

Policy guideline for public notice of permit applications and submissions received

MATTERS TO BE CONSIDERED IN DETERMINING PUBLIC NOTICE OF HERITAGE PERMIT APPLICATIONS UNDER SECTION 94 OF THE HERITAGE ACT 2017 AND SUBMISSIONS RECEIVED UNDER SECTION 95 OF THE HERITAGE ACT 2017

Adopted 22 February 2019

Purpose

The purpose of this document is to:

- Provide guidance on matters that may be considered by the Executive Director of Heritage Victoria (the Executive Director) in determining that a permit application received by Heritage Victoria under section 93 of the *Heritage Act 2017* (the Act) may require public notice under section 94 of the Act.
- Facilitate public participation and involvement in the permit decision making process as required by Section 95 and 101 of the Act.

Objective

The objectives of these guidelines are to:

- Provide criteria to be considered by Heritage Victoria when determining whether public notice of an application is required.
- Ensure that a transparent and consistent approach is adopted by Heritage Victoria when determining whether public notice of an application is required.
- Assist and guide owners, applicants and Heritage Victoria in understanding when public notice of an application is likely to be required.
- To provide guidance on the format, content and privacy of submissions and information on how they are to be considered as part of the permit decision making process.

Relevant legislation

Heritage Victoria has primary responsibility for administering legislation governing the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects. The relevant legislation is the *Heritage Act 2017*.

Section 94 of the *Heritage Act 2017* provides that where the Executive Director considers that the proposed works or activities may harm the place or object they must cause notice of the application to be published in a newspaper circulating generally in the area in which the registered place or registered object is situated and may cause a copy of the notice to be continuously displayed in a conspicuous position at that place for a period not exceeding 14 days.

Section 95 of the *Heritage Act 2017* provides for written submissions to be received if notice of a permit application is given under section 94.

Section 101 of the *Heritage Act 2017* requires any submissions received under section 95 to be considered by the Executive Director in determining whether to approve an application. This section of the Act also allows the Executive Director to consider 'any other relevant matter' when determining a permit application.

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Criteria for consideration of public notice

Heritage Victoria may require public notice of an application, including but not limited to the following instances. Where the works:

- May harm the cultural heritage significance of the place or significant elements of the place or any adjacent heritage listed place or object;
- Conflict with a conservation management plan for the place or object;
- Include full or partial demolition of any part of the place or object (including removal of significant features or landscape elements) that contributes to an understanding of the identified cultural heritage significance of the place;
- Include new work such as an addition or tower that is likely to obscure, dominate or visually detract from the place, or an adjacent heritage listed place;
- Include subdivision of registered land that will result in the separation of significant buildings or elements and/or imply future development that may adversely affect the setting/context or cultural heritage significance of the place;
- Include substantial reconstruction or replacement of original, early or significant materials or elements with new.

In determining whether the proposed works or activities may harm the cultural heritage significance of the place or object, the Executive Director, where relevant, will also refer to:

- The Statement of Significance for the place;
- The world heritage values of the place or object;
- Any relevant approved World Heritage Strategy Plan.

Heritage Victoria will require public notice of an application where the Executive Director is likely to refuse an application or issue a permit for only some of the proposed works and activities.

When an applicant is directed to give an application public notice, the Executive Director will always require the notice to be in the form of both a notice in the relevant newspaper and at least one poster at the heritage place. Application documents will also be made available on the Department website. This may vary in the case of public notice required for amended permit applications pursuant to Section 94(6) of the Act.

Where a permit application has been amended after advertising, readvertising may be required, however the Executive Director may not require readvertising if it is considered that the amended application proposes less harm to the heritage place than the previously advertised application.

Permit amendment applications received where the original application was advertised do not require readvertising however the responsible authority and any previous submitters will be notified of the permit amendment application.

Public submissions in relation to permit applications

The 'Heritage Victoria Public Submission Form' should be completed and provided to Heritage Victoria before 5:00pm on the last day of the public notice period. Late submissions may be considered under Section 101(b) of the Act 'any other matter.'

Submissions should comprise a written statement explaining the submitter's views about the application and the reasons for support or objection. Submissions should relate to heritage matters to be considered by the Executive Director as set out under Section 101 of the Act. Planning matters including amenity, overshadowing of non-heritage properties, noise, traffic and car parking are not matters considered in determining a permit under the Heritage Act. A submission will carry more weight if it is rational, factual and specifically addresses the proposal and relevant heritage matters.

Submissions received will be treated as a public document and may be provided to persons with an interest in the heritage place or object, including the applicant. This will include submitter name and contact details.

Heritage Victoria does not facilitate meetings between submitters and the applicant.

Heritage Victoria may negotiate changes to an application that may not require readvertising.

Submitters will be notified of the permit decision and any future permit amendment applications received. **Please note that where petitions are received only the submitter will be contacted.**