



HERITAGE COUNCIL OF NSW

MEETING MINUTES – 525

6 March 2024 | 09:00 AM – 5:15 PM

Meeting Room 17, Level 29, 4PSQ, 12 Darcy Street, Parramatta & via teleconference

ATTENDANCE

Members

Mr Frank Howarth AM PSM	Chair
The Hon. Robyn Parker	Deputy Chair
Dr Nicholas Brunton	Member
Mr Ian Clarke	Member
Ms Vanessa Holtham	Member
Dr Brian Lindsay	Member
Ms Colleen Morris	Member
Ms Anthea Sargent	Member
Dr Daniele Hromek	Member

Apologies

Mr Dillon Kombumerri	Observer
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State Heritage Register Committee

Mr Wayne Johnson	Member (<i>items 4.3 & 5.1</i>)
Ms Lisa Trueman	Member (<i>items 4.3 & 5.1</i>)

Technical Advisory Panel

Mr Peter Phillips	Member (<i>item 3.2</i>)
Mr Stephan Netting	Member (<i>item 3.2</i>)

External Presenters

Mr Jonathan Captain-Webb	Director ACH, Land, and Economy, Aboriginal Affairs NSW (<i>item 3.1</i>)
Mr Matthew Alexander	Operational Programs Manager ACH Reforms, AA NSW (<i>item 3.1</i>)
Mr Luke Walton	Executive Director Economic Policy, DPPI (<i>item 6.2</i>)

Heritage NSW

Mr Matthew Clark	A/Executive Director
Ms Anna London	A/Director Heritage Programs
Mr Tim Smith	Director Heritage Assessments (<i>sections 3 - 8</i>)
Ms Lucy Albani	Director Policy & Strategy (<i>sections 3 & 4</i>)
Ms Elizabeth Owers	Director Customer Services (<i>item 3.1</i>)
Mr Michael Ellis	Manager Assessments (<i>item 3.1</i>)
Ms Shikha Jhaldiyal	A/Manager Assessments (<i>item 3.1</i>)
Mr Nicholas Heinonen	Policy Officer (<i>item 3.1</i>)
Dr Caroline Ford	Manager Policy & Reform (<i>items 4.1 & 6.2</i>)
Ms Bronwyn Batten	Senior Policy Officer (<i>items 4.1 & 6.2</i>)
Ms Julia Dowling	Senior Policy Officer (<i>item 4.1</i>)
Ms Lara Goldstein	Policy Officer (<i>items 4.1 & 6.2</i>)
Ms Sonia Limeburner	Manager Strategy & Implementation (<i>items 3.1 & 4.2</i>)
Ms Amelia Eames	Senior Policy Officer (<i>item 4.2</i>)

Ms Rebecca Newell	Manager Streamlining (<i>item 4.3</i>)
Ms Alexandra Boukouvalas	Manager Heritage Programs (<i>items 4.3 & 5.1</i>)
Mr Stuart Read	Senior Heritage Officer (<i>item 5.1</i>)
Ms Ruth Berendt	Senior Assessments Officer (<i>item 5.2</i>)
Mr Mark Callanan	Senior Compliance Officer (<i>item 5.3</i>)

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 9:00 AM and delivered an Acknowledgment of Country.

The Chair noted the apologies received for this meeting and it was noted that a quorum had been met.

Item 1.1 Conflict of Interest Declarations

The Heritage Council of NSW noted the standing COI declaration for SHRC member, Natalie Vinton for *Item 5.1 Powerhouse Museum Complex - NOI*. Ms Vinton did not receive the meeting materials and did not attend for this item.

Item 1.2 Minutes from the Previous Meeting – 7 February 2024

Resolution 2024-06
The Heritage Council of NSW:
1. Confirmed the minutes of the previous ordinary meeting (7 February 2024) as a complete and accurate record of that meeting, with minor amendments.
Moved by Ian Clarke and seconded by Colleen Morris

Item 1.3 Out of Session Decisions

The Heritage Council of NSW held an out of session meeting on 14 February 2024 to discuss The Powerhouse Ultimo Project.

Resolution 2024-07
The Heritage Council of NSW:
1. Confirmed the minutes of the out of session meeting (14 February 2024) as a complete and accurate record of that meeting.
Moved by Robyn Parker and seconded by Vanessa Holtham

Item 1.4 Matters Arising

There were no matters arising.

Item 1.5 Action Report

The Heritage Council of NSW noted the report and closed the items recommended for closure. The register was updated to reflect the further actions required.

Item 2. Heritage NSW and Committees Updates

Item 2.1 Executive Director, Heritage NSW

The Heritage Council of NSW noted the report and a verbal update from the A/Executive Director.

Item 2.2 State Heritage Register Committee

Robyn Parker, Chair of the State Heritage Register Committee (SHRC), provided an update on key outcomes for items considered at the 5 March SHRC meeting, including:

- notices of intention (NOIs) for *Cooma Gaol*, Cooma; *CAMP Inc. Rooms and Headquarters* (former), Glebe; *Captain Moonlite and James Nesbitt's Graves*, Gundagai (nominated as Gundagai Cemetery); and *Tiresias House*, Petersham
- a recommendation to list for *Kwong War Chong Building*, Dixon Street, Haymarket; and
- new SHR nominations received for *Don Hearn's Cabins*, Cunjurong Point, and *Walla Walla Bakery*, Walla Walla.

Item 2.3 Approvals Committee

Ian Clarke, Chair of the Approvals Committee (AC), provided an update on the key outcomes for items considered at the 5 March AC meeting, including:

- an integrated development application for *Studley Park*, Camden
- pre-lodgement consultation for *King George Avenue of Memorial Oaks*, Tamworth; and
- an update from Heritage NSW for the *Albion Hotel*, Braidwood.

The AC also discussed various heritage matters, including *St Mary's Cathedral*, *Me Mel* (Goat Island) and a potential site visit to the *State Library of NSW*, Sydney.

Item 3. External Presentations

Item 3.1 Aboriginal Cultural Heritage (ACH) Reforms

The Heritage Council of NSW received a confidential briefing from Aboriginal Affairs NSW on the work they are leading on the proposed phased approach for ACH legislative reforms which aim to deliver on the NSW Government's commitment to standalone ACH legislation.

The Council thanked Aboriginal Affairs NSW for the briefing and looks forward to continuing discussions.

Item 3.2 Heritage buildings and the building regulatory environment in NSW

The Heritage Council of NSW received a report and presentation from members of the Technical Advisory Panel (TAP).

Key points raised in TAP's presentation:

- The recent changes to various building regulations may place significant constraints on the alteration and adaptation of heritage buildings and subsequent approvals for their occupation and adaptive reuse, including the:
 - Design and Building Practitioners Act 2020
 - Environmental Planning and Assessment Regulations (2021) and the role of the Consent Authority and the Development Certification and Fire Safety Regulation 2021), and
 - National Construction Code (NCC) Volume 1: The Building Code of Australia (2022 version)
- Building codes and standards are generally based on modern construction materials and methods; have limited application for heritage fabric; and pose significant challenges for designers and certifiers to meet building certification and compliance requirements without the significant loss of heritage fabric and alterations to heritage buildings.

- Members were also briefed on the wider implications related to sustainability and the role of the built environment in reducing carbon emissions.
- The Building Commission is currently in the process of drafting the forthcoming Building Act and Regulations.

The Council thanked the TAP members for the briefing and discussed options to progress this matter further.

Resolution 2024-08
<p>The Heritage Council of NSW resolved to:</p> <ol style="list-style-type: none"> 1. Thank the Technical Advisory Panel for the briefing and note the possible impacts of the NSW building regulatory environment on heritage buildings. 2. Engage with the NSW Building Commission on development of reforms to building laws in NSW to seek to ensure appropriate recognition of heritage buildings and materials. 3. Raise the possible impacts of the Building Code of Australia on heritage buildings with the Heritage Chairs and Officials of Australia and New Zealand.
Moved by Vanessa Holtham and seconded by Nicholas Brunton

Item 4. Legal, Policy and Administration

Item 4.1 Draft Heritage Strategy actions

The Heritage Council of NSW received a presentation from Heritage NSW on the development of the *NSW Heritage Strategy*.

The Council noted the consultation underway with stakeholders and various focus groups which is informing development of the policy proposal.

Members discussed the potential key initiatives for inclusion in the draft Strategy which aims to:

- modernise the State Heritage Register
- increase heritage activation and accessibility
- strengthen alignment between the Heritage Act and the planning system, and
- improve and support the public interface with the heritage system, processes and heritage places.

The Council thanked Heritage NSW for the presentation and looks forward to further updates.

Item 4.2 Heritage Council Key priorities for delivery in 2024

The Heritage Council of NSW received a presentation and progress report from Heritage NSW on the *Heritage Council's Strategic Priorities 2023-25*.

Members discussed the key priorities and noted the alignment of the Council's priorities with the Heritage NSW strategic plan, including:

- addressing the medium high density planning rules and issues related to the heritage regulatory framework
- the Heritage Council's Communications Strategy
- cultural landscapes
- the outreach role of the Heritage Council.

The Council thanked Heritage NSW for the update and looks forward to the next update in May.

Item 4.3 Engagement with Heritage Owners – joint workshop with SHRC members

The Heritage Council of NSW held a joint workshop with SHRC members to consider heritage owner engagement.

Members discussed the key touchpoints along the owner engagement journey, as well as the objectives, challenges and opportunities for the owner engagement process to deliver positive heritage outcomes.

The Council thanked SHRC members and Heritage NSW for their participation and looks forward to further consultation in developing a set of internal guidance for heritage owner engagement.

Item 5. Matters for Consideration

Item 5.1 Powerhouse Museum Complex - Notice of Intent (NOI)

The Heritage Council of NSW received a report from Heritage NSW to determine whether to give its Notice of Intention (NOI) to consider listing of the *Powerhouse Museum Complex*, which includes the SHR listed *Ultimo Power House* (SHR 02045). SHRC members were invited to join the meeting for this discussion.

The Council discussed the aesthetic and historic values of the complex as a landmark group of buildings and their relationship to the items within the existing curtilage; and considered the potential heritage significance of the additional items.

The Council thanked Heritage NSW for the report and presentation.

Resolution 2024-09

The Heritage Council of NSW resolves:

1. That the Powerhouse Museum Complex at 494 - 500 Harris Street, Ultimo, which includes the item known as *Ultimo Power House* (SHR 02045), defined in accordance with the curtilage shown at Tab 5.1C of the report, is likely to be of State heritage significance.
2. In accordance with section 33(1)(a) of the *Heritage Act 1977*, to **give** each person that it considers to be an affected owner or occupier written **notice** that it is going to consider whether to recommend the listing of the item concerned (a *notice of intention to consider listing*).
3. In accordance with section 33(1)(b) and section 33(1)(c) of the *Heritage Act 1977*, within 14 days after notice of intention to consider listing is given, will cause a **notice** of intention to consider listing to be **published** in a newspaper circulating in the area in which the item is situated, inviting submissions on the listing, specifying a date as the closing date for the receipt of submissions of 28 days after the publication of the newspaper notice and the manner in which submissions may be made.

Moved by Ian Clarke and seconded by Nicholas Brunton

Item 5.2 Guidelines for allocation of assessment matters to the Heritage Council and Approvals Committee

The Heritage Council of NSW received a presentation from Heritage NSW on the internal guidance notes proposed to aid staff in determining when heritage matters should be referred to the Heritage Council and Approvals Committee for consideration.

The Council provided their feedback, endorsed the guidelines and acknowledged the comprehensive work done to capture the decision processes.

The Council asked Heritage NSW to provide a report on the effectiveness of the guidelines in six months.

Item 5.3 Compliance controls

The Heritage Council of NSW received a report from Brian Lindsay on the State Records NSW's compliance controls framework.

Members discussed the approach for a hierarchy of actions to bring compliance issues to the attention of asset owners and considered whether a similar approach may be applied for government agencies with s.170 compliance requirements.

The Council thanked Dr Lindsay for the report and looks forward to working with Heritage NSW to develop a heritage compliance framework.

Item 6. Executive Reports

Item 6.1 Chair, Heritage Council of NSW – Monthly Report

The Heritage Council of NSW noted the verbal update provided by the Chair.

Item 6.2 Planning Report (DPHI)

The Heritage Council of NSW noted the planning report and verbal update provided by Anthea Sargeant.

Item 6.2.1 NSW Housing Strategy - update

The Heritage Council of NSW received a presentation from the Department of Planning, Housing and Infrastructure (DPHI) on the lower mid-rise housing reforms and proposed changes to the planning rules to encourage the delivery of a range of different housing types in well located areas.

The Council discussed the heritage pressures likely from any uplift in development applications that local councils will be asked to consider and noted that DPHI intends to publish some guidance material on their website to address heritage considerations.

The Council thanked DPHI for the update.

Item 6.3 Advisory Panels Report

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

Item 7. Heritage NSW Monthly Reports

The Heritage Council of NSW noted the monthly operational reports and verbal updates from Tim Smith and Anna London.

Item 8. General Matters

Item 8.1 Forward Agenda

The Heritage Council of NSW reviewed the forward agenda.

Item 8.2 St Mary's Catholic Cathedral and Chapter House

The Council raised concerns about the potential heritage impacts resulting from a proposed development application adjacent to the St Mary's Catholic Cathedral and Chapter House.

Resolution 2024-10
Heritage Council of NSW resolved: <ol style="list-style-type: none">1. The Chair to write a letter to the City of Sydney objecting to the proposed development for 2 St Mary’s Road, Sydney, set out in the DA /2023/153.2. Requests Heritage NSW to assess amending the curtilage of the item known as <i>St Mary’s Catholic Cathedral and Chapter House</i> (SHR 01709) to establish a contiguous curtilage that includes its setting.
Moved by Nicholas Brunton and seconded by Ian Clarke

Item 9. Meeting Close

There being no further items of business, the Chair, Frank Howarth, closed the meeting at 5:15 PM.



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Frank Howarth AM PSM
Chair, Heritage Council of NSW
Date: 3 April 2024