Heritage Council of NSW Minutes – 467

Out of Session Meeting
10:30am – 12:30pm
Thursday, 25 July 2019
Conference Room 1 and 2, Level 6, 10 Valentine Ave, Parramatta.

<table>
<thead>
<tr>
<th>Governance Role</th>
<th>Incumbent</th>
<th>Position Title</th>
<th>Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chair</td>
<td>Mr Frank Howarth PSM</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Deputy Chair</td>
<td>Ms Sheridan Burke</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Voting Member</td>
<td>Mr Ian Clarke</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Voting Member</td>
<td>Ms Louise Thurgood</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Voting Member</td>
<td>Ms Colleen Morris</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Voting Member</td>
<td>Mr David Major</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Ms Pauline McKenzie</td>
<td>Executive Director</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Mr Jane Holden</td>
<td>Director, Heritage Strategy</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Ms Miranda Firman</td>
<td>Senior Team Leader, Regional Heritage Operations, North Metro</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Mr David Hoffman</td>
<td>Senior Heritage Assessments Officer, North Metro</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Ms Natalie Blake</td>
<td>Senior Heritage Assessments Officer, South Metro</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Ms Alice Brandjes</td>
<td>Senior Team Leader, Policy and Strategy</td>
<td>Heritage, DPC</td>
</tr>
<tr>
<td>OEH staff</td>
<td>Ms Natasha Agaki</td>
<td>Secretariat Officer</td>
<td>Heritage, DPC</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Apologies</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Voting Member</td>
<td>Mr Gary White</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Voting Member</td>
<td>Mr Gary Sturgess</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Observer</td>
<td>Mr Dillon Kombumerri</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
MINUTES

Item 1. Welcome and formalities

Mr Frank Howarth opened the meeting at 10:33am, delivered an Acknowledgment of Country and welcomed attendees.

Apologies were accepted from Mr Gary White, Prof Gary Sturgess and Mr Dillon Kombumerri, and it was noted that quorum had been met.

Members were asked to raise any conflicts of interest with items on the agenda; no conflicts were declared.

No items of further business were raised.

Item 2. Items for decision

Item 2.1. Newcastle Recreation Reserve

The Heritage Council of NSW received a paper and verbal report from Ms Miranda Firman, Senior Team Leader; and Mr David Hoffman, Senior Heritage Assessments Officer, Regional Heritage Operations, North Metro – Heritage DPC.

The Heritage Council of NSW discussed:

1. The level of protection for the convict mine shafts at present, noting they are not listed on the LEP nor classified as a relic. The mine shafts are noted in the archaeological management plan, however consideration of their significance within development proposals is currently voluntary in the absence of any regulatory measures;

2. Discussions between City of Newcastle Council and Awabakal LALC to determine appropriate zoning for Newcastle Recreation Reserve and King Edward Headland Reserve are ongoing; noting that whilst King Edward Headland Reserve is not listed individually on the LEP, it lies within The Hill Heritage Conservation Area in Schedule 5 of the LEP;

3. The lack of submissions received from traditional owners and the absence of consensus amongst the Aboriginal community in Newcastle; noting however that the process of consultation is not designed to reach consensus;

4. The advice provided by the Aboriginal Cultural Heritage Advisory Committee (ACHAC)

5. The possibility to influence an outcome whereby any proposed development safeguards the heritage values of the site whilst meeting the economic development criteria;

6. Legal parameters governing the Heritage Council’s scope for comment, noting the complexity of overlapping legislative requirements and the larger question of land justice and its intersection with state legislation.
Resolution 2019-37

After discussion, the Heritage Council of NSW resolved to provide the Minister with:

1. The outcome of the consultation with the Awabakal LALC and advises that no agreement could be reached on the inclusion of the Awabakal LALC land in the listing.

2. The letter from Aboriginal Cultural Heritage Advisory Committee advising that they support the Awabakal LALC request that their land not be included in the listing; this letter was accepted by the Heritage Council.

3. Advice that Newcastle Recreation Reserve continues to meet the criteria for SHR listing if King Edward Headland Reserve was excluded from the curtilage;

4. Advice that the Awabakal LALC’s strong objection based on the aim of land grants under the Aboriginal Land Rights Act and the support of this position by the Aboriginal Cultural Heritage Advisory Committee may have impacted on the Heritage Council’s previous recommendation to list Newcastle Recreation Reserve in its entirety.

5. Advice that the Heritage Council was unable to reach a consensus view around the excision of the headland but agreed that there was an intersection of a range of issues that needed to be relayed to the Minister.

6. Advice that in considering the listing and the potential exclusion of the King Edward Headland Reserve, the Heritage Council is not solely being asked to consider this matter under its remit of the Heritage Act, but to address the larger question of land justice and its intersection with other legislation in NSW such as the Aboriginal Land Rights Act; and therefore considers this a precedent issue that should not be dealt with in isolation.

Moved by Ms Colleen Morris and seconded by Ms Louise Thurgood.

Item 2.2. Varroville Site Specific Exemptions – Advice to Minister

The Heritage Council of NSW received a paper and verbal report from Ms Natalie Blake, Senior Heritage Assessments Officer, South Metro – Heritage DPC.

The Heritage Council of NSW discussed:

1. Previous Heritage Council determinations relating to Varroville Homestead, specifically in relation to providing site specific exemptions in line with an approved DA;

2. The property owner’s request for the opportunity to provide a submission to the Heritage Council before it finalises the site-specific exemptions, owing to an insufficient timeframe following the recent public release of the final Direction by the Independent Planning Commission (IPC) on the development. The majority of members agreed that full consideration of the matter should be deferred until the owner’s submission has been received.
Resolution 2019-38

After discussion, the Heritage Council of NSW:
1. Deferred consideration of the proposed site-specific exemptions for Varroville until the August 2019 meeting, following the receipt of a further submission from the property owners.

Moved by Ms Colleen Morris and seconded by Mr David Major.

Item 2.3. Subdivision and NSW Heritage Places Policy

The Heritage Council of NSW received a paper and verbal report from Ms Alice Brandjes, Senior Team Leader, Policy and Strategy – Heritage DPC.

The Heritage Council of NSW discussed:
1. The purpose of the policy in providing the Heritage Council with guiding considerations to apply in assessing subdivision proposals and providing the public with a transparent and accessible reference document.
2. The approach to the development of the policy, i.e. with the explicit recognition that a subdivision within the curtilage of SHR listed properties has both benefits (e.g. supports adaptive reuse, funding for heritage conservation, and the integration of heritage properties within the community), as well as risks (e.g. to the context, setting and street pattern); and attempts to balance these competing considerations within the policy framework.
3. The draft policy as an appropriate test for the Council’s strategic objective of streamlining the current regulatory system.
4. The Deputy Chair’s position on refinements needed to the document prior to formal approval.

Resolution 2019-39

After discussion, the Heritage Council of NSW:
1. Noted the draft Subdivisions and NSW Heritage Places Policy and congratulated Heritage DPC on the work.
2. Requested that Heritage DPC consult with Ms Sheridan Burke, Ms Colleen Morris and an appropriate representative with Local Government experience from either the Technical Advisory Committee or the Heritage Committee out of session, to make refinements to the policy before final approval;
4. Requested that Heritage DPC further consult with at least one more Metropolitan Council in Sydney that carries the relevant experience, suggesting Hornsby Council.
5. Requested that the finalised Subdivisions and NSW Heritage Places Policy return to a future Heritage Council meeting for endorsement.

Moved by Ms Sheridan Burke and seconded by Ms Colleen Morris.
Item 3.  Meeting close

There being no further items of business, Mr Frank Howarth closed the meeting at 12:17pm.

Mr Frank Howarth PSM

Chair, Heritage Council of NSW

Date: 04 September 2019