

Changes to the Heritage Act 2017

Factsheet

Amendments to the *Heritage Act 2017* will come into effect in 2024

The Heritage Amendment Bill 2023 has been passed by Parliament. The amendments in the Bill will come into effect no later than 1 February 2024 or earlier by proclamation. The changes will modernise Victoria's heritage system to improve its efficiency and effectiveness and support better outcomes for Victorians.

This factsheet provides a summary of changes to the *Heritage Act 2017* (Heritage Act).

The amendments make a variety of changes to the Heritage Act

The Heritage Act amendments include several process improvements.

Amendments will allow for the inspection of documents by means of electronic publishing and set out the process for the Heritage Council to conduct hearings in person or by audio or visual link.

Amendments will allow applications to be made to exclude places and objects from the Heritage Register, enabling the consideration of heritage values that are part of major Victorian Government infrastructure projects at the beginning of the project cycle.

Amendments will allow for improvements in the operation of the Heritage Act through clarification of roles and responsibilities, practical changes, and updates to the offence and enforcement provisions.

Notices, publication and inspection of documents and hearings

These amendments respond to issues that arose due to the COVID-19 pandemic. During lockdowns, Heritage Victoria and the Heritage Council could not make documents available for public viewing at their offices.

The amendments resolve this issue by removing the requirement to display documents in offices and on request during a state of disaster, a pandemic declaration, or a state of emergency.

Amendments increase opportunities for the public to participate in heritage processes by providing for online access to key documents and notices via Heritage Victoria or Heritage Council websites.

Public access to Heritage Council hearings is also enhanced through provisions outlining the process for hearings to be held online.

The updates also make searchable, online access to the Heritage Register and Heritage Inventory a requirement.

The amendments to the Heritage Act improve consultation processes through a range of other initiatives. For example, by ensuring consultation on World Heritage documents does not occur over the Christmas period.

Exclusion determinations

Exclusion determinations will support early assessment of heritage significance

The amendments allow for the early establishment of heritage significance to ensure government infrastructure projects can proceed without the risk of damaging any significant heritage places or objects.

The possibility of a place or object being nominated for inclusion in the Heritage Register creates uncertainty for agencies delivering major infrastructure projects in Victoria. Nominations received while works are underway can cause disruption and delay.

The proposed changes will help these agencies understand the heritage significance of a place or object during the early stages of a project.

This will be achieved by allowing applications to be made to the Executive Director for a decision to exclude a place or object from the Heritage Register.

Decisions would be granted if a place or object had no reasonable prospect of being included. New nominations would not be accepted for five years unless significant new information was received.

This is the same as the existing five-year restriction on:

- making new nominations for inclusion in the Heritage Register once a decision has been made not to include a place or object, or
- removing a place or object from the Heritage Register.

Decisions would be subject to requests for review by the Heritage Council for 28 days.

Regulations will support the legislative change

Regulations will also prescribe the persons, bodies, or class of persons or bodies that may apply to the Executive Director for a decision to exclude a place or object from the Heritage Register.

Regulations will also specify the required format and fee (if any) that must be paid when making an application.

General Heritage Act amendments

The amendments will improve the Heritage Act's overall operation and address issues that arose after the Heritage Act commenced in 2017.

This will be achieved through technical amendments to clarify responsibilities, streamline processes, and increase consistency for permits, consents, and enforcement.

Amendments will improve and streamline operation of the Heritage Act

Examples of the technical and process changes include:

- Replacing 'days' with 'business days' to prevent public holidays impacting on decision-making quality.
- Increasing timeframes for making submissions on permits from 14 days to 20 business days for responsible authorities and municipal councils.
- Ensuring owners receive permit decisions within 45 business days instead of 60 days; and decisions on permit exemptions and minor permit amendments within 20 business days.
- Substituting the phrase "place or object" with "place, object or land" to reflect the breadth of heritage covered by the Heritage Act.
- Empowering the Executive Director to require owners to apply for a permit if not satisfied that the works relate to religious rites or services.
- Enabling owners of unoccupied residences to provide written consent or be given 2 days' notice of entry when accessing a property under the Heritage Act. Currently, entry to an unoccupied residence can only be gained by applying for a search warrant, as there is no occupier to give consent to the entry.

Archaeology, offence, and enforcement provisions will be updated

Archaeology provisions will be modernised by introducing new timeframes and clarifying processes, such as the removal of sites from the Heritage Inventory.

The amendments will also ensure there is no ambiguity as to which types of archaeological sites are subject to the offence provisions.

They will also clarify that, where an offence occurs at a place owned by multiple people, only owners that have contravened the Heritage Act will be subject to enforcement actions.

Penalties for offences have also been updated.

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