

ITEM 17. CITY SPACES FOR SAME-SEX MARRIAGE TEMPORARY CATEGORY FOR WAIVING FEES**FILE NO: X011972.004****SUMMARY**

On 23 October 2017, Council resolved, if the anticipated amendments to the *Marriage Act 1961 (Cth)* become law, to waive venue hire fees for the first 100 days for couples currently disadvantaged by not being able to marry.

This means hiring fees will be waived for City community halls, venues, parks and open spaces when hired for an eligible wedding function. The proposed fee waiver approved by Council applies only to venue hire for couples currently denied the right to marry. All other fees and conditions of hire, such as security bonds, catering and insurance fees, will still apply.

This resolution requires a change to the City's schedule of fees and charges for venue hire to create a temporary category for waiving fees for this purpose.

According to the NSW Registry of Births Deaths & Marriages, couples are required to give a marriage celebrant at least one month notice of an intended date of marriage and lodge a *Notice of Intended Marriage* with the NSW Registry of Births Deaths & Marriages. It is therefore recommended that the resolution be amended so that it will apply for the first 100 days, starting one month from the commencement date of the changes to the *Marriage Act 1961 (Cth)*.

In accordance with section 610E of the *Local Government Act 1993 (NSW)*, the details of the amended fees and charges, and a list of applicable venues, parks and open spaces, were placed on public exhibition from 3 November to 1 December 2017 to give the community the opportunity to provide feedback.

The City received thirteen submissions from people who live in, work in and visit the City of Sydney. Nine of the thirteen submissions indicated support for the City's proposal to amend its fees and charges schedule. Several submissions indicated partial support for the fee waiver, but argued that the proposed changes be made available to all couples during the 100-day period to address concerns about possible discrimination and inequity. A summary of submissions is provided in Attachment B.

RECOMMENDATION

It is resolved that:

- (A) Council adopt the category of fee waiver, as shown at Attachment A to the subject report, for 100 days, starting one month from the commencement date of amendments to the *Marriage Act 1961 (Cth)*; and
- (B) authority be delegated to the Chief Executive Officer to make amendments to the City's schedule of fees and charges, to insert a non-exhaustive list of community facilities, parks and halls, and to correct any minor drafting errors.

ATTACHMENTS

Attachment A: New Category of Fee Waiver: Same Sex Marriage Venue Hire

Attachment B: Summary of Public Submissions Received to Temporary Category for Waiving Fees

BACKGROUND

1. Between September and November 2017, the Australia Bureau of Statistics (ABS) conducted a national postal survey asking people aged over 18 registered with the Australian Electoral Commission if the *Marriage Act 1961 (Cth)* should be changed to allow same-sex couples to marry.
2. The postal survey closed on Tuesday 7 November 2017 and survey results were published on Wednesday 15 November on the ABS website. Of the eligible voters, 61.6 per cent answered 'Yes' and 38.4 per cent answered 'No' to whether they thought the law should be changed to allow same-sex couples to marry. The overall national participation rate for the survey was 79.5 per cent of eligible Australians.
3. Of the 91,004 eligible voters in the Federal Electoral Division of Sydney, which the City of Sydney Local Government Area is largely located in, 83.7 per cent voted 'Yes' and 16.3 per cent voted 'No'. Of the 85,689 eligible voters in the Federal Division of Wentworth, which the City of Sydney is also located in, 80.8 per cent voted 'Yes' and 19.2 per cent voted 'No'.
4. The *Marriage Amendment (Definition and Religious Freedoms) Bill 2017* to amend the *Marriage Act 1961 (Cth)* was passed by the Senate on 29 November 2017, and is currently before the House of Representatives.
5. According to the NSW Registry of Births Deaths & Marriages, couples are required to give a marriage celebrant at least one month's notice of an intended date of marriage and to lodge a *Notice of Intended Marriage* with the NSW Registry of Births Deaths & Marriages.
6. If the Parliament passes the proposed amendments to the *Marriage Act 1961 (Cth)*, same-sex couples wishing to get married will need to wait until the new law comes into effect before lodging their *Notice of Intended Marriage*.
7. On 23 October 2017, Council resolved, if the anticipated amendments to the *Marriage Act 1961 (Cth)* become law, to waive venue hire fees for the first 100 days for couples currently disadvantaged by not being able to marry.
8. This resolution requires a change to the City's schedule of fees and charges for venue hire to create a temporary category for waiving fees for this purpose. In accordance with the requirements of the Local Government Act, the details of the amended fees and charges, and a list of venues, parks and open spaces was placed on public exhibition from 3 November to 1 December 2017.
9. The draft amended fees and charges were promoted to the general public via public notice announcements in local newspapers, including the *Sydney Morning Herald* and *Central Courier* on 3 November 2017. The draft changes were available for download on the City's Sydney Your Say website.
10. Printed copies of the Temporary Category for Waiving Fees were available for inspection at the City's neighbourhood service centres in Redfern, Green Square, Glebe, Kings Cross and Town Hall House. Submissions could be made in writing or via the Sydney Your Say website, telephone and email.
11. During the consultation period, the Sydney Your Say webpage was visited 205 times, and the Temporary Category for Waiving Fees was downloaded a total of 75 times. The City received 13 submissions.

12. Nine submissions supported the fee waiver. In addition:
 - (a) three submissions suggested the fee waiver should be applicable to all couples, not just those couples currently disadvantaged by not being able to marry;
 - (b) two submissions stated that the proposed changes financially disadvantage heterosexual couples wishing to marry in City community halls, venues, parks and open spaces during the 100-day period in question;
 - (c) three submissions stated that the proposed changes are potentially in breach of relevant state and federal anti-discrimination legislation; and
 - (d) one submission stated that the resolution contradicts the principles of equal rights that has formed the basis of the marriage equality movement.

Fee Waiver

13. Given the requirement of the NSW Registry of Births, Deaths & Marriages to lodge notice of intention to marry one month in advance, it is proposed that the fee waiver will apply for the first 100 days, starting one month from the commencement date of the changes to the *Marriage Act 1961 (Cth)*.
14. The proposed fee waiver is detailed in full in Attachment A.
15. The fee waiver would be available to all couples previously denied the right to marry, regardless of how individuals identify themselves.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030

16. The City's Community Strategic Plan 2017-2021: *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This proposal supports Strategic Direction 6: Resilient and inclusive local communities.

Strategic Alignment – A City for All – Social Sustainability Policy

17. On 25 July 2016, Council adopted the Social Sustainability Policy "*A City for All: Towards a socially just and resilient Sydney*". The Policy outlines the City's framework for sustaining a socially just and resilient Sydney – a city for all. Principle 4 states that Sydney is a welcoming, socially connected city that embraces diversity and that Sydney is an open and tolerant city where everyone feels part of the community.

Organisational Impact

18. If the category of fee waiver is adopted by Council, a new annexure 4 will be attached to the 2017-2018 Schedule of Fees and Charges that sets out a non-exhaustive list of community facilities, parks and halls.
19. The fee waiver will cease to apply 100 days after the fee waiver commenced. Following this time, the City's usual hire fees will apply.

20. The fee waiver only applies to community facilities, parks and halls and is subject to any legislative requirements or restrictions that may apply to the hire or fee waiver.
21. The fee waiver is subject to the hirer:
 - (a) accepting the City's standard terms and conditions of hire for the community facility, park or hall, including terms and conditions relating to cancellations, equipment hire and other related fees; and
 - (b) paying other fees and costs associated with the hire, such as staffing, security deposit, cleaning, catering and insurance, at the rate specified in the fees and charges, as if the hirer was paying the usual rate for the hire.
22. The City's standard venue or facility closure periods will not be changed to accommodate hire demand, and existing bookings will not be cancelled or moved.

Social / Cultural / Community

23. Council's resolution was made in a spirit of celebration, recognising that a section of our community has been subject to discrimination for many years.

RELEVANT LEGISLATION

24. *Local Government Act 1993* - Section 610F of the *Local Government Act 1993* (NSW) prescribes that Council must publicly exhibit a new fee for at least 28 days and consider any submissions made during the public exhibition period before it can adopt an amended or new fee.
25. *Marriage Act 1961 (Cth)*.
26. *Sex Discrimination Act 1984 (Cth)*.
27. *Anti-Discrimination Act 1977 (NSW)*.

CRITICAL DATES / TIME FRAMES

28. The Bill is currently before the Australian Parliament, and is expected to pass all stages no later than Friday 8 December 2017. In the event of the Marriage Act being amended by this date, couples currently denied the right to marry may be able to do so from early 2018.

MONICA BARONE
Chief Executive Officer