



HERITAGE COUNCIL OF NSW

MEETING MINUTES – 486 - Amended 7 April 2021¹

3 February 2021 | 09:00 AM – 4:40 PM

International Convention Centre, 14 Darling Drive Plenary Meeting Room E3.6, Level 3 & Teleconference

ATTENDANCE	
MEMBERS	
Mr Frank Howarth AM PSM	Chair
Dr Nicholas Brunton	Member
Mr Ian Clarke	Member
Mr Paul Knight	Member
Dr Brian Lindsay	Member
Ms Colleen Morris	Member
Ms Louise Thurgood	Member
Mr Brett Whitworth	Member
Mr Dillon Kombumerri	Observer
APOLOGIES	
Nil	
GUEST PRESENTERS AND EXTERNAL ATTENDEES	
The Hon. Don Harwin MP	Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts (Item 2.0)
Mr Peter Anderson	Executive Director - Communities Plus, Land and Housing Corporation (Item 3.1)
Ms Diane Jones	Executive Director, PTW (Item 4.1)
Ms Maria Berdoukas	PTW (Item 4.1)
Mr Clinton Otswald	Group Director, Urbis (Item 4.1)

¹ The confirmed Minutes of the 3rd February 2021 meeting have been amended at the 7th April 2021 meeting of the Heritage Council of NSW to incorporate clarifications provided by the NSW Land and Housing Corporation regarding the item 3.1 *Waterloo Housing Development*.

Mr Grant Knoetze	Executive Director, Portfolio Management and Strategic Projects, DPIE (Item 7.1)
Mr David McNamara	Director, Eastern District (City of Sydney), DPIE (Item 7.1)
Mr Adrian Melo	Manager, Eastern District (City of Sydney), DPIE (Item 7.1)
Mr David Milliken	Principal Project Officer, Bays West, DPIE (Item 7.1)
Ms Belinda Morrow	Principal Policy Officer, Bays West, DPIE (Item 7.1)
HERITAGE NSW	
Ms Pauline McKenzie	Executive Director
Mr Matthew Clark	Director Heritage Strategy and Policy
Mr Tim Smith	Director Heritage Operations
Ms Lucy Albani	Principal Policy Officer (Item 2.0)
Ms Mary Ann Hamilton	Senior Team Leader Regional Heritage (Item 4.1)
Ms Cheryl Brown	Regional Manager Heritage North (Item 4.1)
Mr David Nix	Senior Heritage Officer Major Projects (Item 7.1)
Mr Hendry Wan	Acting Senior Team Leader Major Projects (Item 7.1)
Ms Verena Mauldon	Senior Heritage Officer Major Projects (Item 7.1)
Ms Rochelle Johnston	Manager Heritage Programs (Item 8.1.a)
Ms Rosanna Luca	Senior Project Officer, Heritage Operations (Item 9.1)
SECRETARIAT	
Ms Olgica Lenger	Senior Team Leader Secretariat
Ms Elizabeth Thomas	Advisory Panels Co-ordinator

IN-CAMERA SESSION

This item was not minuted.

Item 1. Welcome and Formalities

The Chair, Mr Frank Howarth, opened the meeting at 9:05am, delivered an Acknowledgment of Country and welcomed attendees. It was noted that quorum had been met.

There were no apologies received for this meeting.

Item 1.1 Conflict of Interest Declarations

Brett Whitworth advised that he is the Minister for Planning's delegate responsible for the issue of a Gateway determination for the Land and Housing Corporation's Waterloo Estate planning proposal. Council agreed that Mr Whitworth may participate in discussions to help provide advice on the statutory and planning issues but will abstain from any resolutions made in relation to this item.

Dr Nicholas Brunton noted his standing COI declaration in relation to the MLC Building, North Sydney and will excuse himself from any discussions regarding this property. Dr Brunton also advised that he has previously provided project advice to the Land and Housing Corporation in relation to the overall Redfern/Waterloo project, not specifically for this housing development. Council agreed that he may participate in discussions but will abstain from any resolutions made in relation to this item.

Item 1.2 Out of Session Decisions

There were no out of session decisions to report for the previous month.

Item 1.3 Minutes from the Previous Meeting – 2 December 2020

Resolution 2021-01
The Heritage Council of NSW: 1. Confirmed the minutes of the previous ordinary meeting (2 December 2020) as a complete and accurate record of that meeting, with a minor amendment.
Moved by Ian Clarke and seconded by Dr Nicholas Brunton

Item 1.4 Matters Arising

There were no matters arising.

Item 1.5 Action Report

The Heritage Council of NSW noted the action report.

Item 1.6 Heritage Council of NSW – Committees Update

The Acting Chair of the State Heritage Register Committee provided a verbal update on the three nominations considered for listing as well as general matters discussed at the meeting held 2 February 2021, including:

- acknowledgement and recognition of the contributions of outgoing Chair, Sheridan Burke;
- an Alternative Heritage Recognition workshop which will be held Out of Session;
- concerns expressed regarding listing delays;
- the possible use of homestead listings in the Hunter Valley region as a case study;
- the statutory listing process and recommendation to Council that the impact of SHR listings on valuations be pursued as a priority;
- the Committee's acceptance of the Hunter and Central Coast Development Corporation's Section 170 register and acknowledgement of the Corporation's proactive approach to managing heritage assets.

The Chair reminded all members and staff to refer to the 'Heritage and Conservation Register' as referenced in the Act, rather than the colloquial term of 's.170 register'.

Dillon Kombumerri, Chair of the Approvals Committee, reported on items considered at the Approvals Committee meeting held 2 February 2021, as well as general discussion including:

- how we consider heritage and adaptive reuse for small and large scale projects;
- potential to develop a qualitative consultant rating, similar to the GA or public works advisory pre-qualification schemes and associated rating which can identify where consultants have met a quality standard;
- the opportunity to strengthen the process of how items are listed on the AC forward agenda and the potential to establish a set of principles that could be applied to a decision making framework to exercise delegations.

The AC Chair noted the large volume of applications received on ongoing basis and reflected on the steps taken to determine when a decision should be escalated to the Approvals Committee.

It was noted that Council were previously provided with information about the existing criteria and escalation protocol for the delegated decision making process, as adopted in 2016. The Chair requested this be included in the papers for further discussion at the next meeting.

Item 2. Update with Minister Harwin

The Minister gave an Acknowledgement to Country and noted the opportunities and government priorities for 2021.

An introduction to Council members was provided and a general discussion held on ways the Council and government can work together to optimise the heritage outcomes for the state.

The Chair thanked the Minister for his time and noted that Council are pleased to accept his kind offer to catch up in person over morning tea or lunch at a future meeting.

Item 3. External Presentations

Item 3.1 Waterloo Housing Development

Peter Anderson from the Land and Housing Corporation (LAHC) presented the design and place making approach for Waterloo and works planned with the rezoning pathway.

Key points raised

- Waterloo Estate is approximately 18ha and contains over 2,000 social dwellings on the site as well as a small number of privately owned properties.
- Existing dwellings on average are approximately 49 years old (69 years at time of redevelopment completion) and are no longer fit for purpose.
- The Waterloo Housing development aims to provide accommodation tailored to the tenant's needs and create a safe environment with strong walkability connections.
- Waterloo metro station and above ground facilities are due for delivery in 2024.
- In 2019 the preferred plan was developed following extensive community and City of Sydney consultation and includes a staged approach over 15-20 years with three distinct sections: Waterloo South, Waterloo Central and Waterloo North.
- Development will commence in the South, whilst opportunities for retention and refurbishment of some existing buildings in the Central and North precincts will be explored.
- Two parklands areas are included in the proposal; a large park adjacent to the metro station and a smaller park retained within Waterloo South.

Council questioned how LAHC have considered both Aboriginal and non-Aboriginal heritage in the development.

- LAHC engaged an Aboriginal consultant to prepare the Aboriginal Cultural Heritage Study and work is continuing as part of the planning proposal with the Indigenous consultant team who are currently undertaking engagement activities.²

Council questioned whether LAHC have considered any opportunities to enhance and reinstate some of the cultural heritage that was previously lost in the area in addition to minimising the impact to remaining cultural heritage.

- LAHC recognises the cultural significance of Waterloo/Redfern, the need to broaden the work on Aboriginal culture in the area and identify local heritage opportunities.
- An Aboriginal liaison officer from the Waterloo area has been engaged to assist with ongoing investigation of the cultural benefits as part of the planning process.³
- The Waterloo Housing Estate currently includes four heritage listed assets and is surrounded by conservation areas including heritage listed parklands. LAHC recognises the need to identify local heritage opportunities and ensure any archaeological Aboriginal findings are preserved.

² Clarification provided by the Land and Housing Corporation:

LAHC engaged a consultant to prepare the Aboriginal Cultural Heritage Study and work is proposed to continue as part of the planning proposal process with the Indigenous consultant team who will undertake further engagement activities.

³ Clarification provided by the Land and Housing Corporation:

Previously, an Aboriginal liaison officer was engaged to investigate and capture the cultural benefits as part of the planning process. LAHC is continuing to develop relationships with established Aboriginal organisations who provide leadership in the Redfern/Waterloo area, in order to continue this work and inform the planning process.

- LAHC are currently in the rezoning phase. The treatment of heritage will be a key part of the delivery through the Development Application process.

The Chair noted that the Heritage Council would like to further engage with LAHC and thanked Mr Anderson for the presentation.

Council noted the importance of recognising that this development is in a significant Indigenous precinct and asked that LAHC be invited to present to Council in the future and include their approach to living heritage and ways to strengthen reflection of the area's Indigenous heritage.

Resolution 2021-02

The Heritage Council of NSW:

1. **Noted** the importance of recognising that Waterloo Housing Development is in the heart of a significant Indigenous precinct and **urges** Land and Housing Corporation to adopt a continuous living culture perspective.

Moved by Louise Thurgood and seconded by Colleen Morris
Brett Whitworth and Dr Nicholas Brunton abstained from voting.

Item 4. Matters for Consideration / Decision

Dr Nicholas Brunton excused himself from the meeting.

Item 4.1 Recommendation to List the MLC Building on the SHR

Pauline McKenzie noted the purpose of the presentation is to consider the peer review report and for Council to consider the issues raised by the owner in the submission, in particularly whether the item needs to be conserved and if it could be adapted for reasonable or economic use.

The Chair acknowledged the quality of the reports provided to Council and invited PtW and Urbis consultants to summarise their peer review findings.

The PtW report provided:

- four scenarios of impacts to heritage significance with comparative analysis;
- building size and floor plates deemed appropriate for Property Council A Grade; and
- subdivision opportunities and potential shadow diagrams.

The Urbis report considered:

- viability and economic analysis of four assessment options; a minimal maintenance option, IOF custodian's proposal and costings used as a basis to assess the impacts, retention and demolition / replacement options;
- whether the lifts in the building design proposal provide sufficient capacity to maintain the buildings A Grade classification; and
- building ownership and associated structure.

Council noted the economic analysis is based on the original cost when bought at the discounted rate and may not be an accurate reflection of the current market based cost.

Urbis agreed to look at updating their report to include an Option 2a to consider the DA costs against the actual cost of purchase at the discounted rate and show the range in terms of incentive value creation.

The Council discussed:

- value of the building vs development option value;
- pathways associated with various curtilage options;
- issues associated with a listing that cuts across property boundaries;
- significance of the Miler Street frontage;
- conservation and adaptive re-use of the building;
- advice to be provided to the planning panel; and
- the submissions received, noting the majority were overwhelmingly supportive.

The Council thanked Mary Ann Hamilton and Cheryl Brown for assisting with the provision of high quality reports and advice to Council and agreed to further consider this matter at an Out of Session meeting to be held 5 February 2021.

Resolution 2021-03

The Heritage Council of NSW:

1. **Considered** all the submissions received in relation to the listing of the 'MLC Building North Sydney (former)', noting that the vast majority of submissions, especially from eminent architects and professional bodies, were in support of the listing
2. **Considered** the owners objections and the results of the peer review of their submission. Notes that the MLC Building North Sydney (former) was identified in the Modern Movement thematic study and endorsed by the State Heritage Register Committee as a priority for listing in 2013. This priority was reiterated in May 2020 and work commenced on the listing prior to the notification of the development application in July 2020.
3. **Concludes** that:
 - a. Major upgrade/refurbishment of the Building would not compromise its heritage significance as the architectural design is a key element of listing, rather than original fabric;
 - b. A reasonable or economic use of the building if listed is possible based on the advice provided in the economic analysis;
 - c. The owner has not demonstrated undue financial hardship to the beneficial owners of the trust.
4. **Requests** Heritage NSW to review the Statement of Significance in light of the Council's conclusion on the varying significance and adaptive reuse opportunities of different elements of the Building.
5. **Resolved** to consider their recommendation to list the MLC Building North Sydney at an out of session meeting as soon as possible.

Moved by Colleen Morris and seconded by Paul Knight

Council reviewed the revised Statement of Significance Out of Session, on 5 February 2021.

Item 4.1 MLC Building North Sydney – Recommendation to List - OOS Decision
<p><i>Date: 5 Feb 2021 11:40 am to 12:00 pm</i></p> <p><i>Location: Central Terminal Station/Teleconference</i></p> <p><i>Attendees:</i></p> <p><i>Members: Frank Howarth, Ian Clarke, Brett Whitworth (remote); Louise Thurgood (remote); Colleen Morris, Paul Knight, Brian Lindsay; Dillon Kombumerri (remote);</i></p> <p><i>HNSW: Pauline McKenzie, Tim Smith, May Ann Hamilton; Barrina South, Olgica Lenger</i></p>
Resolution 2021-06
<p>The Heritage Council of NSW:</p> <ol style="list-style-type: none"> 1. Considered the amended Statement of Significance. 2. In accordance with section 33(1)(d) of the Heritage Act 1977 resolved to advise the Minister that the item known as “MLC Building, North Sydney (former)” at 105-153 Miller Street, North Sydney, is of state heritage significance, as shown in the plan at Annexure B of the report; 3. Recommends to the Minister, in accordance with sections 32(1) and (2) of the <i>Heritage Act 1977</i>, that the Minister directs the listing of the item, “MLC Building, North Sydney” at 105-153 Miller Street, North Sydney, on the State Heritage Register; 4. In accordance with section 33(1)(e) of the <i>Heritage Act 1977</i>, gives notice of its decision to persons notified under section 33(1)(a); and 5. In accordance with section 57(2) of the <i>Heritage Act 1977</i>, notes that the Heritage Council Standard Exemptions will apply. 6. Gives thanks to Mary Ann Hamilton, Cheryl Brown and the Heritage NSW team for excellent work on this nomination.
<p>Moved by Paul Knight and seconded by Ian Clarke</p>

Item 5. Legislation, Policy and Administrative Matters

Item 5.1 Working Better Together – Implementation Plan and Next Steps

Frank Howarth and Matthew Clark provided a verbal update on the progress of the Working Better Together implementation plan, highlighting:

- work underway to refresh the operations manual with a practical approach and development of Service Level Agreements required to align the business planning and operations manual;
- a workshop comprising HNSW senior management and Heritage Council members will be held in March to review the intersecting strategic frameworks and development of a joint planning proposal; and

- a meeting will be held with the Chair, HNSW and the DPC Deputy Secretary, Kate Foy focusing on building strong and positive relationships between the Heritage Council and HNSW.

The Council keenly supported a swift approach to identifying the shared strategy with HNSW.

Item 5.2 Heritage Council Finance Sub-Committee

The Heritage Council of NSW noted a verbal update from Ian Clarke and Matthew Clark.

Key Points Raised

- A meeting of the Finance Sub-Committee was held on 21 January 2021.
- Advice provided to the Heritage Council about incorrect allocation of items to funding envelope has been brought to the attention of the DPC Audit and Risk Committee.
- Remedial actions are being put in place with DPC Audit and Risk Committee to better understand what items fall within HCF and HNSW funding provisions, including a budget review and realignment to be completed for FY21/22.
- DPC legal has provided advice regarding the reporting requirements for the Corporation Sole Heritage and Heritage Council.

Item 5.3 Heritage Council, Committees and Panels – Membership Issues

Following the retirement of outgoing Council member Sheridan Burke and re-appointment of Colleen Morris to the Heritage Council of NSW, the Council noted that:

- Appointment of a new Council member is pending;
- An EOI process to fill forthcoming vacancies on Council's committees and panels is due to commence in March.

Key points raised:

- To extend Colleen Morris' term of appointment on the State Heritage Register Committee and the Heritage Advisory Panel for the duration of her term on the Council;
- To invite Sheridan Burke as a member of the State Heritage Register Committee, pending the EOI process;
- To extend Sheridan Burke's term of appointment on the Heritage Advisory Panel (HAP) for further two years;
- to invite the Chair of Technical Advisory Panel (TAP) to report to the Council on TAP related matters, until a Council member is appointed to TAP.

Resolution 2021-04

The Heritage Council of NSW resolved to:

1. **Appoint** Sheridan Burke to the State Heritage Register Committee as a member until 30 June 2021, subject to her acceptance.
2. **Appoint** Colleen Morris to the State Heritage Register Committee as Deputy Chair for the duration of her term on the Heritage Council.

3. **Appoint** Colleen Morris to the Heritage Advisory Panel as Chair for the duration of her term on the Heritage Council.
4. **Appoint** Sheridan Burke to the Heritage Advisory Panel as member until 28 February 2023, subject to her acceptance.

Moved by Ian Clarke and seconded by Brett Whitworth

Item 6. Executive Reports

Item 6.1 Executive Director, Heritage NSW – Monthly Report

Pauline McKenzie provided a verbal update to Council and advised that an EOI seeking voluntary redundancies has been issued across the DPC cluster. The DPC Secretary will hold a town hall meeting with HNSW staff on 4 February 2021.

Council discussed the engagement underway regarding the Sydney Basin Rock Art study and noted the associated challenges in aligning the various communities included in the Commonwealth's listing and opportunities to create an economic asset. The Chair agreed to raise this issue with the Minister at a future meeting.

Item 6.2 Chair, Heritage Council of NSW – Monthly Report

The Heritage Council of NSW noted a verbal report from the Chair, Mr Frank Howarth.

Item 6.3 Chief Planner's Report

The Heritage Council of NSW noted the Chief Planner's Monthly Report.

Item 6.4 Strategic Project Status Report

The Heritage Council of NSW noted the report.

Item 6.5 Advisory Committee and Panels Report

The Heritage Council of NSW noted the report.

Item 7. External Presentations – Part 2

Item 7.1 White Bay Power Station and Bays West Place Strategy – Information Paper

The Department of Planning, Infrastructure and the Environment provided an update on the Bays West Place Strategy currently being prepared for exhibition in March 2021.

The Chair noted that David McNamara who is on the presentation team is also a member of the Heritage Council's Approvals Committee.

Key points raised

- Consultation continues to be undertaken with a wide range of government agencies and key stakeholders to develop the overarching land use strategy and vision for the Precinct.

- An indigenous consultant has been engaged to provide the Connecting with Country Framework which will develop and guide the future stages of planning across the precinct.
- The site presents a complex range of interconnected stories with around six indigenous groups located within the area. The placemaking strategy will endeavour to respect and reflect this heritage and will also consider European heritage.
- The overarching principles and directions are grouped under five themes and developed to align with the Greater Sydney Commission's framework for the innovation corridor.
- Temporary activation opportunities and potential themes for curation of compatible uses were noted, as well as potential development pathways and public/private sector opportunities.
- Options for Glebe Island Bridge and other important connections and links across the Precincts and the innovation corridor were discussed.

The Council strongly encouraged DPIE's early engagement with Council regarding the heritage aspects located in the precinct.

DPIE noted that Council will be given an opportunity to formally comment on the proposal once it goes on exhibition, which is targeted for early March 2021.

Resolution 2021-05

The Heritage Council of NSW:

1. **Noted** the information provided in the briefing paper and presentation.
2. **Welcomed** the emphasis on Connection to Country.
3. **Thanked** DPIE for the informative presentation.

Moved by Dr Brian Lindsay and seconded by Colleen Morris

Item 8. Heritage NSW Reporting

Item 8.1 Quarterly Reporting

Q1 Applications Report

Rochelle Johnston highlighted key outcomes of the Q1 applications and noted the:

- reduction in applications submitted and completed due to the incoming ACH regulations at 1 July 2020 increasing the workload for the customer strategies team coupled with the need to develop systems;
- improved timeframes for Section 60 applications and the reduction of items in the CMP pipeline with a dedicated resource allocated to this work till 30 June 2021;
- work underway across the business with the customer strategies team to further streamline the applications process;
- this report is for the period just prior to the new exemptions process which came into effect on 1 December and an increase in Section 60s is anticipated for Q2.

Q1 Compliance Report

Tim Smith reported that:

- whilst some matters have been closed out, new enquiries have been received, specifically in the Southern Region;
- compliance capability in application and technology is being increased and drone training being offered to appropriate staff; and
- HNSW agreed to consider how to list the compliance actions by risk and scale so that key focus areas and associated resourcing can be better understood.

Kenmore, Orange

- Council noted the HNSW team are engaging with the new owners of the property to address issues associated with the site, and requested a process map, including timeline of key decision points and proposed actions, be provided to assist with resolution of issues.

Item 8.2 Heritage Operations – Monthly Reports

Item 8.2.a Conservation Major Projects – Monthly Report

The Heritage Council noted the report.

Item 8.2.b Delegated Decisions – Monthly Report

The Heritage Council of NSW noted the Delegated Decisions Report for 1 November – 31 December 2020.

Item 8.2.c Listing Matters

The Heritage Council of NSW noted the Listings Matters monthly report for 1 November – 31 December 2020.

Item 8.2.d Social Media, Publicity and Heritage Celebration

The Heritage Council of NSW noted the report.

Item 9. General Matters

Item 9.1 Regional Visit 2021

Pauline McKenzie outlined the opportunity to visit Braidwood as the location for Council's 2021 Regional Visit noting that the timing and location were proposed to align with the Heritage Festival being held in the region over the weekend of 27-28 March 2021. However, due to Covid-19 the festival has since been cancelled.

Council agreed, given the short time frame to finalise preparations, coupled with the cancellation of the Heritage Festival, that:

- HNSW develop a proposal for a regional visit to Newcastle to be held 6-7 May 2021;
- Members of the Cultural Precincts and Urban Area SHRC Working Group be invited to visit the Braidwood region and arrange to meet with the regional Council in March to discuss Braidwood cultural landscape listing matters; and

- HNSW prepare an issues paper for discussion with Queanbeyan-Palerang Regional Council.

Dr Brian Lindsay left the meeting at 3:06pm.

Decision

Following cancellation of the Braidwood Heritage event in March 2021, the Heritage Council of NSW determined to re-schedule the Regional Visit 2021 to Newcastle and Hunter Valley area, to take place in May 2021.

The Cultural Precincts and Urban Area SHRC Working Group will meet separately with the Queanbeyan-Palerang Regional Council to discuss Braidwood cultural landscapes listings matters.

Item 9.2 Forward Agenda

The Heritage Council of NSW noted the forward agenda.

A program of proposed site visits for Council will be discussed further with the Chair.

Item 10. Meeting Close

There being no further items of business, the Chair, Mr Frank Howarth closed the meeting at 4:40 PM, including a short in camera session held after the close.



.....
Mr Frank Howarth AM PSM

Chair, Heritage Council of NSW

Date: 7 April 2021