HERITAGE COUNCIL OF NSW

MEETING MINUTES – 497

2 February 2022 | 9:00 AM – 3:35 PM

Via Teleconference

ATTENDANCE	
MEMBERS	
Mr Frank Howarth AM PSM	Chair
The Hon Robyn Parker	Deputy Chair
Dr Nicholas Brunton	Member
Mr Ian Clarke	Member
Mr Paul Knight	Member
Mr Dillon Kombumerri	Observer
Dr Brian Lindsay	Member
Ms Colleen Morris	Member
Mr Geoff Thompson	DPIE delegate
APOLOGIES	
Nil	
GUEST PRESENTERS AND EXTERNAL ATTENDEES	
The Hon. James Griffin MP	Minister for Environment and Heritage *(item 2.0)*
Mr Gavin Seymour	Director of Threatened Species, DPIE *(item 2.0)*
Ms Annette Pitman	Head of Create Infrastructure *(item 4.1)*
Mr Mark Crees	Director, Create Infrastructure *(item 4.1)*
Ms Carolyn Rush	Project Manager, Create Infrastructure *(item 4.1)*
Mr Jonathan Bryant	Director, Urbis (Heritage) *(item 4.1)*
Ms Alexandria Barnia	Heritage Consultant, Urbis (Heritage) *(item 4.1)*
Mr Tim Greer	Director, Tonkin Zulaikha Greer *(item 4.1)*
Ms Sujata Bajracharya	Senior Associate, Tonkin Zulaikha Greer *(item 4.1)*
Ms Emma Finnerty	Director Infrastructure, NSW Treasury *(item 4.2)*
Mr Josh Milner	Associate Director Infrastructure, NSW Treasury *(item 4.2)*
Ms Liz Partridge	Asset Management Assurance Lead, Infrastructure NSW *(item 4.2)*

Ms Julie Morgan	Executive Director, Environment and Sustainability, TfNSW *(item 5.1)*
Mr Denis Gojak	Senior Heritage Specialist, TfNSW *(item 5.1)*
Ms Angelique Easton	Director, Policy, Planning and Assessment, TfNSW *(item 5.1)*
Ms Rachel McMullan	Heritage Specialist, TfNSW *(item 5.1)*
HERITAGE NSW	
Mr Sam Kidman	Executive Director
Ms Lucy Albani	Director Heritage Policy and Strategy
Mr Tim Smith	Director Heritage Assessments
Dr Caroline Ford	Principal Policy Officer *(item 3.1)*
Ms Emma Dortins	Manager Heritage Programs *(item 3.1)*
Ms Carolyn Rush	Project Manager, Create Infrastructure *(item 4.1)*
Mr Rajeev Maini	Manager Assessments *(item 4.1)*
Ms Sonia Limeburner	Manager Strategy and Implementation *(item 4.2)*
Ms Nicole Secomb	Heritage Officer *(item 4.2)*
Ms Tracy Appel	A/Senior Manager, Major Projects *(items 5.1 and 9.2)*
Mr Hendry Wan	Senior Assessments Officer *(items 5.1 and 9.2)*
Mr Brad Duncan	Senior Assessments Officer Maritime *(item 5.1)*
Ms Anna London	Manager Streamlining Heritage Policy *(item 6.1)*
Ms Rebecca Newell	Senior Policy Officer *(item 6.1)*
Mr James Sellwood	Senior Planning Officer, Heritage Assessments *(item 9.1)*
Ms Anna Foroozani	Program Coordinator Assessments *(item 9.1)*
Ms Maruschka Loupis	Senior Engagement Officer *(item 9.1)*
SECRETARIAT	
Ms Olgica Lenger	Manager Secretariat
Ms Elizabeth Thomas	Senior Secretariat Officer

IN-CAMERA SESSION

This item was not minuted.

Item 1. Welcome and Formalities

The Chair, Frank Howarth, opened the meeting at 9:35 AM, delivered an Acknowledgment of Country and welcomed attendees.

There were no apologies for this meeting, and it was noted that quorum had been met.

The Chair noted that Martin Reason was no longer with the Department of Planning, Industry and Environment (DPIE) and welcomed Geoff Thompson, representing the delegate of the Secretary of the DPIE, to the meeting.

Item 1.1 Conflict of Interest Declarations

The Council noted Nicholas Brunton's standing COI declaration regarding the MLC Building.

No other conflicts of interest were declared for this meeting.

Item 1.2 Out of Session Decisions

There were no decisions made out of session since the last meeting.

Item 1.3 Minutes from the Previous Meeting – 1 December 2021

Resolution 2022-01
The Heritage Council of NSW: 1. **Confirmed** the minutes of the previous ordinary meeting (1 December 2021) as a complete and accurate record of that meeting, with minor amendments.
Moved by Nicholas Brunton and seconded by Paul Knight

Item 1.4 Matters Arising

There were no matters arising.

Item 1.5 Action Report

The Heritage Council of NSW agreed to close items recommended for closure. The register was updated to reflect the additional discussion and further actions requested.

Item 2. Minister Griffin

The Heritage Council members were introduced to The Hon. James Griffin, Minister for Environment and Heritage, who reflected on the opportunities to build and strengthen the relationship between the environment and heritage portfolios.

The Minister outlined some key priorities including the legislative reform of the *Heritage Act*, protection of Aboriginal Cultural Heritage and indigenous repatriation, and opportunities to celebrate the state's rich heritage through various activities such as the Blue Plaques program and The National Trusts (NSW) Heritage Awards.

The Heritage Council discussed with the Minister the importance of the Appin Massacre Site cultural landscape and the complexities associated with the proposed SHR nomination. The Minister welcomed an opportunity to meet with Aboriginal elders and the community on site.

A broader discussion was held regarding issues associated with the divestment of SHR listed government assets and the need to ensure that new entities have substantive resources to ensure ongoing maintenance and conservation of heritage assets.

The Council welcomed the Minister's comments and commitment to ongoing engagement with the Heritage Council and Heritage NSW.

Item 3. Legal, Policy and Administration

Item 3.1 Heritage Act Review Update

The Heritage Council of NSW received a presentation from Lucy Albani and Caroline Ford on the review of the heritage legislation.

Heritage NSW outlined the policy proposals and key changes which are designed to strengthen and modernise the Heritage Act.

Heritage NSW will assist the Parliamentary Counsel's Office on the drafting of the Bill and undertake inter-agency and targeted consultation with peak stakeholders over the coming months.

Research is being done to further consider appropriate funding provisions and arrangements for the allocation of heritage conservation funds and philanthropic funding opportunities.

Prior to a new Bill coming into force, Heritage NSW will develop a strategic framework and seek transitional funding to support implementation of the new legislation, including any changes required to the Heritage Management System, and provision of training and consultation with local government.

The Council emphasised the need to work closely with DPIE and Transport for NSW (TfNSW) on the approach taken for the assessment of cultural landscapes, Aboriginal Cultural Heritage and culturally sensitive treatment of artefacts.

The Council thanked Heritage NSW for the update.

Item 4. External Presentations – Part 1

Item 4.1 National Arts School Precinct Renewal – Project Update by Create NSW

The Heritage Council of NSW received a presentation from Create NSW on the National Arts School Precinct Renewal project.

Strategic Masterplan
o   The vision and masterplan options were presented for the SHR listed site, noting the need to conserve, celebrate and protect the heritage assets and create a place that can meet the educational needs of the precinct in an accessible and sustainable way that can be adapted for various future uses.
o   The strategic masterplan has been developed to reflect the site's historical importance and deliver on the aspirational vision for it to be the leading arts school in the Pacific region.
o   A Conservation Management Plan has been prepared to guide the masterplan and business case.
o   Following completion of the options analysis, business case approval will be sought from Infrastructure NSW. Pending approval, work will then commence on the State Significant Development Application (SSDA), design competitions and early works on site.

Design considerations

o   3D diagrams were presented to the Council to demonstrate the proposed sight lines and historic views intended at street level.

o   The architectural design seeks to recognise the importance of the Aboriginal Cultural Heritage (ACH) as the living cultural heritage of the site, including the pre and post-colonial settlement.

o   The Connecting with Country framework will be used to inform the SSDA which will be prepared in conjunction with the Government Architects.

o   Reshaping the curriculum around our First Peoples is a National Arts School's directive and significant consultation with the broader indigenous arts community has commenced with art to be used as a primary communicator of Aboriginal Cultural heritage. However, the local context and engagement with the local Aboriginal community is yet to be instigated.

The Council thanked Create NSW for its presentation and welcomed the ongoing engagement on the National Arts School Precinct Renewal project.

The Council discussed:

o   The Council emphasised the critical need for consultation to occur with the local Aboriginal community and traditional owners to seek their input on the strategic masterplan and proposed design model.

o   The Council noted that a more realistic representation of the built form is required to visualise and assess the proposed massing and any potential impacts to heritage assets and historic views.

o   The Council is keen to work closely with Heritage NSW and Create NSW to further consider the heritage elements of the National Arts School Renewal project, in particular the cultural heritage of the site and Connecting with Country design.

Decision
The Heritage Council of NSW: 1. **Thanked** Create NSW for its informative presentation and **welcomes** the ongoing engagement with Create NSW on the National Arts School Precinct Renewal project. 2. **Agreed** to establish a sub-committee comprising members of the Heritage Council and its Committees, to work with Create NSW on key heritage issues in the National Arts School precinct raised at the 2nd February 2022 Council meeting.

Item 4.2 NSW Government Assets Management Policy – NSW Treasury and Infrastructure NSW Presentation

The Heritage Council of NSW received a presentation from NSW Treasury and Infrastructure NSW on the NSW Government Assets Management Policy.

Key points raised:

o   Introduced by Government in 2020, the Asset Management Policy (AMP) was developed in collaboration between NSW Treasury and Infrastructure NSW and it supersedes the Total Asset Management Policy for the NSW Public Sector (TPP13-03).

o   The AMP sets out the overarching principles and framework to ensure that all assets under an agency's control are managed in line with the Government's asset management principles with a whole of agency and complete life cycle approach.

o   The framework includes documentation and reporting required for agencies to demonstrate transparency and accountability. Given the increase and scope of the AMP, agencies can apply for transitional arrangements in order to reach full compliance by 2024.

o   Agency progress is tracked via annual attestation reporting to confirm their transition status and overall compliance with the policy.

The Council discussed:

o   The Council questioned how the policy allows for the assessment and valuation of intangible heritage, including the potential changes in use that may increase the financial sustainability of a heritage asset.

o   The Council sought Treasury's advice on the guidance they provide to government agencies that are working through decisions related to asset investment and appropriate disposal of SHR items.

o   The Council noted that DPIE has been developing a methodology to value intangible benefits so that this may be incorporated into the cost benefit analysis framework prepared to inform a business case.

o   The Council welcomed the opportunity to work with NSW Treasury and Infrastructure NSW to develop a policy for disposal of state owned heritage assets.

o   The Council asked Heritage NSW to consider how s.170 provisions for the management and conservation of heritage assets will be addressed as part of the Heritage Act reforms.

o   The Council noted the need for a centralised inventory system that provides the range of information required by the various agency sectors including the SHR s.170 requirements.

The Council thanked Treasury and Infrastructure NSW for their presentation and welcomed the opportunity for ongoing collaboration to improve heritage outcomes for NSW.

Decision
The Heritage Council of NSW:
1. **Thanked** New South Wales Treasury for their presentation on NSW Government Asset Management Policy.
2. **Agreed** to establish a working party with representatives from NSW Treasury and Infrastructure NSW to investigate a policy framework for disposal of state-owned heritage assets, that will ensure the long-term protection of heritage.

Item 5. External Presentations – Part 2

Item 5.1 Sydney's Working Harbour Maritime Heritage Strategy – Transport for NSW update

The Heritage Council of NSW received a presentation and verbal update from Transport for NSW (TfNSW) on the Sydney's Working Harbour Maritime Heritage.

Key points raised:

o   The Sydney's Working Harbour Maritime Heritage Strategy has been developed to complement the Australian Institute of Landscape Architects (AILA) *Green Necklace* strategy and covers places in TfNSW's ownership or control within the Sydney Harbour Catchment Regional Environmental Plan 2005 (SHCREP) area.

o   The strategy seeks to provide a holistic view of the Sydney Harbour's workings, past to present, and whilst primarily focused on non-Aboriginal heritage, it is designed to support a much more comprehensive piece of work being undertaken which focuses on surviving

natural elements of harbour landscapes and the Aboriginal heritage of Sydney Harbour pre-1788 through to contemporary uses.

o   The strategy celebrates Sydney Harbour's unique character and history that is a convergence of a long history of industrialisation with the conservation and management of a living landscape that encourages processes that enhance the maintenance, conservation, creation and renewal of a complex historical landscape.

o   The strategy identifies conservation outcomes not only for major sites, but also for the wide variety of maritime sites (including commercial leases, underwater items such as shipwrecks or items that are located across different jurisdictions such as a jetty or wharf with ownership on land edge and maritime ownership) and aims to ensure that maintenance and future uses for legacy heritage assets are managed in a sustainable and respectful manner.

o   Given the recent and ongoing tunnelling infrastructure, underwater maritime heritage is being closely considered to better understand how it intersects with maritime archaeology, including potentially buried Aboriginal sites, and how to manage any heritage impacts.

o   A comprehensive review of TfNSW's maritime s.170 register was undertaken, and the additional sites identified via Local Environmental Plans and historical research will be included on the updated register and inform the basis for future management.

o   TfNSW has recently engaged a Maritime Asset Management Officer who will, as part of this overarching role, address emerging issues associated with 'orphan' assets that require ongoing active maintenance and are not currently being managed by a specific agency.

o   The TfNSW Heritage Team explore issues associated with the ownership of shipwrecks located in Sydney Harbour and provide advice on their possible inclusion on the s.170 register.

o   The harbour landscape includes a number of sites already being examined as part of active development works and the heritage elements of these projects have been reviewed to ensure they are consistent with the maritime strategy.

o   The strategy document will be further developed to include two key components:
   –   an updated thematic history which underpins the assessment and understanding of what TfNSW is doing currently, as well as what has been done over the past 200 years; and
   –   preparation of a series of Heritage Asset Action Plans (HAAPS) to cover the key collective classes for maritime assets such as sea walls, jetties and wharves, boathouses and navigational aids.

o   Individual strategies will be prepared for any major sites that are yet to be developed and will include conservation assessment and identification of future works to ensure their sustainability.

The Council discussed:

o   The Council queried whether a similar funding model to that applied by local Councils for local infrastructure contributions could be developed by TfNSW so that developers disturbing parts of the harbour would be required, as a condition of consent, to contribute towards a maintenance fund for heritage assets, or require a percentage of lessee rent to be apportioned to a heritage maintenance fund for maritime assets.

o   The Council noted that the cost recovery strategy is based around functionality of assets and suggested an operational class also be considered by TfNSW so that assets not currently in use or providing a service are captured within an asset class and applicable for funding considerations.

o   The Council also discussed opportunities to support maritime heritage through Heritage NSW's social media channels.

The Council thanked Transport for NSW for their presentation and welcomed the ongoing engagement as the Working Harbour Assets Strategy is further developed.

Decision
The Heritage Council of NSW:
1. **Thanked** Transport for NSW for their informative presentation and **acknowledged** the hard and dedicated work of Mr Denis Gojak in the heritage space.

Item 6. Matters for consideration

Item 6.1 Archaeology Exceptions

The Heritage Council of NSW received a report from Anna London seeking Council's approval for the revised section 139(4) Excavation Permit exceptions under the *Heritage Act* 1977.

Key points raised:
o   Following Council's resolution to support the revised exceptions package in August 2021, Heritage NSW has amended the wording of the exceptions to ensure clarity of language.
o   Heritage NSW intends to gazette the order with a future effective date to ensure a smooth transition to the new streamlined system.
o   Heritage NSW outlined the new exceptions and changes to the guidance material.
o   A two-streamed approach is proposed for the revised operational and notification process for unexpected finds under s.146 of the *Heritage Act* such that:
    i.   Where archaeologists are relying on exceptions and relics are discovered; an email notification of the location of the relics will be required in all circumstances with an additional short summary for testing excavation works; Heritage NSW will keep a record but will not be required to respond.
    ii. Where there is a current permit or an application approval in place; the existing s.146 application process for unexpected finds will remain.
o   Archaeological permits will only be needed for projects of major impact on local sites, and those which have state significant archaeology to be managed.
o   Heritage NSW suggested the broad definitions of *heritage management* and *reasonable time* be retained so they are in keeping with the standard exemptions and provide customers with some flexibility and allow for information from archaeologists to be in a form that suits the owner, and suits the scale of the works, as well as the archaeologist.
o   Streamlining the process will result in a significant reduction in the number of applications and allow customers to progress works in a more timely manner and deliver positive heritage outcomes for the state.
o   Heritage NSW has undertaken internal workshops and met with HAP and TAP members who have provided specialist advice to draft the key points of the guidelines.
o   External review of the proposed exceptions and guidelines has been undertaken with NSW Heritage Network, local councils, other government agencies and historical archaeological organisations.

The Council discussed:
o   The Council suggested Heritage NSW prepare a variety of communication pieces to promote the new process to the different target audiences.

- o The Council noted that images could be sought and uploaded in the Heritage Management System and serve as a repository so that in future archaeological finds can be ascertained more easily.
- o The Council asked Heritage NSW to provide greater clarity around the definition of '*reasonable time'* given this may vary widely depending on the reader's view and noted that the s.140 conditions of approval have a 12-month reporting period which could form an option baseline.
- o The Council also asked Heritage NSW to ensure that the guidelines include proactive advice on the ACH requirements under the *National Parks and Wildlife Services Act*.

The Council thanked Heritage NSW and acknowledged the work of Anna London, Rebecca Newell and Siobhan Lavelle to streamline this process.

Resolution 2022-02
The Heritage Council of NSW: 1. **Approves** the revised section 139 exceptions order for gazettal, and for the order to be signed by the Chair (Attachment A of the report).   2. **Approves** the three guidelines for minor works, test excavation and archaeological monitoring (Attachments B – D of the report).   3. **Agrees** with the recommendation for section 146 notifications to include location information and summaries of test excavation works as required.   4. **Thanks** Anna London, Rebecca Newell and Siobhan Lavelle for their hard work on this project.
Moved by Paul Knight and seconded by Colleen Morris

Item 7. Committees Update

Item 7.1 State Heritage Register Committee (SHRC)

Robyn Parker, Chair of the State Heritage Register Committee, provided an update on key outcomes for items considered at the 1st February SHRC meeting and noted that the Committee is keen to progress the significant number of SHR nominations currently being finalised by Heritage NSW.

Cultural Landscapes SHR Nominations

The Council discussed complexities around cultural landscapes nominations and the challenges associated with developing a heritage framework that effectively manages issues for individual items situated within a landscape and the infrastructure overlay, and addresses the need to embed a mosaic of particularly significant heritage places with more effective Conservation Management Plans that also allow for contemporary living.

The Council sought the *Cultural Landscapes Working Group* to consider how cultural landscapes nominations may be dealt with more effectively under the current Act, including opportunities for collaboration with the planning system and local government.

LGBTQIA+ Working Group

The Council acknowledged the work of the *LGBTQIA+ Working Group* that has assisted with recommendations for shortlisting of significant tangible and intangible heritage to be assessed prior to World Pride Day in March 2023 and noted the potential for some items to be included in the Blue Plaques program.

Item 7.2 Approvals Committee (AC)

Dillon Kombumerri, Chair of the Approvals Committee, provided an update on key outcomes for items considered at the 1st February AC meeting.

Sydney Harbour Bridge Northern Cycleway

The Council noted that there is an alternative proposal to the design competition and sought further update from TfNSW prior to the March meeting.

The Council emphasised the role of the Approvals Committee to consider proposals from TfNSW as the applicant for this development.

Item 8. Executive Reports

Item 8.1 Executive Director, Heritage NSW – Monthly Report

Nicholas Brunton was excused from the meeting for this report.

The Heritage Council of NSW noted the report and verbal update from Sam Kidman.

MLC Building North Sydney

The Council discussed the MLC Building, North Sydney and asked that it be listed for further consideration at the March meeting with an invitation extended to the Approvals Committee to join for this discussion.

Item 8.2 Chair, Heritage Council of NSW – Monthly Report

The Heritage Council of NSW noted the verbal update.

The Council reflected on the need to better understand how the ground plain is going to be controlled and integrated with the Parcels and main buildings located within the Central Precinct and noted that a presentation from TOGA will be provided at the March meeting.

Item 8.3 Planning Report (DPIE)

The Heritage Council of NSW noted the planning report and verbal update from Geoff Thompson.

Item 8.4 Advisory Panels Report

The Heritage Council of NSW noted the Advisory Committee and Panels report.

o   The Council deferred considerations for the vacant roles on the Grants and Sponsorships Committee and the Technical Advisory Panel until all vacancies on the Council are filled.

o   The Council sought a briefing from Heritage NSW at the next Council meeting on Climate Change and Sustainability, including an input from the Heritage Advisory Panel's discussions at their February meeting.

Item 9. Heritage NSW Reporting

Item 9.1 Heritage Operations – Quarterly Reports

The Heritage Council of NSW noted the quarterly reports and verbal update from Tim Smith.

o   The Council re-iterated the need to improve the application process for SHR listings under current legislation and will work closely with Heritage NSW to introduce contemporary tools to increase capacity and improve customer experience.

o　The Council thanked Maruschka Loupis for her excellent work on the social media content and reporting.

Item 9.2 Heritage Operations – Monthly Reports

The Heritage Council of NSW noted the monthly reports and verbal update from Tim Smith.

Item 10. General Matters

The Heritage Council of NSW noted the forward agenda.

Item 11. Meeting Close

There being no further items of business, the Chair, Frank Howarth, closed the meeting at 3:35 PM.

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Mr Frank Howarth AM PSM

Chair, Heritage Council of NSW

Date: 2 March 2022