

CL22.659 Status Report: Heritage Listing of the Former Anglican Church, Huskisson

HPERM Ref: D22/497416

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Reason for Report

The purpose of this report is to update Council on the proposed listing of the Former Anglican Church, Huskisson as a local heritage item in the City-wide Local Environmental Plan. It also provides information on other short-term protection measures available to the Federal and State Government Agencies.

Recommendation

That Council:

1. Receive this report for information.
2. Note the Federal Government's:
 - a. Issue of an emergency declaration under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* for the Church grounds (in place until 15 December 2022 (5pm)), and
 - b. Assessment of an application for the longer-term protection of the site under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.
3. Receive further progress reports:
 - a. On the proposed listing of the Former Anglican Church, Huskisson as a local heritage item in the City-wide Local Environmental Plan.
 - b. On the short-term protection measures available to the Federal and State Governments.

Options

1. As recommended.

Implications: This is the preferred option as it provides an update to Council and allows work to continue on the proposed listing of the Former Anglican Church, Huskisson as a local heritage item in the City-wide Local Environmental Plan. It also enacts Council's September 2022 resolution relating to the local heritage listing of the Former Church building and site.

2. An alternative resolution made by Council.

Implications: Implications of an alternative resolution are not known at this time but may include delays to the completion of the Statement of Heritage Significance and Planning Proposal.

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Background

In response to a Mayoral Minute considered by Council at its 20 September 2022 Ordinary Meeting, Council resolved to (MIN22.618):

2. *Commence the process to immediately list the Former Anglican Church, Huskisson and any associated items on the site (including Lots 7 and 8 Section 3 DP 758530) as a 'Heritage Item' of local significance in Schedule 5 of the Shoalhaven Local Environmental Plan 2014, including the preparation of an updated statement of heritage significance and any other required supporting information.*
3. *As part of the Gateway determination submitted to the NSW Department of Planning and Environment, note that although a development consent for the relocation of the church has been issued and commenced, that this is not the will of the current Council elected in December 2021.*

At a later Ordinary Meeting (14 November 2022) Council resolved (MIN22.850) to:

8. *Receive a status report on or prior to the Ordinary Meeting, 12 December 2022.*

Heritage items and places with local heritage significance are listed in the City-wide Local Environmental Plan (Schedule 5 Environmental Heritage of Shoalhaven Local Environmental Plan 2014). Heritage items or places can be added to the City-wide Plan via an amendment of the Plan, a process requiring the preparation of a Planning Proposal. A Planning Proposal is a plain English document, prepared in accordance with the planning legislation, that recommends amendments to the City-wide Plan and provides the justification for those amendments. The NSW Department of Planning and Environment administers the process for managing planning proposals and the eventual amendment of the City-wide Plan, known as the Gateway Process. Planning Proposal requirements have been confirmed with the Department.

An updated Statement of Heritage Significance is being prepared for the Former Anglican Church site to provide the necessary justification for the Planning Proposal. This Statement will consider the significance of the site's heritage values, including the former church building, and any effect of the active development consent issued in June 2019 (DA18/2102), which permits the relocation of the former church building within the site.

Preparation of a Statement of Heritage Significance

A request for quotes to prepare a contemporary Statement of Heritage Significance was sent to four consultants specialising in Aboriginal and non-Aboriginal heritage. Three consultants have responded with fee proposals with indicative timeframes of 4-8 weeks for the work. However, more time may be needed following the selected consultant's comprehensive review of all available information or should closer examination of Aboriginal cultural heritage be required.

The evaluation of the consultants' fee proposals is underway. The successful consultant will be engaged to commence work by mid-December 2022.

A further update will be provided to Council once a contemporary Statement of Heritage Significance has been prepared.

Short-term Protection Measures – Federal Government

On 15 November 2022, the Commonwealth Minister for the Environment and Water, the Hon Tanya Plibersek, notified Council an emergency declaration had been made under Section 9 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*. This declaration, due to expire at 5pm on 15 December 2022, extended the initial 48-hour declaration previously issued for the site (outlined in the report to Council's 14 November 2022 Ordinary Meeting). The Minister has the option to extend the declaration for a further 30 days.

The Minister's Department, the Department of Climate Change, Energy, the Environment, and Water is assessing a March 2020 application made by the Jerrinja Local Aboriginal Land Council for the longer-term protection of the site under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Section 10)*.

In November 2022, the Department notified Council that:

"Based on the information before the Minister, the Department intends to recommend that the Minister make a Section 10 declaration to protect the area, noting that a declaration can be revoked should effective provisions be available to protect the area under State law."

The Department also invited feedback on the matter to inform its considerations. A copy of the officer's submission will be provided to Council when made.

Short-term Protection Measures – NSW Government

Council, at its 14 November 2022 Ordinary Meeting resolved to (MIN22.850):

5. *Write to the NSW Minister for Heritage and ask that an Interim Heritage Order be made for the site under s.24(1) of the Heritage Act.*
6. *Consider:*
 - a. *Writing to the NSW Heritage Council requesting that it revoke the s.140 Excavation Permits that have been issued.*
 - b. *Writing to the Secretary of the NSW Department of Planning and Environment requesting that the Secretary consider making a stop works order and/or recommend that the Minister issue an Interim Protection Order under the NPW Act over the Site. Council could also request that the Minister consider declaring the Site to be an Aboriginal place by notice in the Gazette.*

Council has written to the NSW Minister for Environment and Heritage to implement part 5 of this resolution and letters are being prepared to implement part 6. Further updates will be provided in due course.

Next Steps

Updates on the following matters will be issued to Council:

1. The preparation of a Statement of Heritage Significance and a Planning Proposal recommending the listing of the site in the City-wide Local Environmental Plan.
2. The outcome of the Federal Government's consideration of short- and longer-term protection measures.
3. The exchange of correspondence with the NSW Minister for Heritage, NSW Heritage Council, and NSW Department of Planning and Environment in accordance with Council's 14 November 2022 resolution.

Community Engagement

Community consultation will be undertaken on the Planning Proposal in accordance with the Gateway Determination issued by NSW Department of Planning and Environment or as needed as work progresses.

Financial Implications

The preparation of the Statement of Heritage Significance and Planning Proposal is being managed within the Strategic Planning budget.