

1993—No. 427

HERITAGE ACT 1977—REGULATION

(Heritage Regulation 1993)

NEW SOUTH WALES



[Published in Gazette No. 94 of 27 August 1993]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Heritage Act 1977, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER
Minister for Planning.

Citation

1. This Regulation may be cited as the Heritage Regulation 1993.

Commencement

2. This Regulation commences on 1 September 1993.

Definitions

3. (1) In this Regulation:

“**the Act**” means the Heritage Act 1977.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

Application fee for approval under sec. 60

4. (1) For the purposes of section 60 of the Act, the prescribed fee for an application for approval to carry out an activity referred to in section 57 (1) (a)–(g) of the Act is:

(a) \$40, if the estimated cost of carrying out the activity is \$50,000 or less;

- (b) \$75, if the estimated cost of carrying out the activity is more than \$50,000 but less than \$100,000;
- (c) \$120, if the estimated cost of carrying out the activity is more than \$100,000 but less than \$500,000;
- (d) \$170, if the estimated cost of carrying out the activity is more than \$500,000 but less than \$1,000,000;
- (e) \$300, if the estimated cost of carrying out the activity is more than \$1,000,000.

(2) The estimated cost of carrying out an activity is the reasonable cost (estimated on the basis of prices current when the application is made) of carrying out the activity as referred to in the application.

Application form for approval under sec. 60

5. (1) For the purposes of section 60 of the Act, the prescribed form for an application for approval to carry out an activity referred to in section 57 (1) (a)–(g) of the Act is Form 1.

(2) If the application relates to the demolition of a building or work, it must be accompanied by a plan or diagram showing details of the proposed excavation work.

(3) If the application relates to the carrying out of work that will require a relic, place or land to be damaged or despoiled, it must be accompanied by the following:

- (a) in the case of an application for the approval of the erection of a building or the carrying out of a work:
 - (i) a plan in duplicate sufficient to identify the land to which the application relates and to show the location of the proposed building or work in relation to the boundaries of the site and to other buildings or works on the site; and
 - (ii) particulars in duplicate, illustrated by plans and drawings, sufficient to describe the building or work and the purpose for which it is to be used;
- (b) in the case of an application for approval to change the purpose for which any land, building or work is used:
 - (i) a plan in duplicate sufficient to identify the land to which the application relates; and
 - (ii) particulars in duplicate sufficient to describe the purpose for which the land, building or work is used at the date of the application and the purpose for which approval is sought;

- (c) in the case of an application for approval for the subdivision of land:
 - (i) a plan in duplicate sufficient to identify the land to which the application relates and to show details of the proposed subdivision; and
 - (ii) particulars in duplicate sufficient to describe the proposed subdivision.
- (4) If the application relates to the alteration of a building, work or relic, it must be accompanied by:
 - (a) a plan in duplicate sufficient to identify the land to which the application relates and to show the location of the building, work or relic in relation to the boundaries of the site and to other buildings or works on the site; and
 - (b) particulars in duplicate, illustrated by plans and drawings, sufficient to describe the proposed alteration and the effect of that alteration on the fabric and appearance of the building, work or relic.
- (5) If the application relates to the display of a notice or advertisement on a building, work, relic, place or land, it must be accompanied by:
 - (a) a plan in duplicate sufficient to identify the land to which the application relates; and
 - (b) particulars in duplicate sufficient to describe the proposed notice or advertisement and the effect on the appearance of the building, work, relic, place or land of the display of the proposed notice or advertisement.
- (6) If the application relates to the carrying out of work that will require the damage or destruction of trees on land or the removal of trees from land, the application must be accompanied by:
 - (a) a plan in duplicate sufficient to identify the land to which the application relates and to show the location on that land of the trees that will be damaged or that are proposed to be destroyed or removed and their relation to any buildings or works on that land; and
 - (b) particulars in duplicate sufficient to describe the trees that are proposed to be damaged, destroyed or removed.

Application fee for excavation permit under sec. 140

6. For the purposes of section 140 (2) of the Act, the prescribed fee for an application for an excavation permit is \$10.

Application form for excavation permit under sec. 140

7. (1) For the purposes of section 140 (2) of the Act, the prescribed form for an application for an excavation permit is Form 2.

(2) The application must be accompanied by:

- (a) a plan or diagram showing details of the proposed excavation work; and
- (b) in the case of an application for a permit to disturb or excavate land otherwise than for the purpose of discovering a relic, a description of the relic that it is proposed to expose or move.

Certificate of authority under sec. 148

8. For the purposes of section 148 (1) of the Act, the prescribed form for a certificate of authority is Form 3.

Application fee for evidentiary certificate under sec. 167

9. For the purposes of section 167 (1) of the Act, the prescribed fee for a certificate under that section is \$10.

False or misleading statements

10. A person must not, in or in connection with an application under the Act, make a statement that the person knows to be false or misleading in a material particular.

NOTE: Pursuant to section 157 (2) of the Act, a person who is guilty of an offence against clause 10 is liable to a penalty not exceeding 5 penalty units.

Repeal

11. (1) The Heritage Regulation 1978 is repealed.

(2) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the Heritage Regulation 1978 is taken to have effect under this Regulation.

SCHEDULE 1—FORMS

Form 1

(Cl. 5)

APPLICATION FOR APPROVAL

HERITAGE ACT 1977

(Section 60)

PART A

To the Heritage Council of New South Wales,

I, , of , apply for approval to:

- (a) * demolish the building or work described below;
- (b) * carry out work that will require me to damage or despoil the relic, place or land described below;
- (c) * excavate land for the purpose of exposing or moving the relic described below;
- (d) * carry out development in relation to the land described below or in relation to the land on which the building, work, relic or place described below is situated;
- (e) * alter the building, work or relic described below;
- (f) * display a notice or advertisement on the building, work, relic, place or land described below;
- (g) * carry out work that will require me to damage or destroy trees on, or to remove trees from, the land described below.

(* Delete whichever does not apply.)

Details of the building, work, relic, place or land to which this application relates are as follows:

1. Description of the building, work or relic:

.....

2. Description of the land concerned or the land on which the building, work, relic or place concerned is situated:

Local government area:
 District, town or village:
 Street:
 House No. or name:
 Lot or portion:
 Section or Deposited Plan:
 Vol. or Book:
 Folio or No.

PART B

(The following questions are to be answered if the application relates to an activity referred to in paragraph (a) or (b) of Part A.)

- (a) What is the present structural condition of the building or work or the present state of the relic, place or land?
- (b) How is the building, work, relic, place or land currently being used?
- (c) If not currently being used, what and when was the last use of the building, work, relic, place or land?
- (d) What are the reasons for demolishing the building or work, or for damaging or despoiling the relic, place or land?
- (e) If demolition of the building or work or damaging or despoiling of the relic, place or land is to enable redevelopment of the site, what are the details of that redevelopment and when is it proposed to be carried out?

PART C

(The following questions are to be answered if the application relates to an activity referred to in paragraph (c) of Part A.)

- (a) Who is responsible for the supervision of the proposed excavation work?
- (b) What are the qualifications of the supervisor?
- (c) Why is the excavation work to be undertaken?
- (d) When is the excavation work to be commenced?
- (e) What is the estimated duration of the excavation?

Date:
.....
(Signature of applicant)

CONSENT OF OWNER

I,, of,
being the owner of the premises to which this application relates, consent to the making of this application.

Date:
.....
(Signature of owner)

NOTE: The consent of the owner is not required if the applicant is the owner of the premises or (in the case of premises that are situated on, or comprise, Crown lands) the lawful occupier of the premises.

Form 2

(Cl. 7)

APPLICATION FOR EXCAVATION PERMIT

HERITAGE ACT 1977

(Section 140)

To the Heritage Council of New South Wales,

I, , of , apply for the issue to me of an excavation permit to disturb or excavate the land described below for the purpose of discovering, exposing or moving a relic.

Details of the land to which this application relates are as follows:

- Local government area:
- District, town or village:
- Street:
- House No. or name:
- Lot or portion:
- Section or Deposited Plan:
- Vol. or Book:
- Folio or No.

The following questions are answered as shown:

- (a) Who is responsible for the supervision of the proposed excavation work?
- (b) What are the qualifications of the supervisor?
- (c) Why is the excavation work to be undertaken?
- (d) When is the excavation work to be commenced?
- (e) What is the estimated duration of the excavation work?
- (f) Who is the owner of the land to be excavated?
- (g) Has the owner's consent to the excavation been obtained?

Date:

.....
(Signature of applicant)

Form 3

(Cl. 8)

CERTIFICATE OF AUTHORITY

HERITAGE ACT 1977

(Section 148)

Name:

Signature:

I certify that the abovenamed person has been authorised, pursuant to section 148 (1) of the Heritage Act 1977, to carry out inspections of buildings, works, relics and places for the purposes of that Act.

Minister for Planning.

NOTES

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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any substantive changes, the provisions of the Heritage Regulation 1978 under the Heritage Act 1977. The new Regulation contains provisions with respect to the following matters:

- (a) prescribing the relevant fees and form for an application for an approval under section 60 of the Act (clauses 4 and 5);
- (b) prescribing the relevant fee and form for an application for an excavation permit under section 140 of the Act (clauses 6 and 7);
- (c) prescribing the relevant form for a certificate of authority under section 148 of the Act to inspect buildings, works, relics and places (clause 8);
- (d) prescribing the relevant fee for an application for an evidentiary certificate under section 167 of the Act (clause 9);
- (e) creating an offence of furnishing false or misleading statements in or in connection with an application under the Act (clause 10).

This Regulation is made under the Heritage Act 1977, including section 165 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
