



# HERITAGE COUNCIL OF NSW

## MEETING MINUTES – 508

5 October 2022 | 9:00 AM – 3:10 PM

Conference Room 20, Heritage NSW, Level 11, 4PSQ, Parramatta & via teleconference

### ATTENDANCE

#### Members

Mr Frank Howarth AM PSM	Chair
Mr Ian Clarke	Member
Mr Paul Knight	Member
Dr Brian Lindsay	Member
Ms Colleen Morris	Member
Ms Vanessa Holtham	Member
Ms Felicity Greenway	Member ( <i>planning delegate</i> )

#### Apologies

The Hon Robyn Parker	Deputy Chair
Mr Nicholas Brunton	Member
Mr Dillon Kombumerri	Observer
Mr Brett Whitworth	Member

#### External Presenters

Mr Nicolas Sandstrom	Senior Legal Officer, DPE Governance and Legal ( <i>item 4.1</i> )
Mr Troy Flaherty	Principal Legal Officer, DPE Governance and ( <i>item 4.1</i> )
Mr Paul Shaw	Executive General Manager Development, TOGA ( <i>item 4.2</i> )
Ms Susan Freeman	Director, FRD ( <i>item 4.2</i> )
Mr Steve Colomb	Development Manager, Dexu ( <i>item 4.2</i> )
Ms Amy Kiely	Development Director, Central Place Sydney ( <i>item 4.2</i> )
Ms Kelly Pham	Assistant Development Manager, TOGA ( <i>item 4.2</i> )
Ms Sally Durham	Director Environment & Sustainability Regions, TfNSW ( <i>item 4.3</i> )
Mr Denis Gojak	Senior Heritage Specialist, TfNSW ( <i>item 4.3</i> )
Mr Tim Keyes	Project Development Manager, TfNSW ( <i>item 4.3</i> )
Mr Alan Pottie	Bridge Maintenance Planner, TfNSW ( <i>item 4.3</i> )
Mr Mark Crees	Acting CEO, Create NSW ( <i>item 4.4</i> )
Ms Peta Longhurst	Project Manager, Create Infrastructure ( <i>item 4.4</i> )
Ms Kate Lenertz	Heritage Specialist, WaterNSW ( <i>item 5.2</i> )
Mr Evan Webb	Environmental Services Manager, WaterNSW ( <i>item 5.2</i> )

#### Heritage NSW

Mr Sam Kidman	Executive Director
Mr Tim Smith	Director Heritage Assessments
Ms Lucy Albani	Director Policy and Strategy
Ms Anna London	A/Director Programs ( <i>item 4.1</i> )
Ms Rochelle Johnston	Senior Manager Major Projects ( <i>items 4.2 &amp; 4.3</i> )
Ms Chrisia Ang	Senior Assessments Officer ( <i>item 4.2</i> )

Mr Hendry Wan	Senior Assessments Officer ( <i>item 4.3</i> )
Mr Rajeev Maini	Manager Assessments ( <i>item 4.4</i> )
Ms Mariyam Nizam	Senior Assessments Officer ( <i>item 4.3</i> )
Ms Niamh Lowe	Manager Strategy & Implementation ( <i>items 5.1 &amp; 5.2</i> )
Ms Ashley Edwards	Senior Policy Officer ( <i>item 5.2</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 welcomed planning delegate, Felicity Greenway to the meeting. Ms Greenway, Acting Group Deputy Secretary, DPE is attending on behalf of Brett Whitworth who is currently on extended leave.

It was noted that a quorum had been met.

#### Item 1.1 Conflict of Interest Declarations

Prior to the meeting, Robyn Parker noted a standing declaration in regard to the Central Tech Precinct given her recent appointment to the Greater Cities Commission. Ms Parker was not provided any papers for Item 4.2.

Vanessa Holtham declared a new standing perceived conflict of interest in relation to her husband who is the Director of Assessment Practice at the Department of Planning and Environment (DPE).

#### Item 1.2 Out of Session Decisions

The Heritage Council of NSW held an out of session meeting on the 16<sup>th</sup> September with Heritage NSW to review the draft submission being prepared for lodgement with DPE for the Central State Significant Precinct (SSP) Rezoning Proposal and the draft referral advice to DPE for the Western Gateway Block C TOGA Central (SSD-33258337) EIS.

Resolution 2022-36
The Heritage Council of NSW:
1. <b>Confirmed</b> the minutes of the out of session meeting (16 September 2022) as a complete and accurate record of that meeting.
Moved by Colleen Morris and seconded by Ian Clarke

#### Item 1.3 Minutes from the Previous Meeting – 7 September 2022

Resolution 2022-37
The Heritage Council of NSW:
1. <b>Confirmed</b> the minutes of the previous ordinary meeting (7 September 2022) as a complete and accurate record of that meeting.
Moved by Ian Clarke and seconded by Colleen Morris

#### Item 1.4 Matters Arising

There were nil 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. Executive Director, Heritage NSW - update

The Heritage Council of NSW noted the report and verbal update from Executive Director, Sam Kidman, including:

*1-11 Oxford Street, Paddington – Busby’s Bore (SHR no.00568)*

- The Council noted that an investigation is underway with the City of Sydney, Sydney Water and Heritage NSW to assess the damage caused to Busby’s Bore during building excavations works. The incident was self-reported by the applicant.
- Subject to the findings of the investigation, the Council asked that Heritage NSW work closely with Sydney Water if any potential offences are pursued.

*Audit of Heritage NSW*

- The Audit Office of NSW is preparing for a comprehensive audit of Heritage NSW, in particular its management and regulation of heritage assets.

*Heritage NSW operational improvement program*

- Phase 2 review of Heritage NSW assessment processes is underway, and a similar review will be undertaken for end-to-end listings process. This work will include appropriate key performance indicators (KPIs) to measure and improve operations.

## Item 3. Committees Update

### Item 3.1 State Heritage Register Committee (SHRC)

Colleen Morris, Deputy Chair of the State Heritage Register Committee, provided an update on key outcomes for items considered at the 4<sup>th</sup> October SHRC meeting, including:

- a presentation by the Society of Kameruka Golfers for proposed development of the *Kameruka Golf Course*
- Notices of Intent for *Manly Warringah War Memorial State Park* and *Badangi*
- a Recommendation to List the *Mardi Gras Parade Route*
- SHR nominations for the *All Saints Anglican Church, Bodalla; Jones House, Bellevue Hill;* and the *Kiama Justice Precinct*, and
- an update on the community consultation undertaken as part of the *15 Year Management Review of Braidwood and its Setting*. The Council noted that this report is due in early 2023 and discussed opportunities to assist with cultural heritage tourism objectives.

### Item 3.2 Approvals Committee (AC)

The Council noted the cancellation of the 4<sup>th</sup> October Approvals Committee meeting.

## Item 4. External Presentations

### Item 4.1 MLC Building, North Sydney

The Heritage Council of NSW received an update from DPE on the status of the judgement set down for the MLC Building, North Sydney.

The Council noted that the decision of the Land and Environment Court (LEC) to remove the listing of the MLC Building from the State Heritage Register was based on the administrative process rather than on the merits of heritage significance.

The Council discussed the options and time frames for going forward, including whether to appeal the LEC's decision.

The Council also noted that a separate appeal is underway between North Sydney City Council and the developer regarding the proposed demolition of the building.

The Council thanked DPE for their advice.

#### Resolution 2022-38

The Heritage Council of NSW:

1. **Notes** that the Land and Environment Court decision *IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust v Special Minister of State* [2022] NSWLEC 86 did not overturn the merits of the State heritage significance of the MLC Building, North Sydney.
2. **Re-affirms** its view that the item is of State heritage significance.
3. **Resolves** to seek to give objector evidence at the hearing of the Class 1 merit appeal between North Sydney Council and the developer.
4. **Resolves** not to proceed with an appeal against the Land and Environment Court judgment (referred to at 1) in the Court of Appeal, acknowledging that the judgment found procedural error and did not overturn the merits of the State heritage significance of the MLC Building, North Sydney.

Moved by Ian Clarke and seconded by Vanessa Holtham

#### Item 4.2 Central Western Gateway - Precinct Heritage Interpretation Strategy

The Heritage Council of NSW received a report from Heritage NSW and a joint presentation from TOGA, Atlassian and Dexu Frasers on the precinct wide Heritage Interpretation Strategy (HIS) for the Central Western Gateway Sub-precinct.

##### *Key points raised*

- o The first stage of planning for the Central State Significant Precinct (SSP) is the Western Gateway Sub-precinct, consisting of Block A (Atlassian), Block B (Dexu and Frasers) and Block C (TOGA).
- o A coordinated holistic design approach has been taken for the precinct and the HIS. The design team outlined the thematic structure matrix and site-specific themes for each site, and also the shared stories that cross the Western Gateway Sub-precinct site boundaries and beyond – Connecting Country, The Lie of the Land, Lines of Communication
- o Work has been done to embed the Designing with Country Framework. The integrated HIS aims to reinforce the Connection to Country and sits alongside the public art, landscape and urban design features.
- o The curatorial vision provides a framework not just for abstract stories but in particular for the interpretation works which will be manifested in various ways across the Precinct.
- o The three developers are heavily engaged in the public realm design and the aligned heritage interpretation plan and look forward to sharing this with the Council as work progresses.

The Council thanked the development and design teams for the presentation and were reassured by the progress of the proposal. The Council welcomed the collaborative approach which reaffirms the benefits of working together in this significant precinct for Sydney and looked forward to further updates.

#### Resolution 2022-39

The Heritage Council of NSW resolved to:

1. **Note** the information provided in this briefing paper and presentation.
2. **Request** that Heritage NSW on behalf of the Heritage Council writes to TOGA (cc: Atlassian and Dexus Frasers), thanking them for coordinating this joint presentation and to provide the following comments:
  - a. A coordinated holistic design approach across the precinct is essential to successfully achieve the project objectives and celebrate its heritage significance.
  - b. Embedding the Connecting with Country Framework into the heritage interpretation across the precinct is supported. It is encouraged to centre the Connecting with Country theme as a thematic foundation for the precinct.
  - c. Continued engagement with the Heritage Council and Heritage NSW during the course of the project's development is strongly encouraged.

Moved by Colleen Morris and Ian Clarke

#### Item 4.3 Swan Hill Bridge Replacement Project: Project Introduction and Timber Truss Bridge Conservation Strategy Context

The Heritage Council of NSW received a report from Heritage NSW and a presentation from Transport for NSW (TfNSW) on the Swan Hill-Murray River Road Bridge (Swan Hill bridge) replacement project and the preferred development option.

##### *Key points noted*

- The Swan Hill bridge is listed on the State Heritage Register in NSW and on the Victorian Heritage Register and is one of four Murray River crossing bridges currently managed under the Timber Truss Bridge Conservation Strategy (TTBCS).
- The TTBCS aims to retain and conserve the historic bridges that best serve the community in their current state. It proposes the Tooleybuc and Barham bridges be retained and the Swan Hill and Cobram bridges be delisted and removed.
- TfNSW sought the Council's support of the TTBCS and outlined the Swan Hill bridge site constraints and reasons for removal and replacement noting that:
  - the bridge is heavily relied upon by the local agricultural industry and routinely carries 60 tonne vehicles
  - requires constant maintenance and is reaching the end of its economic life.
- TfNSW suggested that there is no other location that would support a new bridge placement and community consultation indicates strong support for the option to build a new bridge on the current site.
- TfNSW has commenced the strategic assessment phase with field investigations underway to consider various bridge alignments. The preferred options will subsequently be developed to inform the strategic business case to Government.

The Council discussed the approval pathway and asked about the engagement TfNSW has held with the Victorian Heritage Council to date for the proposed delisting.

The Council reflected on the community views and the importance of respecting the values of the TTBCS and sought further details from TfNSW on the Heritage Interpretation Strategy and an updated Conservation Management Plan schedule.

The Council thanked Transport for NSW for the presentation and for the clarity of the information provided.

#### Resolution 2022-40

The Heritage Council of NSW resolved to:

1. **Consider** the information provided in this briefing paper and presentation.
2. **Write** to Transport for NSW and advise them that the Heritage Council of NSW has considered the information provided and understands that:
  - a. The current Swan Hill-Murray River Road Bridge (Swan Hill bridge) does not meet the current standards for freight and road requirements
  - b. Options have been explored for the location of the new bridge and adaptive reuse of the current Swan Hill bridge
  - c. There is strong local community support for replacement of the Swan Hill bridge at the current location
  - d. The costs associated with the ongoing maintenance of the current Swan Hill bridge are prohibitive
  - e. The *Review of Bridges 2019* (Tab 4.3B or the report), endorsed by the Heritage Council of NSW, earmarked the Swan Hill bridge for delisting as part of the Timber Truss Bridge Strategy
  - f. The companion listing in Victoria may be impacted, given that the significant elements of the bridge are located in NSW.
3. **Consult** with colleagues in the Heritage Council of Victoria on their position regarding the delisting of the Swan Hill bridge.
4. **Request** a schedule for the SHR delisting and listing program of the bridges identified in the Timber Truss Bridge Strategy and an updated Schedule of Conservation Management Plans for the remaining Timber Truss Bridges that are to be retained.
5. **Confirm** that it would consider a request for delisting the Swan Hill-Murray River Road Bridge from the NSW State Heritage Register (SHR), following the receipt of the schedules requested under point four, and subject to consultation with the Heritage Council of Victoria.

Moved by Brian Lindsay and seconded by Ian Clarke

#### Item 4.4 Australian Museum Project Discover Stage 3 – Masterplan update

The Heritage Council of NSW received a report from Heritage NSW and a presentation from Create NSW on the Australian Museum Project Discover Stage 3.

The Chair declared a potential perceived Conflict of Interest (COI) noting his former role with the Australian Museums. The Council noted that as the Chair has no current role or association with the Australian Museum there is no actual COI.

##### *Key points raised*

- o The staged redevelopment masterplan is progressing with:
  - Stage one completed in 2020 with a range of improvements across the Museum including the Touring Exhibition Hall and the expanded Crystal Hall

- Stage two is due for completion in 2023 with the creation of five new galleries including the Burra Learning Place which recently opened and the Minerals Gallery which is on track to open in December 2022
- further gallery spaces and gallery upgrades are scheduled for completion in 2023 to 2025.
- Stage three seeks to update the masterplan. The masterplan is being finalised to deliver a world class museum aligned with the 2027 vision with a focus on science, innovation and education and to mark the museum’s 200<sup>th</sup> anniversary.
- The architectural logic of the various masterplan elements and options were outlined as well as the Connecting with Country and design considerations.
- Archaeological potential will be fully investigated as part of the project and will inform the future heritage interpretation of the site.
- The updated masterplan aims to improve connectivity and utilisation across the site, amplify the heritage significance, improve legibility of the various wings and provide additional civic space and increased capacity for future events.

The Council discussed the implications of the proposed masterplan for significant heritage elements and noted that the City of Sydney LEP will be a key instrument in the development of the SSD application.

The Council thanked Create NSW for their presentation and looked forward to further consultation as the masterplan develops.

<b>Resolution 2022-41</b>
<p>The Heritage Council of NSW resolved to:</p> <ol style="list-style-type: none"> <li>1. <b>Note</b> Create NSW’s presentation and the paper from Heritage NSW.</li> <li>2. <b>Provide</b> detailed comments on the Australian Museum project Discover Stage 3 – Masterplan in a letter to Create NSW.</li> </ol>
Moved by Colleen Morris and seconded by Vanessa Holtham

*Felicity Greenway left the meeting at 1:30 PM*

## **Item 5. Legal, Policy and Administration**

### **Item 5.1 Standard Exemptions Review**

The Heritage Council of NSW received a report from Heritage NSW and a presentation on the findings of the review which looked at the outcomes of changes made to the Standard Exemptions process in late 2020.

The key findings of the review suggest the s.57(2) exemption process is more efficient in the way it operates and has significantly reduced the numbers of assessments that Heritage NSW is required to make.

The review considered ways to further improve the standard exemptions process and next steps include:

- analysis of state agency applications with a greater focus on expanding agency exemptions where able to be administered correctly
- analysis of SHR items that do not currently have site specific exemptions, and
- an examination of case studies and lessons learned.

The Council asked to consider the agencies' capacity for administering their heritage responsibilities, in the context of available heritage expertise in their workforce.

The Council acknowledged the challenges of knowledge gathering to determine if and when notifications may need to be issued. The Council discussed whether there is an opportunity to seek the list of each agency's exemptions on a semi regular timeframe (e.g., five-year reporting cycle) to better understand any challenges, how the exemptions are working and to identify areas where Heritage NSW may assist.

The Council thanked Heritage NSW for the review and noted the importance of this strategic work.

### **Item 5.2 Agency Specific Exemptions and Exceptions for WaterNSW**

The Heritage Council of NSW received a report from Heritage NSW and a presentation from WaterNSW on the agency specific exemptions and exceptions sought.

WaterNSW highlighted the challenges of managing and maintaining their state heritage assets and noted that they will continue to work closely with Heritage NSW to prepare the nine exceptions for the management of their state significant items.

The exceptions are designed to mirror the Heritage NSW Standard Exemptions and will cover activities managed by WaterNSW such as weed and pest control, stock fencing, water monitoring and allow for urgent maintenance and repair works as and when required.

The eight agency specific exceptions sought relate to WaterNSW assets listed on the LEPs across the state and on the Heritage and Conservation Register and will allow for targeted works to be expedited quickly as and when required for localised water areas where WaterNSW act as the supplier.

The Council noted that archaeological heritage assessment and implementation of exemptions are part of WaterNSW's Environmental and Heritage Impact Assessment process and are overseen by WaterNSW's Heritage Specialist.

The Council thanked WaterNSW for the presentation and for the collaborative work undertaken with Heritage NSW to finalise the package.

<b>Resolution 2022-42</b>
<p>The Heritage Council of NSW resolved to:</p> <ol style="list-style-type: none"> <li>1. <b>Recommend</b> the section 57(2) Order to the Minister to grant Agency Specific Exemptions to WaterNSW (Tab 5.2.C of the report).</li> <li>2. <b>Approve</b> the section 139(4) Order to grant Agency Specific Exceptions to WaterNSW (Tab 5.2.D of the report).</li> <li>3. <b>Agree that the Chair sign</b> the section 139(4) order granting Agency Specific Exceptions to WaterNSW (Tab 5.2.D of the report).</li> <li>4. <b>Recommend</b> the section 57(2) Order to the Minister to grant Site Specific Exemptions for Upper Canal System (Pheasants Nest Weir to Prospect Reservoir) (Tab 5.2.E of the report).</li> <li>5. <b>Recommend</b> the section 57(2) Order to the Minister to grant Site Specific Exemptions for Wingecarribee Swamp (Tab 5.2.F of the report).</li> </ol>
Moved by Ian Clarke and seconded by Vanessa Holtham

## Item 6. Matters for consideration

### Item 6.1 North Sydney Council Plaque – Ben Boyd

The Heritage Council of NSW received an update from Dr Brian Lindsay regarding correspondence received which raised concerns around North Sydney City Council's recently installed plaque concerning Ben Boyd.

The Council discussed the issues raised and noted that the wording of the plaque was prepared by an eminently qualified historian and is consistent with the findings of several other well-respected researchers. The Council felt that the plaque appropriately represents a contemporary approach to reflect the layered and contested history.

### Item 6.2 Advisory Committee & Panels membership

The Heritage Council of NSW received a report from Heritage NSW on the upcoming vacancies on the Advisory Committee and Panels. The Council noted that the terms for some members of the Advisory Committee and Panels are due to expire in the coming months and agreed to offer these members an extension to serve for a further two years.

Resolution 2022-43
<p>The Heritage Council of NSW resolved to:</p> <ol style="list-style-type: none"> <li>1. <b>Re-appoint</b> Brian Lindsay, Chery Kemp, Mitch McKay, and Anne-Maree Whitaker as members of the Grants and Scholarships Advisory Committee (GSAC), for a further two-year term, subject to their acceptance.</li> <li>2. <b>Re-appoint</b> Paul Ashton, Matthew Devine, Robert Moore, David Nutley, and Sheridan Burke as members of the Heritage Advisory Panel (HAP), for a further two-year term, subject to their acceptance</li> <li>3. <b>Re-appoint</b> Thomas Bowyer, Gary Waller as members and Daire Fleming as alternate member of the Technical Advisory Panel (TAP), for a further two-year term, subject to their acceptance</li> <li>4. <b>Appoint</b> Vanessa Holtham as a member of the Technical Advisory Panel for the duration of her term on the Heritage Council.</li> <li>5. <b>Appoint</b> Paul Knight as an interim member of the Grants and Sponsorships Advisory Council, subject to ACHAC's nomination of the substantive member.</li> <li>6. <b>Note</b> the remaining/forthcoming vacancies:             <ol style="list-style-type: none"> <li>(a) One vacancy on HAP</li> <li>(b) ACHAC representative on HAP.</li> </ol> </li> </ol>
Moved by Ian Clarke and seconded by Colleen Morris

## Item 7. Executive Reports

### Item 7.1 Chair, Heritage Council of NSW – Monthly Report

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

The Council noted that Dillon Kombumerri has decided to stand down as Chair of the Approvals Committee (AC) and will remain a member of the AC until the end of 2022.

**Resolution 2022-44**

The Heritage Council of NSW resolved to:

1. **Thank** Dillon Kombumerri for his services as Chair of the Approvals Committee.
2. **Appoint** Ian Clarke as Chair of the Approvals Committee for the duration of his term on the Heritage Council.
3. **Appoint** Nicholas Brunton as Deputy Chair of the Approvals Committee for the duration of his term on the Heritage Council.

Moved by Vanessa Holtham and seconded by Paul Knight

**Item 7.2 Planning Report (DPE)**

The Heritage Council of NSW noted the planning report and verbal update from Felicity Greenway.

The Council noted that the Independent Planning Commission is likely to make a decision on the Glencore mining operations and relocation of Ravensworth Homestead in November.

The Council discussed the Marulan Solar Farm proposal which is due to come off exhibition on the 18<sup>th</sup> October and asked Heritage NSW to advise Council of any potential impacts to heritage assets in the surrounding area.

**Item 7.3 Advisory Panels Report**

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

**Item 8. Heritage NSW Reporting****Item 8.1 Heritage Operations – Monthly Reports**

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

- o Heritage NSW is looking at developing interagency Memoranda of Understanding with TfNSW and other government departments to share resources to further streamline assessment processes.
- o Heritage NSW is conducting a site visit to the Redfern North Eveleigh Paint Shop Sub-precinct with TfNSW and will extend the invitation to interested Council members when the date is set.

**Item 9. General Matters**

The Heritage Council of NSW discussed the forward agenda. The register will be updated to reflect the changes requested.

**Item 10. Meeting Close**

There being no further items of business, the Chair, Frank Howarth, closed the meeting at 3:10 PM.



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Frank Howarth AM PSM  
**Chair, Heritage Council of NSW**  
Date: 2 November 2022