

Item 2.**Delegation to the City of Sydney under the NSW Heritage Act 1977****File No: X018455****Summary**

The Minister administering the Heritage Act 1977 (NSW) has asked the City of Sydney to approve delegations under sections 57(2), 169 and 21 of the Heritage Act 1977, to nominated positions in Council of the functions of the Minister and the Heritage Council of NSW in relation to assessment and approval of minor heritage and archaeology works and maintenance to places listed in the State Heritage Register.

It is anticipated that the making of these delegations will improve the efficiency of the approval process for properties listed on the State Heritage Register and, consequently, reduce expense and waiting time for applicants making applications for minor works to these properties.

The delegations are listed, conditioned, and limited by the attached Instruments of Delegation.

The Local Government Act 1993 requires a Resolution of Council to approve delegations under the Heritage Act 1977 directly to nominated positions in Council.

Recommendation

It is resolved that Council:

- (A) approve the delegations to the nominated positions in the City of Sydney of the functions of the Minister and the Heritage Council of NSW under the Heritage Act 1977 as listed in the Instruments of Delegation shown at Attachments A and B to the subject report;
- (B) approve commencement of the operation of the delegations from 1 January 2020 or another date determined by the Chief Executive Officer; and
- (C) note that the Instruments of Delegation may be subject to amendment from time to time, subject to the approval of the Chief Executive Officer.

Attachments

Attachment A. Instrument of Delegation - Heritage Act 1977 (NSW) - Order under Section 169 and Section 21

Attachment B. Instrument of Delegation – Heritage Act 1977 (NSW) – Order under Section 57(2)

Background

1. The NSW Department of Premier and Cabinet, under delegation from the Minister and the Heritage Council of NSW, currently carries out assessments exemptions and approval of minor works to heritage places and minor archaeology permits. These include maintenance, installations of telecommunications equipment, and minor investigative excavations.
2. The ability for the NSW Heritage Council to delegate approvals for maintenance and minor works has existed under the NSW Heritage Act since around 2002 but has not been taken up, to date, by the City of Sydney due to concerns about the resources needed to properly discharge the delegated powers.
3. The ongoing sale of a large number NSW Government-owned State Heritage Register listed properties in the Millers Point area has resulted in a significant increase in the volume of applications to develop and maintain State Heritage Register listed properties in the Sydney local government area. The listing of the entire Sydney University Camperdown campus on the State Heritage Register, and the extensive and ongoing construction activity on the campus, has further added to the number of State Heritage Register-related applications.
4. This involves considerable duplication of work and communication between the City of Sydney Planning Assessment Unit and the Office of Environment and Heritage (OEH) Heritage Branch. NSW Department of Premier and Cabinet has made a case for Council to take up the delegations in order to significantly reduce complexity, save time and improve the efficiency and outcomes of the assessment process for applicants.
5. Residents and stakeholders, including Millers Point resident representatives, have expressed frustration with the current need for applications to both NSW Department of Premier and Cabinet and the City of Sydney for the exemption or approval of very minor and appropriate maintenance to their properties.
6. The NSW Department of Premier and Cabinet is offering to allow the City of Sydney to retain fees for such applications within the Sydney local government area. This will partially offset the staffing costs required to carry out the work. NSW Office of Environment and Heritage has recently sent a submission that quantifies the efficiency and cost benefits of its proposal.
7. The delegation will allow the assessment of minor heritage works to places listed in the State Heritage Register to be carried out by in one step by the City of Sydney heritage officers rather than the existing two stage process.
8. In cases where there is a conflict of interest, or where the City of Sydney delegate believes that the proposed works are outside the scope of the delegations, the application will be referred to the NSW Department of Premier and Cabinet.
9. The third resolution (C) will allow the delegations to be amended from time to time and Council may also give up the delegation in future.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

10. 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 report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - A Globally Competitive and Innovative City - The delegation will enable a quicker 'one-stop' exemption or consent process for heritage works to State Heritage Register places.
 - (b) Direction 2 provides a road map for the City to become A Leading Environmental Performer - The delegation will result in better and more detailed assessment of heritage impacts and will better conserve the heritage of the City of Sydney.
 - (c) Direction 5 - A Lively and Engaging City Centre - The delegation will make it easier for owners of State Heritage Register listed places to maintain their buildings and the result will be better conservation and a more attractive city centre.
 - (d) Direction 6 - Vibrant Local Communities and Economies - The delegation will make it quicker and cheaper for households and business to carry out maintenance and minor works to their State Heritage Register listed places. There is considerable community pride in well-maintained heritage places.
 - (e) Direction 7 - A Cultural and Creative City - The city's heritage items are some of our most important cultural artefacts. The proposed delegation will make it easier to conserve and maintain them.
 - (f) Direction 9 - Sustainable Development, Renewal and Design - This delegation will make it easier for owners to appropriately adapt and use their State Heritage Register listed places.
 - (g) Direction 10 - Implementation through Effective Governance and Partnerships - This delegation would comprise an effective partnership with the NSW Government to deliver more efficient and timely assessment processes to some of the most important heritage places in NSW.

Organisational Impact

11. The following measures will be put in place to take up, and properly discharge this delegation;
 - (a) Fees and charges have been put in place for the proposed delegated functions for the 2018-2019 financial year.
 - (b) An additional heritage specialist has been added to the establishment of the Urban Design and Heritage team for the next three years. Workloads arising from the delegation will be monitored through the City's planning systems.
 - (c) Applications under the delegation will be tracked, filed and reported in the City's planning systems so that both Council and the Heritage Council of NSW have a clear record of all decisions made under the delegation.

Risks

12. Risks associated with the delegation are considered to be minimal.
13. The Planning Assessment Unit does not anticipate that this delegation will result in any increase to the number of appeals, or the resources required to deal with them.

Social / Cultural / Community

14. This delegation will make it easier and quicker for members of the community to conserve and maintain their heritage places within the legal requirements of the NSW Heritage Act.

Environmental

15. This delegation will result in timely maintenance and conservation of State Heritage Register listed heritage places and improve the attractiveness and heritage significance of Sydney.

Economic

16. The delegation will reduce the time and complexity of the exemption and approval processes for minor works to heritage places. This is likely to save applicants money that can be better spent on the conservation works themselves.

Budget Implications

17. The direct costs (approximately \$125,000) of the additional staff member required to perform the delegated functions of the Heritage Council of NSW will be substantially offset by fees charged for exemptions and minor applications. These fees have already been included in the City of Sydney fees and charges schedule for the 2018/19 financial year.
18. This cost has already been approved and allowed for in the establishment budget of the Planning Assessment Unit for 2018-2021.

Relevant Legislation

19. Heritage Act 1977 Sections 57(2), 21 and 169.
20. Local Government Act 1993 Section 381.

Critical Dates / Time Frames

21. There are no critical dates. If Council resolves to accept the delegation, the Instrument of Delegation will progress to NSW Parliamentary Counsel for gazettal. Staff resources, fees and appropriate processes will be in place to take up the functions as soon as gazettal occurs.

Options

22. If the Council does not approve the making of this delegation the current process will remain in place. This will mean there is no opportunity to increase the efficiency of assessment of applications in relation to places on the State Heritage Register.

Public Consultation

23. Consultation has taken place between City officers and representatives of Millers Point and Glebe heritage groups.

Conclusion

24. Taking up the delegation will improve the efficiency of the approval process for applicants who are seeking to carry out minor works to their properties at minimal cost to the City. It is recommended that Council approve the making of the delegation to the nominated positions.

GRAHAM JAHN, AM

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