

South Australian Heritage Council

8.2 Procedure: Delegation of South Australian Heritage Council's powers and functions

OBJECTIVE:

To ensure that delegations of powers and functions are made in accordance with the Heritage Places Act 1993 and Council's Policy: Delegation of South Australian Heritage Council's Powers and Functions.

CONTEXT:

Section 8 of the Heritage Places Act 1993:

"8 - Delegation

- (1) Subject to this section, the Council may delegate a power or function under this Act -
 - (a) to a member of the Council; or
 - (b) to a committee established by the Council; or
 - (c) to a person for the time being holding or acting in a particular office or position; or
 - (d) to any other person or body.
- (2) A delegation under this section is revocable at will and does not derogate from the power of the Council to act itself in any matter.
- (3) The Council may not delegate the following powers or functions:
 - (a) to confirm a provisional entry in the Register;
 - (b) to decide not to confirm a provisional entry in the Register;
 - (c) to remove or alter an entry in the Register relating to a State Heritage Place under section 23."

SCOPE:

This procedure relates to Policy: Delegation of South Australian Heritage Council's Powers and Functions.

PROCEDURE:

1. Granting of delegations

Delegations of powers and functions will be granted by decision of the Council.

The Council will authorise all delegations in writing, and they will be signed and dated by the Chair of the Council.

All delegations must state:

- (1)
 - (a) delegate's name, if a power or function is delegated to a member of the Council;
 - (b) name of the committee, if a power or function is delegated to a committee established by the Council;
 - (c) delegate's office or position, if a power or function is delegated to a person for the time being holding or acting in a particular office or position; or
 - (d) name of the person or body, if a power or function is delegated to any other person or body.
- (2) the powers and/or functions being delegated;
- (3) the period of time during which the delegation is to remain in force;
- (4) the reporting requirements for the exercise of delegations; and
- (5) any general or special directions.

Unless specifically time-limited, a delegation continues in force until revoked, altered or varied by the Council.

Decisions to make, revoke, alter or vary delegations must be made in accordance with this Procedure.

A delegation of a function or power made under this Procedure is revocable at will and does not prevent the Council from performing the function or exercising the power delegated.

The Council will retain all of its statutory powers and functions not delegated.

2. Register of delegations

The departmental staff supporting the Council is responsible for maintaining the Register of Delegations and for ensuring it is reviewed on an annual basis.

The Register will be made available for public inspection upon request, without charge.

3. Functions and powers the Council will retain

Under section 8(3) of the Act, powers and functions to confirm a provisional entry in the South Australian Register, to decide not to confirm a provisional entry in the Register, or to remove or alter an entry in the Register relating to a State Heritage Place under section 23 cannot be delegated.

The Council will not delegate its strategic policy / decision making role.

4. Exercise of delegations

The delegate must perform the function or exercise the power in the same manner and subject to the same restrictions and with the same effect, as if the delegate were the Council.

All delegated functions and powers must be exercised in accordance with the relevant legislation governing Council's work, and policies and procedures set by the Council from time to time.

The delegate may not further delegate (sub-delegate) the function or power.

Where powers or functions are delegated to a specified position, the same authority applies to any person acting in that specified position.

There is no requirement for any delegate to hold a public meeting.

Delegations should not be exercised where a conflict of interest or a perceived conflict of interest exists. If there is such conflict, then the delegate must disclose the conflict to the Council and any such conflicts of interest the delegate believes are likely to arise in future.

5. Reporting back to the Council on the exercise of delegations

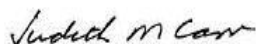
Exercise of delegations will be reported back to the Council according to the reporting regime prescribed by the instrument of delegation under section 1 of this procedure. Chairs of the Council and Register Committee will be informed via email of the exercise of delegated functions as specified in the instrument of delegation.

APPLICATION:

Applies to the Council and its delegates

DATE ADOPTED: 15 June 2009

CHAIR:



REVIEWED DATE: 27 June 2014

CHAIR:

