

# **Agenda Report for Decision**

Meeting Date: 21 July 2022

Item Name	Heritage Sub-Committee – Information update on the State Planning Commission's website
Presenters	Chair
Purpose of Report	Decision
Item Number	5.2
Strategic Plan Reference	N/A
Work Plan Reference	N/A
Confidentiality	Not Confidential (Release Immediately)
Related Decisions	5 December 2019 – Item 4.4 – Formation of a specialist Heritage Sub-Committee for providing advice to the Minister on Heritage DPAs
	30 January 2020 – Item 4.2 – Appointment of specialist Heritage Sub-Committee membership
	24 March 2022 – Item 4.2 – Heritage Sub-Committee – Reappointment of Members

#### Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

- 1. Approve the designation of this item as Not Confidential (Release Immediately).
- 2. Authorise Planning and Land Use Services (PLUS) to make the following updates to the Heritage Sub-Committee's information on the Commission's website:
  - o 'Introduction' section Add a point indicating that the Heritage Sub-Committee (the Committee) has been re-established for another term, expiring in April 2025.
  - 'Role of the Heritage Sub-Committee' dropdown section Remove the existing information and replace with the purpose of the Committee outlined in the revised Terms of Reference (clause 1 of **Appendix B**).
  - 'Members' dropdown section Remove the former members and add the new members, including listing the representatives from the Department for Environment and Water (DEW). Additionally, replace the reference to a 'Development Plan Amendment' to a 'Code Amendment'.
- 3. Authorise PLUS to add a 'Documents' dropdown bar section and to publish a copy of the current Terms of Refence (**Appendix B**) to the website.

# **Background**

On 24 March 2022, the Commission agreed to re-establish the Commission's Heritage Sub-Committee. The resolutions from this meeting are as follows:

The Commission resolved to:

- 1) Approve the designation of this item as Not Confidential (Release Delayed). To be released following final appointment of the Heritage Sub-Committee (the Sub-Committee) members.
- 2) Agree to the Attorney-General's Department (the Department) drafting updated Terms of Reference for the Sub-Committee to reflect the Code Amendment process, following direction from the Commission on the intended process.
- 3) Authorise the Chair of the Commission to approve the updated Terms of Reference for the Sub-Committee, and write to the Minister for Planning and Local Government (the Minister) seeking approval of the updated Terms of Reference.
- 4) Subject to the Minister's approval being received, agree to reappoint the following members to the Sub-Committee:
  - o Bruce Harry
  - o Deborah Lindsay
  - o Ron Danvers
  - o Elizabeth Little
  - o Jenny Newman
  - o Representatives of Heritage SA, within the Department for Environment and Water (DEW).
- 5) Subject to Sub-Committee members' prior verbal agreement, authorise the Chair to write to the members advising of their reappointment.
- 6) Identify and appoint the following member(s) of the Commission to the Sub-Committee:
  - o Steven Griffiths, Chair
  - o Noelle Hurley, Deputy Chair
  - o Elinor Walker, Assistant Deputy Chair.

On 13 April 2022, the Minister for Planning (the Minister) approved the re-establishment of the Committee (**Appendix A**) and agreed to the revised Terms of Reference proposed by the Commission (**Appendix B**).

It should be noted that all former members listed above agreed to be reappointed. In addition, former members Dr Louise Bird, Anna Pope and Michael Queale from DEW agreed to be reappointed to the Committee.

#### **Discussion**

As the Committee has now been formally re-established for another term, it is proposed that the Committee's information on the Commission's <u>website</u> be updated. Suggested changes are provided in the following table.

	Current wording on website (former Committee)	Suggested changes to website (current Committee)
'Introduction' section	In April 2020, the State Planning Commission appointed a specialist Heritage Sub-Committee for a period of two years.	In April 2020, the State Planning Commission appointed a specialist Heritage Sub-Committee for a period of two years.
		In April 2022, the State Planning Commission re-established the Heritage Sub-Committee for another term, expiring on 27 April 2025.
'Role of the Heritage Sub-Committee' dropdown section	The Sub-Committee is responsible for discussing and reviewing Statement of Intents (SOIs) for proposed local heritage listings, ensuring that the listings are well justified against the prescribed local heritage criteria.  In addition, the members will also hear and consider owner objectors and make final recommendations to the Minister through the Commission.	The Heritage Sub-Committee is responsible for providing advice to the State Planning Commission relating to the listing of Local Heritage Places, and/or additional areas to be included in the Historic Area Overlay in the Planning and Design Code, including at the Proposal to Initiate stage of a Code Amendment under section 73 of the Planning, Development and Infrastructure Act 2016.
		At the final stage of the Code Amendment process, members may hear and consider submissions from owners of proposed Local Heritage Places, objectors to proposed listings and/or affected councils.
		Members will provide advice to the State Planning Commission on how to proceed with proposed listings as prescribed in <i>Practice Direction 2 – Preparation and Amendments of Designated Instruments</i> .
		Members will also provide advice to the State Planning Commission on other heritage matters as requested by the State Planning Commission.
'Members' dropdown section	The Sub-Committee membership is as follows, with three members required to consider each Development Plan Amendment:	The Heritage Sub-Committee membership is as follows, with three members required to consider each proposed Code Amendment:
	Allan Holmes (chair)	Steven Griffiths (Chair)  (Mambar of the State Planning)
	Craig Holden (deputy chair)	(Member of the State Planning Commission)
	Bruce Harry	Noelle Hurley (Deputy Chair)  (Marsh or of the State Planting)
	Deborah Lindsay  Pan Panyara	(Member of the State Planning Commission)
	<ul><li>Ron Danvers</li><li>Elizabeth Little</li></ul>	Elinor Walker (Assistant
	Jenny Newman	Deputy Chair) (Member of the State Planning Commission)
	Representative of Heritage SA, Department of	Bruce Harry

Environment and Water	
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These members have been appointed within a short time to meet the timeframes associated with the SOIs and the implementation of the new planning system. The Commission intends to conduct an advertised expression of interest for Heritage Sub-Committees in the future.

- Deborah Lindsay
- Ron Danvers
- Elizabeth Little
- Jenny Newman
- Dr Louise Bird (DEW)
- Anna Pope (DEW)
- Michael Queale (DEW).

It is also proposed that a 'Documents' dropdown section be added to the Commission's website to include a copy of the Committee's Terms of Reference (**Appendix B**).

# **Appendices:**

- A. Minister for Planning's approval Revised Heritage Sub-Committee Terms of Reference Signed Minute 13 May 2022 (#18924067).
- B. Heritage Sub-Committee Terms of Reference Signed 27 April 2022 (#18807655).

Prepared by:	Brittany Anderson
Endorsed by:	Nadia Gencarelli
Date:	12 July 2022



TO: MINISTER FOR PLANNING

RE: RE-ESTABLISHMENT OF THE STATE PLANNING COMMISSION HERITAGE

**SUB-COMMITTEE** 

#### **PURPOSE**

To seek your approval to update the Terms of Reference for the State Planning Commission's Heritage Sub-Committee and, subject to your agreement, appoint members to the Heritage Sub-Committee for a new term.

#### **BACKGROUND**

On 5 December 2019, the State Planning Commission (the Commission) resolved to seek the approval of the former Minister for Planning (the Minister), the Hon Stephan Knoll MP, to establish a sub-committee for the purposes of providing advice to the Commission and the Minister on proposed Local Heritage Development Plan Amendments (DPAs) that proposed listing of new Local Heritage Places.

On 9 January 2020, the former Minister approved this request and the Terms of Reference for the Heritage Sub-Committee (the Sub-Committee) that accompanied it. The following members were appointed on 2 April 2020:

Chair		
Allan Holmes	(Former) Member of the State Planning C	ommission
Members		
Craig Holden	Member (now Chair) of the State Plannin	g Commission
Bruce Harry	Architect and heritage consultant (Bruce Associates)	Harry &
	Former member of Local Heritage Adviso (LHAC)	ry Committee
Deborah Lindsay	Senior Heritage Consultant (DASH Archit member of SA Heritage Council	ects), Acting
	Former member of LHAC	
Ron Danvers	Heritage architect (semi-retired)	
Elizabeth Little	Senior Heritage Architect (Grieve Gillet A	ndersen)
	Former member of LHAC	

# Jenny Newman Architect (GHDWoodhead) Accredited Professional Former Development Policy Advisory Committee (Inner Metropolitan Development Assessment Committee) member Representatives of • Hamish Angus, Senior Heritage Policy Officer Heritage SA, Bachelor of Architecture Department for **Environment and** Former member of LHAC Water (DEW) Michael Queale, Senior Heritage Conservation Architect o Bachelor of Architecture Anna Pope, Program Manager, Assessment and Maritime Bachelor of Architectural History (Hons) Dr Louise Bird, Heritage Officer PhD in Architecture

It is considered that there is a role for the Sub-Committee to continue to provide advice to the Commission (who will then provide advice to you) on Heritage Code Amendments. This cannot currently occur, however, as the term of the Sub-Committee lapsed on 31 March 2022.

### DISCUSSION

Under the old planning system (*Development Act 1993*), the former Minister was required to seek the Commission's expert advice on proposals to list new Local Heritage Places (via a DPA) where an owner objected to the listing as part of the public consultation stage. In addition, the former Minister had the ability to request advice on proposed heritage listings in instances where owner objections were not received. This was common practice where there were concerns about the level of justification provided or other strategic considerations. The Sub-Committee provided expert heritage advice to inform the Commission's response to the former Minister, with a specific focus on whether the proposed Local Heritage Places met the legislated criteria (i.e. warranted heritage listing).

Under the new system, the listing of Local Heritage Places occurs through the Code Amendment process, with each place required to meet the same legislated criteria as those applicable in the old system (**Appendix A**). The *Planning, Development and Infrastructure Act 2016* (the Act) does not specifically require expert consideration of proposed local heritage listings by the Commission. However, you, as Minister, must seek the advice of the Commission on Proposals to Initiate a Code Amendment, and it is recommended that the Commission utilise the Sub-Committee in order to gain expert heritage advice on Proposals to Initiate heritage Code Amendments.

In addition to this, the Sub-Committee could also play a role in providing advice to the Commission (and through the Commission, to you, as Minister) in the later stages of the Code Amendment process – for example, where you, as Minister, determine to refer a Code Amendment to the Commission prior to making a final decision on whether to adopt or alter the proposal, or determine that it should not proceed. In such instances, the Sub-Committee could provide expert heritage advice on the merits of each proposed Local Heritage Place (i.e. an assessment against the legislated local heritage criteria), and may also choose to hear submissions from councils and affected property owners.

It is recommended that you seek Commission advice on all heritage Code Amendments submitted to you for final determination. This proposal is set out in the updated Terms of Reference for the Sub-Committee at **Attachment 1** for your approval. It should also be noted that there is no statutory mechanism for the Commission (or the Sub-Committee) to hear from landowners, objectors or councils when a Code Amendment is referred by the Minister. The updated Terms of Reference provides a facility for such consultation to occur, thereby creating an important procedural step that will ultimately help you, as Minister, in making an informed decision on whether to adopt, alter and adopt or decline to adopt heritage Code Amendments.

To ensure continuity of understanding and consideration of heritage matters, the Commission seeks to reappoint all previous specialist members of the Sub-Committee. The Chair and Deputy Chair of the Sub-Committee were previously members of the Commission, to provide oversight by the Commission of the Sub-Committee's functions. It is proposed to continue with this arrangement, except with the replacement of Mr Allan Holmes, who is no longer a member of the Commission.

The proposed membership of the Sub-Committee is as follows:

Chair	
Steven Griffiths	Member of the State Planning Commission
Deputy Chair	
Noelle Hurley	Member of the State Planning Commission
Assistant Deputy	hair
Elinor Walker	Member of the State Planning Commission
Members	
Bruce Harry	<ul> <li>Architect and heritage consultant (Bruce Harry &amp; Associates)</li> </ul>
	<ul> <li>Former member of Local Heritage Advisory Committee (LHAC)</li> </ul>
Deborah Lindsay	<ul> <li>Senior Heritage Consultant (DASH Architects), Acting member of SA Heritage Council</li> </ul>
	Former member of LHAC

Ron Danvers	Heritage architect (semi-retired)
Elizabeth Little	Senior Heritage Architect (Grieve Gillet Andersen)
	Former member of LHAC
Jenny Newman	Architect (GHDWoodhead)
	Accredited Professional
	<ul> <li>Former Development Policy Advisory Committee (Inner Metropolitan Development Assessment Committee) member</li> </ul>
Representatives of Heritage SA, DEW	Hamish Angus, Senior Heritage Policy Officer
	<ul> <li>Bachelor of Architecture</li> </ul>
	<ul> <li>Former member of LHAC</li> </ul>
	Michael Queale, Senior Heritage Conservation Architect
	<ul> <li>Bachelor of Architecture</li> </ul>
	<ul> <li>Anna Pope, Program Manager, Assessment and Maritime</li> </ul>
	<ul> <li>Bachelor of Architectural History (Hons)</li> </ul>
	Dr Louise Bird, Heritage Officer
	o PhD in Architecture

It is noted that a Proposal to Initiate a Local Heritage Code Amendment has been lodged by the City of Norwood Payneham & St Peters, and the Commission is aware of several other councils working to lodge Proposals to Initiate over the coming months. It is therefore recommended that you agree to the revised Terms of Reference and reappointments to the Sub-Committee over the coming weeks to ensure these Code Amendments can be processed expediently.

# **RECOMMENDATIONS**

It is recommended that you:

1. Agree to the revised Terms of Reference for the State Planning Commission Heritage Sub-Committee (Attachment 1).

AGREED / NOT AGREED

NICK CHAMPION MP

Craig Holden

Chair, State Planning Commission

27 / 04 / 2022

### Attachments:

1. Heritage Sub-Committee Terms of Reference (#18544458).

# Appendices:

A. Legislated Local Heritage Criteria (#18460325).

Contact: Tel No: Nadia Gencarelli 08 7109 7036



#### **HERITAGE SUB-COMMITTEE**

#### **Terms of Reference**

### 1. PURPOSE

The purpose of the Heritage Sub-Committee (the Sub-Committee) is to, as required by the State Planning Commission (the Commission):

- (a) Provide advice to the Commission relating to the listing of Local Heritage Places, and/or additional Areas to be included in the Historic Area Overlay in the Planning and Design Code (the Code), including at the Proposal to Initiate stage of a Code Amendment under section 73 of the *Planning, Development and Infrastructure Act 2016* (the Act).
- (b) Hear and consider submissions from owners of proposed Local Heritage Places, objectors to proposed listings and/or affected councils.
- (c) Provide advice to the Commission on how to proceed with proposed listings as prescribed in *Practice Direction 2 Preparation and Amendments of Designated Instruments*.
- (d) Provide advice to the Commission on other heritage matters as requested by the Commission.

### 2. PRINCIPLES

The Sub-Committee and its Members will operate consistently with the following principles:

- (a) act lawfully
- (b) act impartially
- (c) remain open, acting with integrity and providing frank and fearless advice
- (d) work with purpose and alignment to achieve quality outcomes and the delivery of results
- (e) maintain the confidence of the Commission, Government, Parliament and the community
- (f) maintain appropriate confidentially of Sub-Committee discussions and advice.

#### 3. MEMBERSHIP

- (a) Membership of the Sub-Committee is limited to no more than nine specialist Members appointed by the Commission.
- (b) In addition to the specialist Members, a Member of the Commission will be appointed to each of the following positions on the Sub-Committee:
  - Chair
  - Deputy Chair
  - Assistant Deputy Chair.
- (c) Members will be appointed for a term not exceeding three years, and on conditions determined by the Commission. On the expiration of this term, Members may be eligible for reappointment as determined by the Commission.
- (d) Membership must, as far as practicable, comprise equal numbers of women and men.
- (e) In making appointments to the Sub-Committee, the Commission should consider that the Members collectively have qualifications, knowledge and expertise in the following areas:
  - experienced historian
  - experienced heritage architect
  - urban/regional planner with heritage listing experience.

#### 4. REMUNERATION

Sessional fees will be paid to Sub-Committee Members in accordance with Department of the Premier and Cabinet Circular *PC016 – Remuneration for Government Appointed Part-Time Boards and Committees* (September 2016), and the *Boards and Committees – Remuneration Framework* (Approved by Cabinet on 10 December 2007).

### 5. ROLES AND RESPONSIBILITIES

### 5.1. State Planning Commission

The Commission will be responsible for instructing the Sub-Committee on its activities and referring particular matters to the Sub-Committee for advice to the Commission.

### 5.2. Chair

a) The primary role and function of the Chair (or the Deputy Chair or Assistant Deputy Chair if acting as Chair) is to lead and manage the processes and practices of the Sub-Committee, and to ensure the effective delivery of the Sub-Committee's functions. b) The Chair will also act as the primary conduit between the Sub-Committee and Commission to communicate key messages from the Sub-Committee to the Commission and vice versa.

### 5.3. Department for Trade and Investment

- a) Planning and Land Use Services (PLUS) will support the Sub-Committee in accordance with a Service Level Agreement between the Commission and PLUS.
- b) A Governance Officer will be assigned to support the Sub-Committee. The Governance Officer will ensure agendas, minutes, an actions register and any other relevant documentation is prepared and distributed.
- c) The Code Amendment Team within PLUS will provide advice in relation to heritage policy and Code Amendment issues following a referral to the Sub-Committee by the Commission.

### 6. GOVERNANCE

### 6.1. Returns and Declarations

- a) Members must, within 60 days of appointment, submit a Primary Return identifying any financial or other interests.
- b) Members must, within 60 days of 30 June annually, submit an Ordinary Return identifying any financial or other interests.
- c) Members must also submit a Pecuniary Interest declaration at the end of each financial year to identify the nature of any transaction entered into by PLUS with any the Member or with any firm, trust or company in which the Member has either a direct or indirect financial interest.
- d) PLUS will maintain a register which records the Member's main business activities, involvement with other business organisations, vendors, business interests and other associations that might produce a conflict of interest with the activities of the Sub-Committee.

### 6.2. Conflicts of Interest

- a) Members must, as soon as he or she becomes aware of an actual or potential conflict of interest, or the potential for a perceived conflict of interest, disclose the nature and extent of the interest to the Chair (or the Deputy Chair or Assistant Deputy Chair if acting as Chair) of the Sub-Committee.
- b) If a Member declares a conflict of interest, that Member must not take part in any discussion or decision on the matter and must be absent from the meeting when any deliberations are taking place or a decision is being made.
- c) If a conflict of interest has been declared by a Member, the general nature of the interest must be recorded in the minutes of the meeting of the Sub-Committee.

### 6.3. Independent Commission Against Corruption

- a) In accordance with the *Directions and Guidelines for Public Officers* (Directions and Guidelines) published by the Independent Commissioner Against Corruption (ICAC), Sub-Committee Members are classified as 'public officers'.
- b) In accordance with the Commissioner's Directions and Guidelines all 'public officers' have an obligation to report a matter that is reasonably suspected of involving corruption, misconduct or maladministration in public administration to the Office for Public Integrity (OPI). The process for reporting such a matter to the OPI is outlined in the Directions and Guidelines document and on the ICAC website at <a href="https://www.icac.sa.gov.au">www.icac.sa.gov.au</a>.

# 6.4. Confidentiality

- a) Members must ensure that any confidential information remains confidential and is not disclosed improperly to others.
- b) Members must refer all enquiries from all external parties (including media) directly to the Governance Officer for action.

# 7. MEETINGS AND PROCEDURES

# 7.1. Appointment of Members to a Panel

For each matter referred to the Sub-Committee for advice to the Commission, the Chair of the Commission will appoint members of the Sub-Committee to form a Panel. Several meetings of a Panel may be required to address a particular matter.

### 7.2. Quorum

- For Panel meetings, the quorum is three Members (and no business may be transacted at a meeting of a Panel unless a quorum is present).
- b) A meeting of a Panel will comprise:
  - the Chair (or the Deputy Chair or the Assistant Deputy Chair acting as Chair) of the Sub-Committee
  - at least two specialist Members of the Sub-Committee.

#### 7.3. Meeting schedule

- a) The meeting schedule will be ad hoc and will depend on timing and scope of matters referred to the Sub-Committee by the Commission.
- b) Where reasonably practicable, Members appointed to a Panel will be given at least two weeks' notice of a future meeting.

### 7.4. Agenda and meeting papers

- a) An agenda and any associated meeting papers for prior reading will be distributed by the Governance Officer five working days prior to the meeting.
- b) As the agendas are for the purpose of advice to the Commission, they will remain confidential until the publication of the Commission's meeting papers for the matter.

# 7.5. Proceedings

- a) The Chair (or Deputy Chair or Assistant Deputy Chair) will preside over meetings of a Panel to which he or she is appointed and presiding. The Deputy Chair or Assistant Deputy Chair will preside over meetings if the Chair is absent. In the absence of the Chair, the Deputy Chair and the Assistant Deputy Chair, another member of the Sub-Committee will be chosen by those members present to chair the meeting.
- b) The Chair, Deputy Chair or Assistant Deputy Chair (as the case may be) will facilitate the meeting in a manner which promotes healthy, orderly, constructive, respectful and expeditious discussion and not allow repetitious or irrelevant discussion having regard to the function of the Panel.
- c) Each Member has one vote, and the Chair has a casting vote, if required to address an even vote.
- d) Decisions of the Panel are carried by the majority of votes cast. The minutes will only record the decision and not the votes for or against.
- e) If required, Panel business may be conducted 'out-of-session' by electronic correspondence between the Governance Officer on behalf of the Chair, Deputy Chair or Assistant Deputy Chair (as the case may be) and the Members of the Panel.

#### **7.6.** Proxy

Proxy Members will not be appointed. Members are encouraged to attend via online meeting facilities if they are not available to attend in person, otherwise an apology is to be tendered.

# 7.7. Minutes

- a) The Governance Officer will minute the meeting. The minutes will be concise and record:
  - the names of Members present
  - apologies received from Members
  - the names of departmental staff in attendance
  - any disclosure of interest or conflicts made by a Member or departmental staff

- the resolution (which may include a brief summary of how the Panel reached its decision if deemed necessary).
- b) Discussion and actions will not be recorded in the minutes. A separate actions register maintained by the Governance Officer will document any actions to be undertaken.
- c) The minutes of the meeting will be confirmed at the end of each meeting by those Members present. The minutes will be included in the agenda of the next Commission meeting for noting.
- d) Minutes of the Panel meeting will be published or maintained in confidence as provided in the Commission's *Governance Manual*.

# 7.8. Attendance of external parties

- a) Where the Panel chooses to do so, affected landowners and council administration are permitted to bring experts to support their provision of evidence to the Panel.
- b) If a party has made a written submission to a forthcoming agenda item which has been put out for public comment, that party may also be invited to attend for that particular item.
- c) Panel meetings are not open to members of the general public or media.
- d) The Panel will provide the Designated Entity and its consultant(s) with an opportunity to make a verbal response to verbal submissions with respect to Code Amendment matters.

### 7.9. Advice to the Commission

The Chair, Deputy Chair or Assistant Deputy Chair (as the case may be), as soon as practical after finalisation of the Panel Report, will present the Panel's findings to the Commission.

#### 8. REVIEW

These Terms of Reference will be reviewed by the Sub-Committee Chair in consultation with the Commission Chair following the appointment of a new Sub-Committee Chair or every three years (whichever occurs first).

Adopted by the State Planning Commission on 27 April 2022.

**Craig Holden** 

**Chair, State Planning Commission** 

27 / 04 / 2022

**Steven Griffiths** 

**Chair, Heritage Sub-Committee** 

27 / 04 / 2022