

Council Resolution Item

Action is required from the Council Meeting on **04 July 2017** as per the Resolution outlined below.

EP/36 Mosman Archaeological Sites - Items A484, A485 and A488
(EP)

EP/36: Mosman Archaeological Sites - Items A484, A485 and A488 (EP)

RESPONSIBLE OFFICER: Manager Urban Planning

EXECUTIVE SUMMARY

An assessment of the heritage significance of three archaeological sites located on privately-owned land, listed in Mosman Local Environmental Plan 2012, has been undertaken. This report presents the study's findings and makes recommendations to amend the LEP and Mosman's Development Control Plans in respect of the sites.

OFFICER'S RECOMMENDATION

The Manager Urban Planning recommends that Council:

1. Prepare a Planning Proposal under section 55 of the *Environmental Planning and Assessment Act 1979* to amend Mosman Local Environmental Plan 2012 by:
 - a. Removing from Schedule 5, Part 3 Archaeological sites the following:
 - i. Item A484: Former tram terminus including enclosing sandstone walls (Avenue Road)
 - ii. Item A485: Former stone quarry (Avenue Road)
 - iii. Item A488: Site of former Harnett's quarry (Royalist Road)
 - b. Including Item A484 in Schedule 5, Part 1 Heritage items, amended to apply only to the enclosing sandstone wall associated with the former tram terminus
2. Amend Mosman's Development Control Plans in respect of the Significant Rock Faces and Retaining Walls map and clause in the manner detailed in this report, adding the excavated quarry walls located on the following sites:
 - a. Within nos. 65A, 69 and 71 Avenue Road, and
 - b. Within nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself.

Background

At the Council Meeting of 3 May 2016, Council considered a report on the public exhibition of a Planning Proposal to amend the heritage listing of archaeological sites listed in Schedule 5,

Part 3 of Mosman Local Environmental Plan 2012 (MLEP 2012), to more definitively identify the location of sites. Council resolved to:

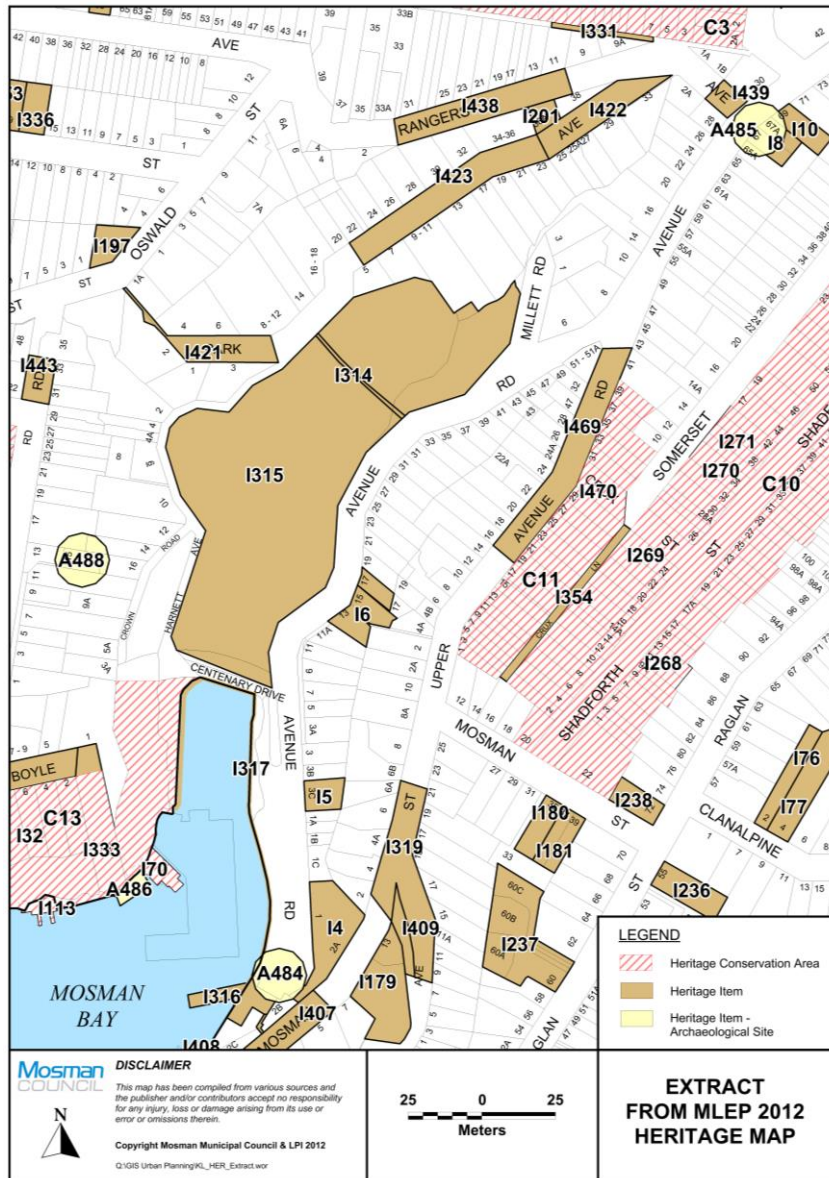
- amend the LEP in respect of archaeological sites located on public land
- to defer its consideration of archaeological sites affecting privately-owned land, to enable a review of the heritage significance of sites under current NSW Heritage Council criteria.

The three archaeological sites located wholly or partially on privately-owned land are listed in Schedule 5, Part 3 of MLEP 2012 as follows:

Suburb	Site	Address	Property description	Significance	Item No
Mosman	Former tram terminus, including enclosing sandstone walls	Avenue Road	Road reserve at end of Avenue Road	Local	A484
Mosman	Former stone quarry	65A–69A Avenue Road	Excavated indentation on eastern side of Avenue Road	Local	A485
Mosman	Site of former Harnett's Quarry	Harnett Avenue and Royalist Road	Steep escarpment between Harnett Avenue and Royalist Road from end of Calliope Street to waterfront	Local	A488

The MLEP 2012 Heritage Map identifies these sites with a yellow circle – see extract below.

More detailed background information is contained in the Attachment to this report.



Heritage study

Heritage consultants Austral Archaeology were subsequently engaged to undertake a review of the sites. The study *Archaeological Significance Assessment* dated 22 February 2017 prepared by Austral Archaeology considers Items A484, A485 and A488 listed in MLEP 2012, providing:

1. An overview of the historical background of the sites
2. A summary of the relevant statutory context
3. An assessment of significance of the sites under the current NSW Heritage Council's *Assessing Significance for Historical Archaeological Sites and Relics* (2009)
4. Recommendations for amendment to the listings of the sites in MLEP 2012; and
5. Response to matters raised in landowner submissions reported to Council in May 2016

A detailed summary of the study's findings - including location maps, photographs, historical background, statutory context, assessment of heritage significance and recommendations - is provided in the Attachment to this report.

The findings of the Austral Archaeology study are that Items A484, A485 and A488:

- Are not listed on any Commonwealth, State or local statutory or non-statutory heritage register, with the exception of the current listing in MLEP 2012;
- Do not meet the NSW Heritage Council assessment criteria at the State or local level from an archaeological standpoint. Only limited archaeological material is likely to be present at the sites, and their archaeological significance is low;
- Meet some NSW Heritage Council assessment criteria at a local level from an historical perspective, retaining value as a direct link to the former use of the area.

The recommendation of the study is that:

- Items A484, A485 and A488 remain listed in MLEP 2012, not as archaeological sites, but rather as general heritage items in Schedule 5, Part 1 of the LEP
- The heritage items are intended to only include the enclosing sandstone wall (A484) and quarried rock faces (A485 and A488), even though the listings within the LEP would cover the entirety of affected lots.

Consultation

Consultation on this matter with affected property owners has been ongoing for some time. It is the view that this recommendation will be supported by them. More broad consultation with the community will be undertaken as part of the statutory consultation on part of the planning proposal.

Financial Implications

No additional financial implications. The review of archaeological sites is budgeted for within the staffing costs of the Urban Planning budget.

Relationship with MOSPLAN

The Built Environment Program of Mosman's Community Strategic Plan, MOSPLAN 2013-2023, identifies the need to effectively manage the conservation of Mosman's heritage. Maintaining the accuracy of heritage content within MLEP 2012 is an essential element of this program.

Comment

Item A484: Former tram terminus including enclosing sandstone walls (Avenue Road)

The recommendations of the Austral Archaeology study are supported.

Whilst the site holds the potential to contain *in situ* archaeological remains associated with the former tram service, this would be very limited in its nature and unlikely to contribute to additional knowledge of the tram terminus that has not already been documented. Item A484 does not meet NSW Heritage Council criteria from an archaeological standpoint and the study's recommendation is that the item be removed from Schedule 5, Part 3 of MLEP 2012.

Within an historical non-archaeological context, the site meets NSW Heritage Council criterion (c) at the local level for both its landscape and views – for the workmanship and design process for the excavated sandstone wall, and relationship between the ferry and tramline. The study's recommendation is that only the enclosing sandstone wall located with the road reserve of Avenue Road be listed as a general heritage item in Schedule 5, Part 1 of MLEP 2012. The heritage listing would apply wholly on public land.

The provisions of SEPP (Infrastructure) 2007 would continue to apply necessitating any public authority to consult with Council should works be proposed within the road reserve that may have an impact on the sandstone wall that is not minor or inconsequential. The sandstone wall is identified on the Significant Rock Faces and Retaining Walls Map contained in Mosman's Development Control Plans, and this would also continue to apply.

Item A485: Former stone quarry (Avenue Road)

The recommendations of the Austral Archaeology study are partially supported.

Multiple phases of development at the site (nos. 65A, 67, 67A, 69 and 71 Avenue Road) over the past 90 years have most likely removed any archaeological remains once associated with the former stone quarry, with the exception of the excavated quarry wall visible. Item A485 does not meet NSW Heritage Council criteria from an archaeological standpoint and the study's recommendation is that the item be removed from Schedule 5, Part 3 of MLEP 2012. This is supported.

Within an historical non-archaeological context, the site meets NSW Heritage Council criteria (a), (b) and (d) at the local level for its associations with individuals, groups or events. The quarried rock face retains value as a direct link to the former use of the area as a quarry; the site is a demonstration of the extent to which the industry of sandstone quarrying had grown throughout the late 19th and early 20th centuries; it contains associations with local historical figures, most notably the Flew family; and it is a place associated with the residential development of Mosman.

The study recommends that the excavated quarry wall on nos. 65A, 69 and 71 Avenue Road be listed as a general heritage item in Schedule 5, Part 1 of MLEP 2012. This is discussed below under the heading 'Former Quarry Sites'.

Item A488: Site of former Harnett's quarry (Royalist Road)

The recommendations of the Austral Archaeology study are partially supported.

Development at the site over the past 125 years has most likely removed any archaeological remains once associated with the former quarry, except for the excavated quarried wall on nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself. Item A488 does not meet NSW Heritage Council criteria from

an archaeological standpoint and the study's recommendation is that the item be removed from Schedule 5, Part 3 of MLEP 2012. This is supported.

Within an historical non-archaeological context, the site meets NSW Heritage Council criteria (a), (b) and (d) at the local level for its associations with individuals, groups or events. The quarried rock face retains value as a direct link to the former use of the area as a quarry; the site is a demonstration of the extent to which the industry of sandstone quarrying had grown throughout the late 19th and early 20th centuries, including engineering accomplishments in the transportation of stone by tramway down a steep incline to the wharf; it contains associations with local historical figures Richard Harnett, Alexander Stuart and Robert Flew; and it is a place associated with the development of Mosman and buildings elsewhere.

The study recommends that the excavated quarry wall on nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself be listed as a general heritage item in Schedule 5, Part 1 of MLEP 2012. This is discussed below under the heading 'Former Quarry Sites'.

Former Quarry Sites

The Austral Archaeology study recommends that the excavated quarry walls located on the following land be listed as general heritage items in Schedule 5, Part 1 of MLEP 2012:

- nos. 65A, 69 and 71 Avenue Road
- nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself

Whilst the heritage assessment undertaken by Austral Archaeology is acknowledged, when considering the matter within the broader urban planning context, the recommendation is not supported. The following are considered below:

- Implications for heritage listing quarry sites under NSW planning system
- An alternative approach: Mosman's Significant Rock Faces and Retaining Walls Map
- Other former quarry sites throughout metropolitan Sydney
- NSW Heritage Council criteria
- Landowner concerns

Implications for heritage listing quarry sites under NSW planning system

Under the NSW planning system, Council would not be able to apply a heritage listing to only the extent of the excavated quarry walls, but rather, the heritage listing would be applied to the entire sites under MLEP 2012. This has implications for the landowners who may wish to undertake building works on the land which have no bearing on the quarry walls.

For example, as a heritage item, minor types of development such as aerials, air conditioning units, awnings, garden sheds, fences, letterboxes, skylights and some landscaping works would either be restricted or not be able to be carried out on the land as exempt development under SEPP (Exempt and Complying Development Codes) 2008. Further, alterations to existing buildings could not be undertaken as complying development under the SEPP.

These same restrictions apply to all heritage items in Mosman (and NSW), and in such cases an application for heritage exemption or a development application must be made to Council for the proposed works and their impact on the heritage item to be considered. Whilst this is important in respect of heritage buildings as proposed works are more likely to have a connection with the building, it is an onerous restriction on former quarry sites as it is less likely that works residents may wish to undertake would have any association with the quarry walls. Works which may affect the quarry wall would be unlikely, but in the event such works

were proposed this would generally be beyond the scope of the SEPP and necessitate lodgement of a development application.

The sites are within the Scenic Protection Area under MLEP 2012 and as such the sites are excluded from the General Housing Code of the SEPP, however renovation of existing buildings including internal alterations and some external alterations could be undertaken as complying development under the Housing Alterations Code if a heritage listing did not apply to the land. (This does not apply to no. 69 Avenue Road which is separately heritage listed under MLEP 2012 as noted above).

An alternative approach: Mosman's Significant Rock Faces and Retaining Walls Map

An alternative approach to heritage listing would be to identify the excavated quarry walls on Mosman's Significant Rock Faces and Retaining Walls Map, and in doing so, the provisions of clause 6.9 of Mosman Residential Development Control Plan 2012 (MRDCP 2012) would apply to the sites. These provisions are:

Objective:

O1. To have Mosman's significant rock faces and retaining walls protected from inappropriate development.

Planning Controls:

P1. No excavation of rock faces or retaining walls identified as significant in the Rock Faces and Retaining Walls Study and on the Rock Faces and Retaining Wall Map is allowed, except under special circumstances.

P2. Special circumstances should be considered when any of the following is met:

- (a) there are other existing openings into the rock face/wall and additional openings would be consistent with that approach;*
- (b) any excavation would not detract from the visual contribution of the rock face/wall in its context;*
- (c) the excavation would not adversely affect the setting of sites that are highly visible from the harbour or public reserves;*
- (d) there is a need for maintenance activities by Council, in order to ensure safety and serviceability. Where works involve demolition followed by reconstruction of stone retaining walls, preference should be given to the use of same or similar/complimentary materials, when economically viable;*
- (e) there are safety needs that involve use of external support methods and include appropriate embellishment of those external support methods in order to retain original features and ameliorate appearance.*

These provisions were informed by a 2005 study which identified important sandstone retaining walls, rock outcrops, divided roads with natural rock or sandstone block walls and cut sandstone cliff faces on public land throughout Mosman. The DCP clause ensures the protection of identified rock faces and walls from inappropriate development and is a consideration in the assessment of any development application submitted for the land. This clause has been tested in the Land and Environment Court and was recently used to successfully defend Council's refusal of a development application which involved excavation into a significant rockface in Holt Avenue.

This approach achieves a balance between protecting the excavated quarry walls as the remaining evidence of the former use of the Avenue and Royalist Road sites, and the impact on private landowners in doing so.

Minor amendment to the clause may need to occur, such as to P2(d), to ensure maintenance works can be carried out by or on behalf of a private landowner (not just by Council) to ensure wall safety.

Other former quarry sites throughout metropolitan Sydney

During the mid-late 19th and early 20th centuries many quarries operated throughout Sydney extracting Hawkesbury sandstone for building works locally and interstate. Pyrmont was the main source of sandstone for Sydney by the 1860s, although smaller quarries such as those in Mosman also contributed to the local building boom. Few quarries remain in metropolitan Sydney today, with most sites long since redeveloped for other uses.

Despite the role of quarries in Sydney's early growth and development, few former quarry sites are heritage listed. A search of LEPs applying to land in the Sydney metropolitan area found that - other than Items A485 and A488 in Mosman - there are 34 former quarry sites listed as being of heritage significance. Of these:

- Sixteen former quarry sites are now public parks, recreation areas, bushland or national parks, e.g. former Diatreme quarry (Hornsby), Bicentennial Park, West Pymble (Ku-Ring-Gai) and Manns Point Reserve, Greenwich (Lane Cove). Included within this category is a third Mosman quarry site listed in MLEP 2012 - Item I498 (Parriwi Park) located on the corner of Spit and Parriwi Roads (north); the sheer rock face is highly prominent at the northern gateway into Mosman, situated immediately below the bushland of Parriwi Park.
- Eight former quarry sites are now occupied by housing, industrial or tourism purposes – these include sites of State significance (Strickland House and quarry, Vacluse), large/important sites in Sydney's history (Saunders quarry, Pyrmont), and sites occupied by heritage-listed cottages or other intact features associated with the former quarry use (sites in Marrickville).

In comparison, little evidence of the former quarry uses on the Avenue and Royalist Road sites remains as a result of development for housing and other uses on the sites over the past 90-125 years, other than the excavated quarry walls. The sites are not of State heritage significance, were not large/important sites in Sydney's history compared with others in Sydney at the time, and the quarry walls are not visually prominent features within the public landscape. It is reasonable to not include the Avenue and Royalist Road former quarry sites within MLEP 2012.

NSW Heritage Council criteria

The NSW Heritage Council identifies seven criteria for consideration in the assessment of heritage significance of a site or object, and of these, the Avenue and Royalist Road former quarry sites were found to meet three - criteria (a), (b) and (d) - listed earlier in this report. The criteria are broad in nature and it could be argued that many sites, buildings or objects contribute to the history of a local area – however, a key factor in this assessment is whether the contribution or association is 'important', 'strong' or 'special'.

The Austral Archaeology study states that the quarried rock faces on both sites retain value as a direct link to the former quarry uses in that:

- the sites are a demonstration of the extent to which the industry of sandstone quarrying had grown throughout the late 19th and early 20th centuries;
- they contain associations with local historical figures, most notably the Flew family (Avenue Road), and Richard Harnett, Alexander Stuart and Robert Flew (Royalist Road);
- they are places associated with the development of Mosman.

The role that quarries played in the growth of Sydney during the mid-late 19th and early 20th centuries is recognised, however as noted above, many quarries operated in Sydney during this time. In comparison with many of these, the Avenue and Royalist Road sites were not large/important quarries in Sydney's history and have been largely eroded by subsequent development. The only remaining feature of the former quarry use are the excavated quarry walls, however these are not wholly intact (the lower part of the Royalist Road quarry wall

“has been carved out possibly to provide a suitable width for vehicle access to the apartments”) and are not visually prominent features within the landscape.

The contribution the Flew family, Richard Harnett and Alexander Stuart made to quarrying in Mosman is recognised in heritage studies such as the 2015 and 2017 Austral Archaeology studies and many others. Outside of their role in quarrying, these local historical figures are not widely known or recognised in Mosman’s history.

The quarries operated for 11 years (Royalist Road) and 30 years (Avenue Road) before being abandoned. Their association with the development of Mosman is reflected in historical accounts in heritage studies as well as in other heritage listings in MLEP 2012. For example, Item A486 identifies the site of the former quarry wharf in Mosman Bay which supported Harnett’s quarry (Royalist Road); and Items I8 and I10 at nos. 67, 67A and 69 Avenue Road listed for the architectural style of the c.1930 buildings recognises their location within a former quarry site. Sandstone excavated from the quarries is likely to be present in many buildings throughout Mosman, many of which are heritage listed under MLEP 2012.

It is reasonable to not include the Avenue and Royalist Road former quarry sites within MLEP 2012.

Landowner concerns

During 19 November to 10 December 2015, public exhibition of the former Planning Proposal to amend the heritage listing of archaeological sites in MLEP 2012 occurred. Two submissions were received from on or behalf of affected landowners in Royalist Road in reference to Item A488 Site of Former Harnett’s Quarry. The landowner’s key concerns were:

1. There is no documentary evidence that the excavated rockface marks the western edge of the quarry; it is more likely that this resulted from the construction of a sloping access roadway for subsequent 20th century residential development. Furthermore, identifying only the assumed western edge of the quarry is tokenistic and irrelevant, and cannot be regarded as validly celebrating the location or extent of the quarry.

Comment: The Austral Archaeology study has considered the concerns raised concluding that the rock face forms the last remaining physical vestige of Harnett’s quarry, not subsequent residential development.

1. The requirement for heritage listing any place in an LEP is for it to exceed rigorous thresholds of the NSW Heritage Council, and there is no evidence that this has occurred.

Comment: The Austral Archaeology study has undertaken a review of the heritage significance of sites under current NSW Heritage Council criteria, with the conclusions reached detailed in this report.

2. The proposal is discriminatory on private landowners in Royalist Road.

Comment: The heritage listing of an archaeological site must be equitable, considering on one hand the benefit of heritage conservation to the wider community, and on the other, the impact that listing has on a landowner on the basis of knowledge which may only be assumed, possible or probable. As noted above, the implications for heritage listing the quarry sites under the NSW planning system is onerous, and an alternative approach is recommended which would seek to conserve the excavated rock walls yet have minimal disturbance to landowners for works elsewhere on their properties.

Recommended Action

It is recommended that:

1. A Planning Proposal be prepared to amend MLEP 2012 by removing Items A484, A485 and A488 from Schedule 5, Part 3, and including only Item A484 (amended to apply only to the enclosing sandstone wall associated with the former tram terminus) as a general heritage item in Schedule 5, Part 1.
2. The Significant Rock Faces and Retaining Walls Map and clause contained within Mosman's Development Control Plans be amended to include the excavated quarry walls located within nos. 65A, 69 and 71 Avenue Road, nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself.

Compliance with Section 23A Guidelines - Council Decision Making During Merger Proposal Periods

The Officer's recommendation is consistent with the Section 23A Guidelines - Council Decision Making During Merger Proposal Periods, issued by the Office of Local Government on 18 December 2015.

Recommendation endorsed by Director Environment and Planning.

ATTACHMENTS

Minute Book Attachments

- Mosman Archaeological Sites Report - Summary

COUNCIL RESOLUTION

Motion Bendall/Menzies

That the Officer's Recommendation be adopted.

CARRIED UNANIMOUSLY
