

SOUTH AUSTRALIAN HERITAGE COUNCIL

MINUTES

The 101st Meeting of the South Australian Heritage Council (the Council) was held on Thursday 31 October 2019 at Level 10, 81 – 95 Waymouth Street, Adelaide

Statement of Acknowledgement

We acknowledge this land that we meet on today is the traditional lands for Kurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

PRESENT

South Australian Heritage Council: Chair: Mr Keith Conlon OAM Members: Mr David Stevenson, Ms Robyn Taylor, Emeritus Professor Alison Mackinnon AM, Mr Marcus Rolfe and Ms Jan Ferguson OAM.

Apologies: Ms Kate McDougall, Mr Michael Constantine and Mr Jason Schulz

Secretariat: Mr David Hanna, Executive Officer, Heritage South Australia, Department for Environment and Water (DEW) and Ms Beverley Voigt, Manager Heritage South Australia, DEW.

1. WELCOME AND APOLOGIES

Mr Conlon welcomed all to the 101st meeting of the South Australian Heritage Council (the Council).

It was noted that this meeting was being held in confidence pursuant to Section 7 (6) of the *Heritage Places Act 1993*.

It was noted that Ms Kate McDougall, Mr Michael Constantine and Mr Jason Schulz were apologies.

2. ADOPTION OF AGENDA AND DECLARATION OF CONFLICTS OF INTEREST

Agenda

The agenda was adopted with the addition of the following matters to be discussed under 'Any Other Business':

- Martindale Hall.
- Elders Pavilion.

Declarations of conflict of interest

Nil.

3 PREVIOUS MEETING MINUTES

Council considered the draft minutes of the 12 September 2019 meeting of Council and approved them with the amendment of the words 'enormous' and 'North Adelaide' that had been spelt incorrectly on pages 3 and 8 respectively.

RESOLUTION:

The South Australian Heritage Council:

- **Approved** the minutes of the 12 September 2019 meeting subject to the above.

4. ACTION ITEMS

Ms Voigt spoke to the action list and noted the progress being made against particular items.

It was noted that a small working group, including Council representation, had met once already to consider the Assessment Report and Summary of State Heritage Place templates.

Action: Heritage South Australia to organise a follow up meeting.

It was noted that Heritage South Australia have identified a number of items associated with the 261 - 265 South Terrace, Adelaide building that ought to be considered to be registered as objects under the *Heritage Places Act 1993*.

Heritage South Australia is in the process of seeking legal advice on the management of objects and this will be sought as soon as possible to give the Council clarity prior to considering registering the objects associated with Cummins House.

Action: Mr Hanna to arrange a meeting between Mr Conlon and the Minister after 12th December 2019.

Mr Stevenson indicated he spoke to Mr Brian Caddy, Former Mayor of Berri Baramba Council regarding the Loveday Internment Camp nomination. Mr Caddy said he is more than willing to discuss with the heritage assessment officer at any time.

RESOLUTION:

The South Australian Heritage Council:

- **Noted** the status of the action list.

5 FOR DECISION / DISCUSSION

5.1 8th Report on Heritage Protection

Ms Voigt tabled a draft report for Council members to comment out of session. Mr Hanna will send the report out via Basecamp for all Council members to contribute out of session.

Council agreed to aim to finalise the draft report in time for approval at its December meeting.

RESOLUTIONS:

The South Australian Heritage Council:

- **Noted** the status of the 8th Report on Heritage Protection.

5.2 Planning and Design Code

Mr Conlon welcomed Mr Michael Queale, Heritage South Australia to the meeting.

It was noted that Phase 2 (Rural Areas) and Phase 3 (Urban Areas) of the draft Planning and Design Code was released for public consultation on 1 October 2019.

Phase Two of the Planning and Design Code is on consultation from 1 October 2019 to 29 November 2019.

Phase Three of the Planning and Design Code is on consultation from 1 October 2019 to 28 February 2020.

Preliminary Discussion

The Council discussed the following aspects of the draft Code:

General

- It was noted that prior to the release of the Code for consultation, Mr Queale had provided invaluable input into the drafting on behalf of the Department for Environment and Water (DEW). Council expressed its desire that this good working relationship between DEW and be maintained.
- Council said clarity is needed on how the Guidelines fit in or out of the Code?
- It was noted that some of the Design Guidelines are in Development Plans and others are not.
- It was noted that the Code has a 'visible from the public realm' test which means that development not visible from the public realm does not require referral to the Heritage Minister.
- It was noted that consultation on the Code is occurring in the absence of the Electronic Planning Portal. This Electronic Planning Portal needs to be made available for review / testing as soon as possible.
- There may need to be some work done on when the Minister for Environment component of referral fees are waived for development applications that are not going to impact on State Heritage values, but still require a referral (a shade sail was given as an example).

State Heritage Areas

- Noted that the Statement of Heritage Value for each of the 17 State Heritage Areas needs to be included within the new planning system.
- Mr Queale noted that DPTI decided not to rush these through for the consultation phase, but the intent is there. Mr Queale said that the information on the South Australian Heritage Register ought to be what is put into the Code with regard Statement of Heritage Value.
- It was noted that the Frequently Asked Question part of the Code's website has some good information and is worth reading.
- The Heritage Minister will have power of direction in relation to development (rather than advice as is the current situation).
- Much of the assessment of development by planners is based on the Statement of Heritage Value. The planners need to be able to access them with ease in the online portal.
- In the new system, referral is mandatory unless deemed 'minor'. It is important that 'minor' is defined clearly.

State Heritage Places

- It was noted that if you remove non-complying trigger for demolition, than assessments will be based on Statements of Heritage Value and we don't have them for many State Heritage Places.
- A number of Councils don't have non complying trigger. The eight Councils that do have demolition as a non complying trigger represents the vast majority of heritage values.
- There is currently no power of direction on Crown developments and this will continue under the Planning and Design Code.
- There is no third party appeal. The trigger is an abutting property. There is a 500 metre rule that applies outside Council areas.
- Agreed that Council needs to ask the SA Planning Commission about Guidelines. Noted that it will be difficult to write overarching guidelines for State Heritage Plaes as they are so diverse.

Local Heritage Places

- Query about how 'adjacency test' is handled? How is this handled as a trigger?
- Mr Queale noted there is no necessity for referral adjacent to.
- Seeking some clarity about the use of the SA Atlas – ensure it picks up the Certificate of Title associated with the place (not just the physical structure of the place).
- Need some guidance and clarity around 'irredeemably beyond repair'.

Discussion with SA Planning Commission and DPTI

Mr Conlon welcomed Mr Allan Holmes, SA Planning Commission and Ms Anita Allan, Manager, Planning Reform, DPTI to the meeting.

Mr Holmes gave a brief overview of the public consultation in relation to Phase 2 and Phase 3 of the Code. Mr Holmes noted it is a very busy time for planners at the moment. Planners have met with every Regional Council Planner, Chief Executive and Mayor. It was noted at this level there is generally good support for the Planning and Design Code.

Managing community concern and interest is always difficult and happens in any public policy reform. Mr Holmes noted that it is a fairly mobile area of public policy.

Mr Holmes noted an area attracting the most public comment is the issue of 'urban infill'.

The following matters were raised in discussion with Mr Holmes and Ms Allen:

- Ms Allen noted that each State Heritage Area will have its own Statement of Heritage Value. The aim is that when a person clicks on a map for their property in the E-Portal, the relevant Statement of Heritage Value will be easily accessible.
- Ms Allen said that DPTI would welcome any help from Heritage South Australia in getting the Statements of Heritage Value ready for State Heritage Areas. Ms Allen also welcomed Mr Queale to continue to work with her team in DPTI.
- Policy deficiency for regional area is a concern.
- The level of information about the heritage value of Local places is variable.
- A draft Guideline for demolition control has been prepared. In terms of detailed guidance on heritage, it was noted this needs to be factored in for some work in 2020.
- Practice Direction is a procedural matter.
- Practice Guidelines sit outside of the Code.
- It was noted that for unincorporated areas, the Planning Department is the authority regarding development approvals.
- It was noted that the Outback Community Authority has no planning expertise and is not resourced to manage develop applications for State Heritage Areas. There are approximately 55 applications in the Outback each year.
- Ms Allen said that the DPTI Electronic Portal team is trying to ensure that fast downloads can occur in areas with poor internet speed.
- It was agreed that the test for demolition needs some interpretation. It was noted that DPTI is aiming at consistent use of language and terms in the Code state wide.
- Mr Holmes noted that some of the officers working for Mithcam Council may need some support from Heritage South Australia with regard how they manage Colonel Light Gardens State Heritage Area.

State Heritage Places:

- Ms Allen noted that there is always going to be a need for professional advice in relation to development of State Heritage Places given the complex nature and variety of State Heritage Places.
- Need 'hooks' in policy work to ensure heritage can be managed well operationally. Planning is not about numbers in development plans. It is always going to be about the key performance outcomes for the development.
- DPTI commented about the data sitting outside of the Code (such as heritage guidelines). The Code provides opportunity for consolidated information.
- When the Code is fully electronic links can be added to Heritage Guidelines.
- What is Heritage and what is Character? Agreed that we should avoid the use of the word 'historic'.

Mr Conlon thanked Mr Holmes and Ms Allen for their time and they departed the meeting.

Advice to SA Planning Commission

Council reflected on the meeting with Mr Holmes and Ms Allen and the following matters were raised for inclusion in the Council's submission on the Planning and Design Code:

- What happens if the electronic system is not on line in time for 1 July, 2020? DPTI ought to communicate a back up plan.
- In unregulated areas – a dedicated person in DPTI needs to be available to provide advice.
- Agreed there is a need to re-instate Heritage Advisers in the field to assist property owners.
- It was noted that changes to fees are in the Regulations.
- Everything that gets referred to DPTI needs Building Rules Consent.
- Council discussed the need for some guidelines around waiving of fees for certain works to a State Heritage Place. It was suggested that fees are waived if it relates to works that are of a 'minor' nature.
- Council agreed that the Statements of Heritage Significance are critically important. Council expressed its concern about State Heritage Places and Local Heritage Places that currently do not have a Statement of Heritage Significance and noted the resourcing implications are huge.
- It was noted that approximately 1500 State Heritage Places do not have Statements of Heritage Significance.
- The 17 Heritage Statements for State Heritage Areas are generally well written and appropriate. It was agreed that the Table approach is not appropriate for State Heritage Areas. It ought to be in text form.

- There is a need to understand the Code amendment process. This is critical. We are interested in how we fix it when we find it is not right.
- Council agreed it needs to clarify what has to be done now versus what can happen later after the Code is operational.
- When the source material about a State Heritage Place originates from Heritage the Council wants to make sure that this data is automatically updated into the Code.
- The South Australian Heritage Register will be the point of truth for State Heritage Places and Areas.
- Council recognised that State Heritage Areas is our first priority.
- The Certificate of Title applies (not just the footprint of the building) regarding any proposed development of a State Heritage Place.
- Public Realm matter – it was suggested that Council request DPTI to comment on the philosophy behind it?

Action: Council asked for the Guidelines for demolition control to be circulated for review.

- Concern about future land division and impact on, and isolating, a State Heritage Place.
- Council agreed there needs to be some legal instrument to prevent the incremental impact of land division on State Heritage Places.

Action: Ms Taylor indicated she could provide some words to Mr Hanna about land division.

- The curtilage of a Heritage Place needs to be protected.
- Heritage Council need to look at how advisers work in out of Council areas (in 2020).
- It was noted that there is an additional cost to owners having to demonstrate that something is complementary to heritage.
- Council can make an offer to contribute to the broader heritage issues in the implementation of the planning code.
- It was noted that demolition control on contributory items differs between Development Plans therefore 'like for like' replacement is impossible to deliver on.
- It was noted there is real uncertainty for contributory places that fall outside of Historic Conservation Zones.

RESOLUTION:

The South Australian Heritage Council:

- **Discussed** the form of its advice to the South Australian Planning Commission and the Heritage Minister on the Planning and Design Code.

6 ITEMS FOR NOTING / DISCUSSION

6.1 Chairperson's Report

Noted.

RESOLUTION

The South Australian Heritage Council:

- **Noted** the written report from the Chair.

6.2 Correspondence

Noted.

RESOLUTION

The South Australian Heritage Council:

- **Noted** the correspondence sent and received since 12 September 2019.

6.3 Delegations Report

Noted.

RESOLUTION

The South Australian Heritage Council:

- **Noted** the delegations report.

7 ANY OTHER BUSINESS

Martindale Hall

It was noted that the most recent Martindale Hall Conservation Management Plan (CMP) is currently almost 30 years old. The Government's Historic Buildings Conservation Fund has approved funding to commission a new CMP, which will:

- assess the cultural significance of Martindale Hall, addressing those criteria under section 16(1) of the *Heritage Places Act 1993*, including assigning appropriate relative levels of significance according to their contribution to the cultural qualities of the place.
- prepare a Statement of Cultural Significance;

Heritage South Australia recommended that the Council determine the heritage values of Martindale Hall given its responsibilities under the *Heritage Places Act 1993*.

Heritage South Australia are preparing a Martindale Hall Summary of State Heritage Place for consideration by the Council, which will become supplementary information for its Register entry and will be provided to the consultant preparing the CMP.

The Council agreed to set up a small Council working group to approve the 'Summary of State Heritage Place', which will then be ratified by the whole Council at its December 2019 meeting.

The members of the working group will include Prof Allison Mackinnon AM, Mr Keith Conlon OAM and Ms Robyn Taylor with support from Dr Louise Bird.

The Summary of State Heritage Place will be endorsed by the working group and provided to the South Australian Heritage Council at its December 2019 meeting for approval.

RESOLUTION

The South Australian Heritage Council:

- **Agreed** to establish a working group to progress the Summary of State Heritage Place for Martindale Hall
- **Noted** that a final draft will be provided to the December 2019 meeting of the Council for approval.

Elders Pavilion

It was noted that the Council will be meeting with the Attorney General on 7 November 2019 to give the Attorney General the opportunity to consult with the Council on the request to remove the provisional entry of Elders Pavilion in the public interest.

It was noted that Council will have approximately 30 minutes with the Attorney General. Ms Jan Ferguson will be Acting Chair for this meeting in Mr Conlon's absence. Ms Ferguson will provide a brief overview and Dr Louise Bird will provide a brief presentation on the heritage significance of the place.

CLOSE OF MEETING

Mr Conlon closed the meeting at 1:30pm and thanked all members for their attendance and contribution.



Mr Keith Conlon OAM

Date: 12 December 2019

Chair