



DELEGATION FRAMEWORK

Version 3: JULY 2023

(replaces Version 2: JULY 2019)

PART 1: INTRODUCTION

1 PURPOSE

This Framework identifies the expectations of the Heritage Council of Western Australia (the Council) for the operation of any delegation from the Council.

2 OVERVIEW

Under Section 19(1) of the *Heritage Act 2018* (Act), the Council may delegate any of its powers and duties, except for the power to delegate, to any person. Delegations are generally provided to manage minor matters or those that can readily be assessed against a standard or policy that the Council has set. This ensures that matters coming before the Council are only those that need its specific consideration.

It is intended that all delegates reference this framework in determining how the Council intends each matter to be resolved, and to identify matters that should be escalated to the Council. The employing authority for each delegate should also review the framework, and in particular Schedule 2, and implement their own procedures to ensure the effective operation of the delegation.

3 SCOPE

The Framework applies to all delegates and their employing authorities and should be read in conjunction with the relevant instrument for each delegation.

At the time of approval, the employing authorities are:

- the Department of Planning, Lands and Heritage (Department)
- the National Trust of Australia (WA)
- the City of Fremantle

4 OBJECTIVE

The objectives of the framework are to:

- identify the roles and responsibilities of delegates
- assist consistency, transparency and timeliness of decision-making by the Council and its delegates
- act as a risk management control in the delegation process
- provide effective controls for the administration of delegated processes.

PART 2: EXECUTING DELEGATIONS

5 ESCALATING MATTERS FOR COUNCIL DETERMINATION

The instrument of delegation identifies the scope of the delegation and those matters within that scope that must be escalated by any delegate to be determined by the Council. These matters are generally those that are considered to be of major adverse impact and are to be escalated so that due consideration can be given by the Council. Conditions for referring matters to the Council are necessarily subjective and will require the delegate to form an opinion.

Proposals being escalated to the Council by delegates external to the Department must be sent to HCWAreferrals@dplh.wa.gov.au providing the reason for referral. Any supporting information or assessment undertaken by the delegate should be provided. Department delegates are responsible for ensuring that any matters they escalate are put before the Council.

6 REPORTING

The Council is to be kept informed of advice provided under delegation and, where relevant, the subsequent decision made by the decision-maker. Any exercise of a delegation must be reported to the Council in the format and frequency provided by the Council, or otherwise following the exercise of delegation.

7 PROVIDING STATUTORY ADVICE

Heritage Act 2018; s.74
Planning and Development Act 2005; s.79

This part relates primarily to the delegation of the Council's function under s.74 of the Act to provide advice in response to proposals referred under s.73 of the Act. It should also guide statutory advice provided in response to referrals under other legislation, including s.79 of the Planning and Development Act 2005.

7.1 ASSESSMENT

Assessment of each referred proposal should be carried out consistent with the Heritage Council's policies, guidance notes and publications as published on the Department's website or otherwise provided to the delegate for this purpose. The assessment process uses the documentation provided with the application or proposal, as well as other relevant information available to the delegate, to confirm an understanding of the cultural heritage significance of the place, understand the extent and implications of the proposal, and assess the likely impacts of the proposal on the cultural heritage significance of the place.

In the assessment, guidance as to what principles to apply when responding to proposals for development of a place should be taken from:

- the Council's publication *Development Principles for State Registered Places*
- the Australia ICOMOS *Charter for Places of Cultural Heritage Significance*, 2013 (Burra Charter).

7.2 THE IMPACT RATING

The impact rating at **Schedule 1** of this framework provides a process for assessing the level of impact and recording the resulting advice. Assessment of impacts should be determined in relation to State heritage significance and cultural heritage values, as detailed in the registration documentation and in any relevant conservation management document.

The identified impacts on will fall into the following categories:

- Positive
- No Discernible Impact
- Minor
- Moderate
- Major

Thresholds that determine the level of impact are explained in more detail in the impact rating. A proposal that is considered to have, on balance, a major impact on the cultural heritage significance of a place must be escalated to the Council for determination of its advice.

7.3 ADVICE

Based on the level of impact, the significance of the place and the standards set out in the development assessment framework and other relevant policy, the delegate should determine whether the proposal:

- has no discernible benefit to, or impact on, the cultural heritage significance of the place, in which case the advice should be to ‘not object’ to the proposal
- delivers positive heritage outcomes with no further qualifications or conditions required, in which case the advice should be that the proposal is ‘supported’

- has adverse outcomes that could be mitigated through the imposition of conditions, in which case the proposal may be ‘conditionally supported’ with relevant conditions clearly articulated in a planning context [Noting that conditions may not change the proposal so much that an amendment to the application, or a new application, would be required – if this is the case then the advice should be to ‘not support’]
- would adversely affect to a significant extent the cultural heritage significance of the place, despite any conditions that could reasonably be imposed, in which case the advice should be that the proposal is ‘not supported’.

8 NATIONAL TRUST OF AUSTRALIA (WA)

The Inventory of the State Registered Places acquired by, vested in, or under the control of the Trust is taken to be Schedule 3 of this Framework. Amendments to this schedule may be made without further approval of the Council, on receipt of written notification from the National Trust of Australia (WA) of the disposal or acquisition of a place and confirmation of the Trust’s tenure by the Department.

9 SUPPORTING DOCUMENTS

Register of delegations

- Delegations to the Department of Planning, Lands and Heritage
- Delegation to the City of Fremantle
- Delegation to the National Trust of Australia (WA)

Development Principles for State Registered Places

Heritage agreements as a condition of Heritage Council support

Schedules

Schedule 1 – Impact Rating

Schedule 2 – Expectations on the employing authority

Schedule 3 – Inventory of the National Trust's State Registered Places

SCHEDULE 1: IMPACT RATING

Rating	Definitions
Major positive benefit	<ul style="list-style-type: none"> The proposal would substantially enhance the cultural heritage significance of the place through major conservation works, removal of identified intrusive elements, and/or extensive accessible interpretation. The proposal supports the retention and long-term viable use of the place, and provides for its conservation and ongoing maintenance. The proposal would result in long term improvement to the understanding of the cultural heritage significance of the place. The proposal would result in positive news story promoting successful conservation of the place, including sustainable economic development that supports the cultural heritage significance of the place.
Moderate positive benefit	<ul style="list-style-type: none"> The proposal would enhance the cultural heritage significance through conservation works, a new or continued use for the place, removal of identified intrusive elements, and/or accessible interpretation.
Minor positive benefit	<ul style="list-style-type: none"> The proposal would improve the condition of a minor portion or element of the place. The proposal would result in a minor or temporary improvement to the understanding of the cultural heritage significance of the place. The proposal would reinstate a missing element that contributes to the understanding of the place.
No discernible benefit or impact	<ul style="list-style-type: none"> The proposal has a neutral impact. It does not enhance, compromise the cultural heritage significance (or elements that contribute to the cultural heritage significance), or detract from its interpretation and appreciation. The proposal does not impact on the ability of the place to demonstrate its values. There is no loss of significant fabric or alteration to highly intact areas. The proposal is not directly affecting the cultural heritage significance (fabric, setting etc)
Minor adverse impact	<ul style="list-style-type: none"> The proposal does not detract from the cultural heritage significance of the place. The proposal would result in minimal intervention to or loss of significant fabric. The proposal would result in the introduction of new elements into the place that is a minor variation to the scale, bulk and materiality of the surrounding area, or has a minor impact on visual setting of the place. The proposal would result in low impact, news item.
Moderate adverse impact	<ul style="list-style-type: none"> The proposal would result in adverse impact on the cultural heritage significance of the place which can be ameliorated by mitigation measures. The proposal would result in moderate intervention to or loss of significant fabric. The proposal would result in development that is different but respectful to the bulk, scale and materiality of the surrounding area. The proposal would result in public criticism without ministerial involvement.
Major adverse impact	<ul style="list-style-type: none"> The proposal would result in substantial adverse impact on the cultural heritage significance of the place which cannot be ameliorated by mitigation measures. The proposal would result in major intervention to or loss of significant fabric. The proposal would result in development that is considerably incongruent to the bulk, scale and materiality of the surrounding area. The proposal would result in public criticism with high impact, widespread news profile requiring Ministers or Government to make public statements.

SCHEDULE 2: EXPECTATIONS ON THE EMPLOYING AUTHORITY

Referral of s.73 proposals

Proposals under Section 73 will generally be referred by the decision-making authority to the Department as part of the planning approvals process. It is the role of the decision-making authority, Department, employing authority and delegate to work together to ensure that referrals are directed to the appropriate delegate with minimal delay.

An initial review of any proposal may be carried out by staff with appropriate heritage skills and experience, identifying whether the proposal should be recommended for escalation to the Council and, if not, giving their own professional opinion. A decision to escalate, or the provision of advice, is the responsibility of, and should clearly derive from, the delegate.

The delegate role

It is important to note that the Council delegates each specific function, power or duty to one or more identified roles. The delegation may therefore be carried out by anyone in permanent occupation of this role, or undertaking the duties of the role for a temporary period.

As the individual occupying each role is expected to act in the place of the Council and give an equivalent level of consideration to each proposal, the employing authority should make necessary provision for ensuring that the occupant of the role is adequately qualified and experienced. This may include relevant references in the job description of the role, and targeted assessment during the recruitment process.

Should the role be changed, terminated, or vacant for any length of time, the Council is to be notified in writing. Short term provisions may be made to redirect referrals to an alternative delegate, while longer-term changes will require amendment or withdrawal of the delegation.

Separation of functions

Where the employing authority is also the decision-maker on any matter, there must be clear distinction between the role of the delegate and the remainder of the decision-making framework. The decision-making process should clearly identify how and where the advice of the Heritage Council's delegate has been applied, and how this has been considered in the final determination.

It is not appropriate for the delegate to be the officer responsible for making a final determination on a matter.

Offer of opinion

It is not appropriate for any delegate to provide any view or opinion that purports to be the view of the Heritage Council unless delivered through a formal delegation. Any professional opinion, officer advice or informal guidance should be clearly stated as such.

SCHEDULE 3: NTWA INVENTORY

NTWA managed places on the State Register of Heritage Places

updated 21 April 2023

External ID	SHR No.	SHR Place	Street No.	Street Name	Town/Suburb	Post Code
57 Murray Street	2053	Yes	57	Murray Street	PERTH	6000
ANZAC Cottage	3344	Yes	38	Kalgoorlie Street	MOUNT HAWTHORN	6016
Artillery Drill Hall	3486	Yes	1	Holdsworth Street	FREMANTLE	6160
Avondale Farm	5566	Yes	Lot 3	Waterhatch Road	BEVERLEY	6304
Beverley Police Quarters	6291	Yes	55	Bartram Street	BEVERLEY	6304
Bridgedale	241	Yes	1	Hampton Street	BRIDGETOWN	6255
Central Greenough	1137	Yes		Cnr Brand Highway & McCartney Road	GREENOUGH	6532
Cliff Grange	1154	Yes		Brand Highway	GREENOUGH	6532
Clinch's Mill	1146	Yes		Brand Highway	GREENOUGH	6532
Collie Roundhouse	541	Yes		Coalfields Road	COLLIE	6225
Curtin Family Home	7935	Yes	24	Jarrad Street	COTTESLOE	6011
East Perth Cemeteries	2164; 2160	Yes	2	Bronte Street	EAST PERTH	6004
Ellensbrook	115	Yes	Lot 303	Ellen Brook Road	GRACETOWN	6285
Gallop House	1834	Yes	22	Birdwood Parade	DALKEITH	6009
Geraldton Heritage Precinct	1048	Yes	84	Chapman Road	GERALDTON	6531
Gingin Railway Station	1082	Yes	Lot 500	Jones Street	GINGIN	6503
Gray's Store	1153	Yes	527	Company Road	GREENOUGH	6532
Greenough Hotel	1143	Yes		Brand Highway	GREENOUGH	6532
Hydro Power Station	6344	Yes		Falcon Road	WELLINGTON FOREST	6236
Israelite Bay Telegraph Station	836	Yes		No street address	ISRAELITE BAY	6452
Jarrahdale Heritage Park	4615	Yes		Jarrahdale Road	JARRAHDAL	6124
Karalee Rocks	10062	Yes		5km off Great Eastern Highway	YELLOWDINE	6426

External ID	SHR No.	SHR Place	Street No.	Street Name	Town/Suburb	Post Code
Luisini's Winery	2676	Yes	10	Lakeway Drive	KINGSLEY	6026
Mangowine	1923	Yes	737	Karomin Road	NUNGARIN	6490
Moir Homestead	3540	Yes		Stokes National Park	COOMALBIDGUP	6450
Mt Charlotte Reservoir	15727	Yes		Collier Place	WILLIAMSTOWN	6430
No 1 Pump Station	1677	Yes		Mundaring Weir Road	MUNDARING	6073
No 3 Pump Station	649	Yes		Forrest Street	CUNDERDIN	6407
No 8 Pump Station	583	Yes		off Great Eastern Highway	BULLABULLING	6429
Old Blythewood	1763	Yes	6161	South Western Highway	PINJARRA	6208
Old Observatory	2240	Yes	4	Havelock Street	WEST PERTH	6005
Old Perth Boys' School	2117	Yes	139	St Georges Terrace	PERTH	6000
Peninsula Farm	2411	Yes	2C	Johnson Road	MAYLANDS	6051
Pinjarra Courthouse	1748	Yes	22	George Street	PINJARRA	6208
Poole Street Bridge	3549	Yes		Poole Street	NORTHAM	6401
Rosella House	3458	Yes	77	George Road	GERALDTON	6530
Royal Perth Hospital Precinct	4289	Yes		Murray Street	PERTH	6000
Samson House	869	Yes	61	Ellen Street	FREMANTLE	6160
Settlers Cottage	3464	Yes	180	Pearson Street	CHURCHLANDS	6018
St James' Church	1145	Yes	33583	Brand Highway	SOUTH GREENOUGH	6528
Stirling House	3135	Yes	101	Stirling Highway	NORTH FREMANTLE	6159
Strawberry Hill	32	Yes	174	Middleton Road	MIRA MAR	6330
Wanslea	598	Yes	80	Railway Street	COTTESLOE	6011
Warden Finnerty's Residence	577	Yes	2	McKenzie Street	COOLGARDIE	6429
Wesleyan Chapel	1167	Yes	180	McCartney Road	GREENOUGH	6532
Whitby Falls Farm	8604	Yes	1619	South Western Highway	WHITBY	6123
Wonnerup House	424	Yes	935	Layman Road	REINSCOURT	6280
Woodbridge	2528	Yes	Lot 520	Ford Street	WOODBIDGE	6056
York Courthouse Complex	2852	Yes	124	Avon Terrace	YORK	6302