

12 July 2019

Meriton Group  
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**Attention: Matthew Lennartz (Executive Manager – Planning and Government)**

**Anzac Parade, Little Bay planning proposal - Aboriginal cultural heritage - consistency assessment**

Dear Matthew,

Meriton Group has recently purchased and proposes to develop a 12.3 ha site for residential development on Anzac Parade at Little Bay, NSW (hereafter the 'subject area'). While the site has development consent for an existing subdivision and redevelopment, Meriton Group is seeking to amend the Randwick Local Environmental Plan 2012 (LEP) and has submitted a Planning Proposal to Randwick City Council (RCC). Given the potential Aboriginal cultural heritage constraints of the subject area, RCC has requested a supplementary Aboriginal report be submitted to accompany the planning proposal.

This letter undertakes a review of the Aboriginal heritage within the subject area, and provides a consistency assessment of previous development applications and the current planning proposals. We then consider the risk of harm to Aboriginal objects and provide recommendations outlining future assessment and/or approval steps that may be required prior to, and/or following the planning proposal's implementation.

If you require any additional information or have any questions, please contact Laressa Barry on 02 9555 4000 or email [LBarry@extent.com.au](mailto:LBarry@extent.com.au).

Yours Sincerely,

**Dr Alan Williams FSA MAACA**  
Senior Associate | Extent Heritage

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## Project background

Meriton Group has recently purchased and proposes to develop a 12.3 ha site for residential development on Anzac Parade at Little Bay, NSW (hereafter the 'subject area'). In 2009, the Land and Environment Court granted development consent for a Stage 1 Master Plan and site preparation works, which included subdivision, demolition of existing structures, bulk earthworks and civil infrastructure works (DA/81/2009). The Statement of Environmental Effects (SEE) for the project included an Aboriginal Heritage Impact Assessment (AHIA), which identified an area of Aboriginal cultural sensitivity relating to a potential Aboriginal ochre site, as well as areas of low and nil Aboriginal archaeological potential across the subject area (AHMS 2009).

Several Stage 2 development applications, covering separate lots, were lodged with Council and approved for construction (DA/495/2011, DA/496/2011, DA/812/2011 and DA/39/2016). Whilst the subdivision and civil works were completed and development of some lots initiated (Lots 5, 11, 17 and 18), the remainder of the site was left vacant by the property developer, and sold.

On behalf of Meriton Group, Urbis has prepared a Planning Proposal to amend the Randwick Local Environmental Plan (LEP) 2012 and has submitted a masterplan for the subject area. Randwick City Council (RCC) has requested that a supplementary Aboriginal report be prepared to accompany this planning proposal with respect to Aboriginal cultural heritage. The specific scope and/or methods of this report was not indicated. As such, this letter report has been prepared to provide further detail on the archaeological background of the site, and compare the potential Aboriginal heritage impact of the original Master Plan (DA/81/2009) against the Planning Proposal (Urbis 2019) – effectively a consistency assessment. Where changes are noted, we have provided advice and recommendations for future stages of the project.

This letter provides Aboriginal heritage advice, and should not be considered a formal impact assessment in accordance with OEH guidelines. Further, this letter does not consider European or built heritage.

## Aboriginal archaeological and cultural context

An Aboriginal Heritage Impact Assessment (AHIA) was prepared as part of a Statement of Environmental Effects (SEE) for the proposed development of the site, based on the original Stage 1 Master Plan (AHMS 2009).

No Aboriginal archaeological sites or areas of archaeological potential were identified during the assessment, and the subject area was found to have low to nil Aboriginal archaeological potential (Figure 1). This was based on evidence of considerable disturbance across large portions of the subject area, primarily as a result of historical mining activities in the 20th Century. These activities resulted in significant landscape modification, and removal of overlying soils and any artefact-bearing deposits (AHMS 2009:13, 45).

Despite evidence for considerable landscape modification across the site, an area of Aboriginal cultural sensitivity was identified - comprising a potential Aboriginal ochre gathering site (Figure 1, AHIMS Site ID #45-6-2670). The deposit was ultimately exposed by mining activities that occurred during the 20<sup>th</sup> Century and demonstrated no clear evidence for extraction or modification by Aboriginal people in the past. As such, the site cannot be readily considered an Aboriginal object under the *National Parks and Wildlife Act 1974*.<sup>1</sup> Notwithstanding this, the La Perouse Local Aboriginal Land Council (LALC) considered that the potential ochre site has local rarity and important historical and contemporary cultural values to their community, with the potential to demonstrate traditional ochre procurement activities to the wider public (AHMS 2009:53, 58). With this exception, no other Aboriginal archaeological or cultural sites were identified within the subject area.

Based on the Stage 1 Master Plan as originally proposed, it was found that the development would disturb portions of the low and nil archaeological potential zones across the subject area, but would avoid impacts to the potential Aboriginal ochre site. The AHIA included recommendations that no further archaeological investigations were warranted in advance of the proposed Stage 1 plan, that the potential ochre site be conserved and protected from future harm through the preparation and endorsement of a Conservation Management Plan, and that the La Perouse LALC be invited to monitor topsoil stripping and excavation works in areas of low archaeological potential to ensure any Aboriginal sites or objects buried beneath fills were identified and appropriately managed (AHMS 2009:67-68).

Subsequently, during the Stage 1 earthworks removing contaminated fill from within the subject area, an additional deposit of ochre was uncovered (AHMS 2012). This deposit was located largely within the footprint of a proposed new road (View Street), but also extended within development areas (Lot 2) and community property (Figure 2), at a depth of ~32m AHD (some 3-4m below current surface). The investigation recommended that the ochre deposit be covered with geotextile and backfilled with clean fill, and that restrictions be imposed on future development of Lot 2 to protect the ochre deposit from being impacted (AHMS 2012:5).

An updated search of the AHIMS register was undertaken on 8 July 2019, and found no Aboriginal sites within the subject area (AHIMS Client Service ID 432978). It would appear the ochre site found in 2012 CE was never documented within the AHIMS system. The listed co-ordinates of the potential ochre site, #45-6-2670, is erroneous and shown to be within the neighbouring property, although the site is situated within the southern central portions of the subject area based on the AHIA and other assessments (Figure 3).

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<sup>1</sup> An Aboriginal object is defined in the National Parks and Wildlife Act 1974 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. A site of contemporary value with no evidence of past Aboriginal use or exploitation cannot easily be correlated with this definition.*

## Planning proposal

The proponent has prepared a Planning Proposal for the subject area to allow the following:

1. Retention of the existing R1 'General Residential' and E2 'Environmental Conservation' zoning across the site, but addition of the subject area to 'Schedule 1 Additional Permitted Uses' of the *Randwick Local Environmental Plan* (LEP) 2012, to facilitate permissibility of a hotel and commercial land uses.
2. Modification of the maximum building height across the subject area to between RL45 and RL105 (including modifications to Height of Building map in Randwick LEP 2012).
3. Removal of individual Floor Space Ratio's (FSR) across the subject area, and implementation of a maximum FSR of 2:1 across the site's developable area (including modifications to the FSR map in Randwick LEP 2012).
4. Development of a site-specific Development Control Application over the site, once the Planning Proposal is sufficiently progressed, and in agreement with RCC.

Detailed designs and construction plans will be provided at a later stage in the development, but an indicative site layout plan demonstrating the likely development envelope has been prepared (Urbis 2019, see Figure 5). Development across the subject area would comprise a gross floor area (GFA) of 196,286 sqm, comprising:

- 190,386 m<sup>2</sup> of residential land use with provision for residential flat buildings, hotels, serviced apartments and terraces;
- 5,900 m<sup>2</sup> of ancillary retail land use with provision for a supermarket, retail shops and medical centres.

## Potential Aboriginal heritage impact

A review of the 2009 Masterplan (Figure 4) and the Planning Proposal (Figure 5) indicates that there is no substantive change to the overall impact footprint. As such, modifications to the Randwick LEP 2012 Schedule of Additional Permitted Uses, and existing FSR and Height of Building Maps (1-3 above) would not, in themselves, result in any additional Aboriginal heritage impact beyond those previously approved in 2009. Further, the proposed bulk earthwork (Stage 1 Masterplan) and construction of basement carparking (individual DAs) would have resulted in the removal of ~2 m of the upper soil profile; and within which any cultural heritage (if present) would be expected to occur. While the depth of impacts for the Planning Proposal are undefined, they similarly would be unlikely to cause further Aboriginal heritage impacts beyond those previously approved in 2009.

The Planning Proposal would avoid impact to the mapped boundaries of the potential ochre site and Miocene geological site, although additional on site investigations of the subject area in 2012 found similar deposits in other parts of the subject area, including in areas proposed for future development – albeit under considerable capping fill material. Depending on the nature of development within Lot A of the Planning Proposal, including depth of basement levels, the proposed works may result in additional impacts to deposits associated with #45-6-2670.

## Conclusions

Based on previous assessments, the subject area has been heavily disturbed historically, but contains various areas of low archaeological potential, as well as a potential ochre site. The ochre site is evident in two locations adjacent the water course in the centre of the subject area. The southern portion of the ochre site has been documented as #45-6-2670, while the northern portion found some years later has not been added to the AHIMS listing. However, while listed on the AHIMS database, the ochre site does not readily fulfil the definition of an 'Aboriginal object' under the *National Parks and Wildlife Act 1974*, although it remains of cultural value to the La Perouse LALC.

The Planning Proposal encompasses the same impact footprint as that proposed and previously approved 2009 Masterplan. As with the earlier plan, the Planning Proposal will continue to conserve the potential ochre site, #45-6-2670, within an E2 zone. Although as with the 2009 Masterplan, the Planning Proposal would similarly have the potential to impact the northern expression of the ochre deposit, which is encompassed within proposed Lot A.

Based on these considerations, it can be concluded that the Planning Proposal would not increase the level of Aboriginal heritage impact beyond that which has already been approved for previous developments of the site. Although, it is acknowledged that some of these approvals occurred prior to the identification of the ochre deposits.

We further highlight that the current Aboriginal heritage management of the subject area is based on dated assessments, which in some cases pre-date significant procedural changes to the *National Parks and Wildlife Act 1974* and associated guidelines in 2010. For example, archaeological and/or cultural monitoring of areas is generally not supported by the NSW Office of Environment and Heritage (OEH), since if cultural heritage is found, an Aboriginal Heritage Impact Permit (AHIP) requiring several months would be required prior to work being re-initiated. As such, it is recommended that following the endorsement of the Planning Proposal, the site is subjected to more detailed Aboriginal heritage investigation in accordance with OEH's guidelines.

In conclusion:

- The proposed Planning Proposal is consistent with the original Stage 1 Masterplan as approved (DA/81/2009). The Proposal encompasses the same impact footprint, and

ensures the retention of a significant portion of an Aboriginal site of contemporary cultural value (a potential ochre site; #45-6-2670) within an E2 zone.

- The previous assessments of the subject area were undertaken, in many cases, prior to significant changes to Aboriginal heritage management implemented in 2010. While the content and findings of these reports remain largely valid, several of their recommendations are less likely to be supported under the current process. It is therefore recommended that following the endorsement of the Planning Proposal, Aboriginal heritage assessment of the subject area in accordance with OEH guidelines is undertaken, and which include suitable investigations (potentially test excavations rather than monitoring) and further Aboriginal consultation. These investigations should be undertaken either prior to, or as part of, future Development Applications.



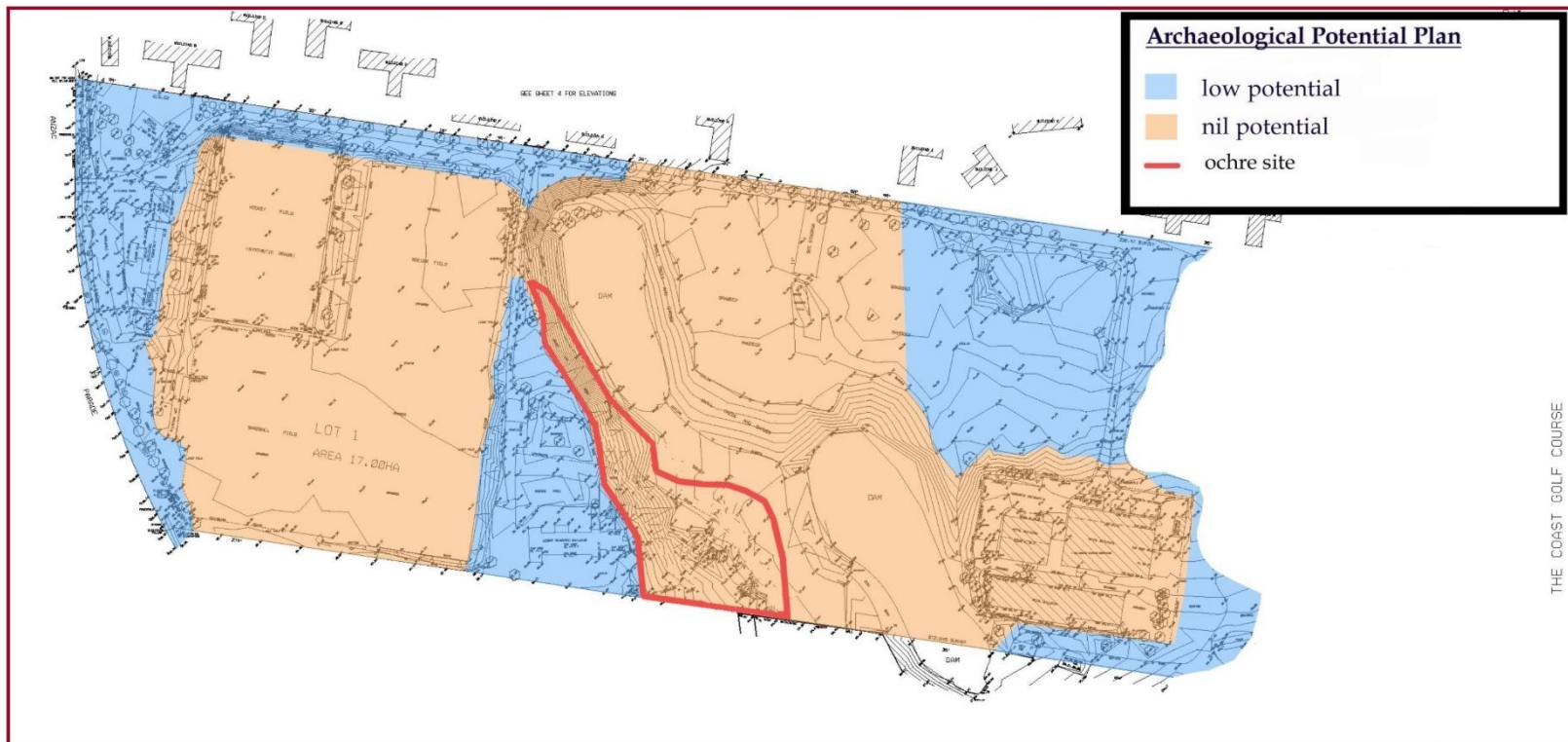


Figure 1. Areas of low (blue) and nil (orange) archaeological potential, and potential ochre site (#45-6-2670) identified during previous assessment (AHMS 2009:62).



Figure 2. Location of additional ochre deposit found during contamination works (AHMS 2012:8).





Figure 3. Updated (July 2019) AHIMS search in a 2km<sup>2</sup> area around the subject area. Coordinates of the potential ochre site, #45-6-2670, are considered erroneous with the actual site being within the central portion of the subject area.





Figure 4. Proposed Stage 1 Master Plan development, as originally designed and approved (Charter Hall, cited in AHMS 2009:63).

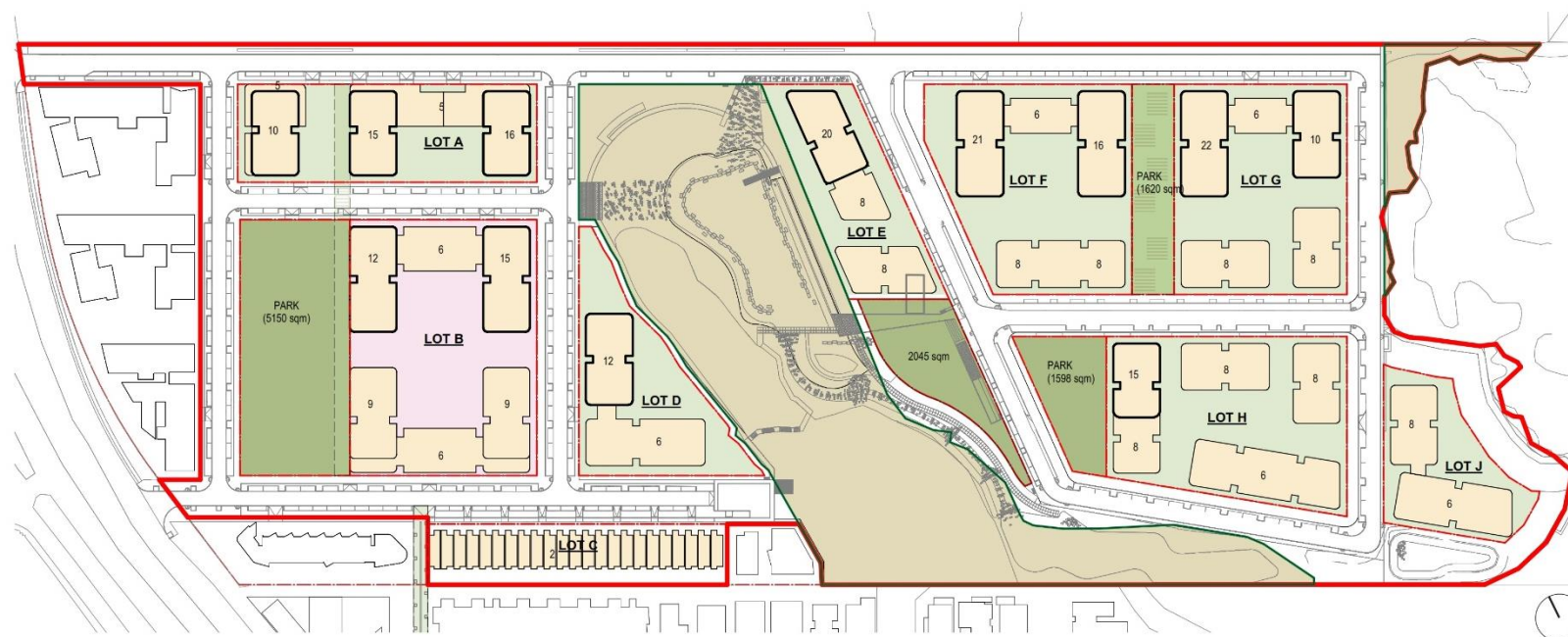


Figure 5. Planning Proposal. The potential ochre site, #45-6-2670, is within E2 zoned land (Environmental Conservation) (tan), with a more recent portion of the deposit found within Lot A.

## References

Archaeological and Heritage Management Solutions (AHMS). 2009. *Aboriginal Heritage Impact Assessment: 1408 Anzac Parade, Little Bay. Stage 1 Plan for Proposed Residential Precinct*. Prepared for CHOF5 Little Bay Pty Limited.

AHMS. 2010. *Little Bay Ochre and Geological Conservation Site: Conservation Management Plan*. Prepared for CHOF5 Little Bay Pty Ltd.

AHMS. 2012. *Recording and Management – Ochre Deposit related to AHIMS Site No. 45-6-2670, 140 Anzac Parade, Little Bay*. Prepared for Office of Environment and Heritage.

Urbis. 2019. *Little Bay Planning Proposal*. Prepared for Meriton.