal area.

Introduction of sea steps will:

1. Displace/put at risk local fauna Dogs and wildlife do not mix. Local fauna will be driven out and/or put at risk. Most severely: penguins, birdlife, crustaceans. A dog was seen killing a

stingray here so multiply this by hundreds of dogs each day/night. In short, the local ecosystem will be seriously affected.

- Foul the area with dog droppings and diggings
- Damage/destroy sea grass
- Large volume of people and dogs wading and creating noise.

7. Projected Sea Level Rises.

The PoM ignores the NSW Coastal Planning Guide, in particular the Sea Level Rise policy.

DECCW: NSW Dept of Environment, Climate change and water

Draft NSW Coastal Planning Guideline

The *Draft NSW Coastal Planning Guideline: Adapting to Sea Level Rise* was released by the Department of Planning in October 2009 (DoP, 2009). It provides guidance to local government on how sea level rise and its associated impacts (on both flooding and coastal processes) should be incorporated into planning and development assessment processes in NSW.

NSW Sea Level Rise Policy Statement

DECCW recently released a Sea Level Rise Policy Statement (DECCW, 2009a), outlining their objectives and commitments to communities affected by sea level rise. The Policy Statement includes sea level rise planning benchmarks of 0.4m by 2050 and 0.9m by 2100. These values were established through careful consideration of available sea level rise projections and takes into account the uncertainty associated with these projections.

Further, the Draft Woollahra Local Environment Plan 2013 states:

6.2 (f) Development on the foreshore must ensure access.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following

Management of sea level rise or change of flooding patterns as a result of climate change.

Current tidal observations extrapolated to include these predicted sea level rises are summarized in the following table:

Summary Table

Year	Expected Park Observation
2013	Minor sea breaches into park during rough weather and boat wash. Occasional flooding along New Beach Rd in heavy rain, (due to storm water outlets becoming submerged in the high tide).
2050	Most days will have sea breaches into the park, severe in rough weather and boat wash. Dramatic increase in likelihood of flooding along New Beach Rd in heavy rain.
2100	Major and prolonged sea breaches daily into the park. New Beach Rd constantly flooding, possibly with sea water.

Sea steps, on the whole, should be rejected due to Council’s own LEP 6.2 (f)

8.Positioned at a blind corner for marine traffic.

The position of the northern sea steps is immediately behind the northern corner of the sea wall – effectively creating a blind corner for boats navigating around this corner into Rushcutters Bay.

There is no boat speed limit at the proposed northern steps. A “safe speed” limit is stated by Roads & Maritime NSW – but this can be widely interpreted. Boats often speed around this corner. Boats don’t have brakes nor can they turn quickly.

People/dogs entering the water at the proposed northern sea steps are at HIGH risk of being run over by boats rounding this corner.

9. Waves, people and sea wall.

Recreational access to harbours/ivers is wherever possible located at a sheltered position . The proposed Northerly Steps are positioned at the most exposed point in Yarranabbe Park. It gets the 3 strong winds and associated waves: summer N/E, the autumn/winter W, the southerly busters. Inexperienced swimmers/paddlers are most likely to get into difficulty at this point.

On the calmest of days, wash from large passing craft can crash unexpectedly against the northern sea wall here with enormous power, day & night. This is a serious injury threat for anyone caught against the sea wall when they hit. I am certain there will be seriously injury, worse death, here as a result. Sea

Safety around the marine environment is taken more seriously because a simple knock to the head (eg. against seawall) can easily result in a person falling down underwater and drowning. There is no sandy beach to land on safely at the bottom of the proposed sea steps, simply rocks and weeds .

Who will manage the intertidal area?

Recent example.....

A dog owner was letting his cattle dog off the leash daily for about half an hour down onto the intertidal area. The dog excitedly barked for the entire time. Very annoying and children are frightened by the unleashed energetic dog.

The ranger advised that the intertidal area is not Council jurisdiction but NSW Roads & Maritime responsibility although there are no patrols.

So who will manage this intertidal area?

Summary of arguments:

- sea level rises
- Threat of Shark attacks by bull sharks
- Stingrays
- Tides which will come up to the top step
- Intertidal area
- Safety
- Local marine wildlife, including fairy penguins, feed in the northern area where sea steps are proposed.
- Sea Grass will be destroyed.
- State Planning guidelines and Woollahra Council LEP require the rise of sea levels be considered with foreshore development. By 2050 official predictions of sea level rises will see the sea level breaching regularly into the park (and flooding storm water outlets). Openings in the sea wall will cause problems.

- The position of the proposed sea steps behind the northern corner:
 - creates a hazard for boats travelling around the northern corner into Rushcutters Bay,
 - is at the most exposed point in the park to wind and large waves which crash against the sea wall.

These points present real and severe threats to the public and the wildlife

Maintaining the seawall provides effective protection of our marine wildlife and the only effective protection against future sea rises. The proposed sea steps should be abandoned.

We are pleased to have the full support of the Minister for Heritage the Hon. Gabrielle Upton who has helped us with the grant of the IHO for Rushcutters Bay Park.

Thank you for your consideration



Charlotte Feldman
Chair
Darling Point Society Inc.

Encl (1) Heritage report Yarranabbe Park seawall)