
HERITAGE PERMIT

GRANTED UNDER SECTION 102 OF THE
HERITAGE ACT 2017

Permit No: P37011

Applicant: [REDACTED]
[REDACTED]
[REDACTED]

NAME OF PLACE/OBJECT: HV MCKAY MEMORIAL GARDENS AND CHURCH

HERITAGE REGISTER NUMBER: H1953

LOCATION OF PLACE/OBJECT: 118 - 122 ANDERSON ROAD SUNSHINE, BRIMBANK CITY

THE PERMIT ALLOWS: Works in the HV McKay Memorial Gardens including construction of a batter wall along the east boundary of the gardens, construction of a section of a shared user path in the north east corner of the gardens, and associated landscaping works: and works within the adjacent rail corridor including construction of a deflection wall and works to rail infrastructure, generally in accordance with the following Reference Documents:

- Site Plan, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-001, Rev. 04, dated 16 January 2023
- Detailed Plan, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-001A, Rev. 00, dated 16 January 2023
- Tree Retention and Removal Plan, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-002. Rev. 04, dated 16 January 2023
- Sections – Sheet 1, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-003, Rev. 03, dated 22.12.2022
- Sections – Sheet 2, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-004, Rev. 03, dated 22.12.2022
- Batter Elevation, prepared by Tract, drawing No.0321-0122-00-L-03-S2A-005, Rev. 03, dated 22.12.2022
- Tree Retention and Removal Plan, HV McKay Memorial Gardens, prepared by Tract, Drawing No. 0321-0122-00-L-03-S2A-002, Rev 4, dated 16 January 2023
- Civil Structural Sunshine, Sunshine Albion Package, HV McKay Pedestrian Bridge, General Arrangement, prepared by AJMJV, drawing SAP-AJM-SUN-MA1-SKT-CBR-SUN-0418150 Rev 01.01, dated 23 January 2023
- Civil Structural Sunshine, Sunshine Albion Package, HV McKay Pedestrian Bridge, Typical Sections, prepared by AJMJV, drawing SAP-AJM-SUN-MA1-SKT-CBR-SUN-0418151 Rev B, dated 03 September 2021

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. The permission granted for this permit shall expire if one of the following circumstances applies: the permitted works have not commenced within five (5) years of the original date of issue of this permit or are not completed within seven (7) years of the original date of issue of this permit, unless otherwise agreed in writing by the Executive Director Heritage Victoria.

2. The Executive Director Heritage Victoria is to be given five working days' notice of the intention to commence the approved works.
3. Should further changes in accordance with the intent and approach of the approved documentation become necessary, correspondence and supporting documentation must be prepared and lodged for assessment by the Executive Director Heritage Victoria who will advise on the approach to be taken to address these matters. If the Executive Director considers that the changes are of sufficient substance to require it, an amendment to the permit or a new application will be required.
4. A **Heritage Protection Plan** for all works occurring within the registered extent must be approved in writing by the Executive Director, Heritage Victoria. Approval of the Heritage Protection Plan may be staged (e.g. site establishment works, main works), however it must be submitted, approved and endorsed by the Executive Director, Heritage Victoria for each stage of the works, prior to commencement of that stage or activity. The Heritage Protection Plan must include the following (as relevant to the stage): details of any temporary infrastructure and services required, details of layout and set down arrangements, details of how the existing entry gates and bluestone posts will be protected during construction works, and details of how the project workforce will be informed of the sensitivity of working at a heritage place during the site induction process. The following matters must also be specified in the Heritage Protection Plan:
 - a. Solid hoarding or security fence must be installed during the works to separate the construction zone from the rest of the gardens.
 - b. Heavy machinery is not permitted in the area outside of the nominated construction zone.
5. A **Tree Protection Plan** for all works occurring within the registered extent must be approved in writing by the Executive Director, Heritage Victoria. Approval of the Tree Protection Plan may be staged (e.g. site establishment works, main works), however it must be submitted, approved and endorsed by the Executive Director, Heritage Victoria for each stage of the works, prior to commencement of that stage or activity. The Tree Protection Plan must be prepared by a qualified Arborist in accordance with *AS4970 Protection of Trees on Development Sites* and must set out tree protection measures for all retained trees in the vicinity of the works prior, during and post construction works.
6. A **Tree Retention and Removal Plan** for all works occurring within the registered extent must be approved in writing by the Executive Director, Heritage Victoria. Approval of the Tree Retention and Removal Plan may be staged (e.g. site establishment works, main works), however it must be submitted, approved and endorsed by the Executive Director, Heritage Victoria for each stage of the works, prior to commencement of that stage or activity. The Tree Retention and Removal Plan must be generally in accordance with the *Tree Retention and Removal Plan* prepared by Tract (dated 16 January 2023) and must include the following:
 - a. tree protection measures that are designed to achieve retention of Tree 93;
 - b. a review of the proposed batter design around Tree 80 to determine if modifications to the batter design may improve the potential to retain the tree;
 - c. an assessment of the viability of transplanting and reinstating Tree 84;

d. general directions to minimise tree impacts and removals through detailed design and selection of construction methods to avoid and minimise tree loss, including by retaining trees where practicable and minimising potential impacts to trees.

7. Prior to the commencement of any landscaping works approved by this permit, a **Landscape Plan** must be provided to the Executive Director, Heritage Victoria for approval. Once approved, the Landscape Plan will be endorsed and will then form part of the permit. The Landscape Plan must:

a. be prepared in accordance with the intent and approach of the Reference Drawings listed above;

b. be prepared in accordance with the HV McKay Memorial Gardens Management Plan dated November 2017 (and any subsequent revisions of this document) and HV McKay Memorial Gardens Conservation Analysis and Management Guidelines (1994);

c. be developed in consultation with Brimbank City Council (as the relevant land manager) and with input of the HV McKay Gardens Management Committee by the permit holder:

- providing the landscape plan in draft to Brimbank City Council (as the relevant land manager) and the HV McKay Gardens Management Committee, with the opportunity for them to comment over a period of 7 days;
- considering comments provided within that timeframe and amending the draft landscape plan if considered appropriate by the permit holder; and
- providing to the Executive Director copies of any written comments and the permit holder's response to issues raised;

d. be prepared in accordance with *AS4970 Protection of Trees on Development Sites*.

o The Landscape Plan must include the following:

e. detail of hard and soft landscaping features;

f. final vegetation schedule and planting plans, including retained trees as approved under condition 6 of this permit;

g. detail regarding the retention or removal and reinstatement of the rock edging along the full length of the *Straight Six* path;

h. detail regarding the conservation and reinstatement of the four metal fence posts (currently located on the northern edge of the gardens).

8. Prior to commencement of landscaping works approved by this permit, a **Landscape Maintenance Plan** must be provided to the Executive Director, Heritage Victoria for approval. Once approved, the Landscape Management Plan will be endorsed and will then form part of the permit. The Landscape Management Plan must outline a program of works required to achieve successful establishment and ongoing maintenance of plantings and landscape features approved by this permit. It must include:

a. details of the proposed batter irrigation system, including how the new system will integrate with the existing irrigation system for the broader gardens;

- b. details of surface drainage design relating to the new batter plantings, and its integration into the existing Gardens drainage system;
 - c. nomination of the authority/authorities responsible for the ongoing maintenance of the plantings and features approved by this permit.
9. Construction-ready **architectural/civil drawings** for works occurring within the registered extent must be approved in writing by the Executive Director, Heritage Victoria. The drawings must be in accordance with the intent and approach of the Reference Drawings referred to above. Approval of the drawings may be staged (e.g. site establishment works, main works), however they must be submitted, approved and endorsed by the Executive Director, Heritage Victoria for each stage of the works, prior to commencement of that stage or activity, and must include the following (as relevant to the stage):
- a. demolition works;
 - b. details of new built form including the batter, shared user path and deflection wall;
 - c. a colour and finishes schedule of all new works including fencing, handrails, and new paths.
10. Approved works or activities are to be planned and carried out in a manner which prevents damage to the registered place/object. However, if other previously hidden original or inaccessible details of the object or place are uncovered, any works that may affect such items must immediately cease. The Executive Director Heritage Victoria must be notified of the details immediately to enable Heritage Victoria representatives to inspect and record the items, and for discussion to take place on the possible retention of the items, or the issue of a modified approval.
11. All works must cease, and Heritage Victoria must be contacted if historical archaeological artefacts or deposits are discovered during any excavation or subsurface works.
12. The Executive Director Heritage Victoria must be informed when the approved works have been completed.
13. The works approved by this permit must be carried out in their entirety unless otherwise agreed in writing by the Executive Director Heritage Victoria.

NOTE THAT PERMISSION HAS BEEN GIVEN FOR INSPECTIONS OF THE PLACE OR OBJECT TO BE UNDERTAKEN DURING THE CARRYING OUT OF WORKS, AND WITHIN SIX (6) MONTHS OF NOTIFICATION OF THEIR COMPLETION.

TAKE NOTICE THAT ANY NATURAL PERSON WHO CARRIES OUT WORKS OR ACTIVITIES NOT IN ACCORDANCE WITH THE PERMIT OR CONDITIONS IS GUILTY OF AN OFFENCE AND LIABLE TO A PENALTY OF 120 PENALTY UNITS (\$22,190.40 FROM 1 JULY 2022) OR IN THE CASE OF A BODY CORPORATE 600 PENALTY UNITS (\$110,952 FROM 1 JULY 2022) UNDER s104 THE HERITAGE ACT 2017.

WORKS UNDERTAKEN WITHOUT A PERMIT OR PERMIT EXEMPTION CAN INCUR A FINE OF UP TO 4800 PENALTY UNITS (\$887,616 FROM 1 JULY 2022) FOR A NATURAL PERSON OR 5

YEARS IMPRISONMENT OR BOTH AND UP TO 9600 PENALTY UNITS (\$1,775,232 FROM 1 JULY 2022) IN THE CASE OF A BODY CORPORATE UNDER SECTION 87 OF THE HERITAGE ACT 2017.

THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Date Issued:

21 June 2023

**Signed by the Executive Director, Heritage
Victoria**

A handwritten signature in black ink, appearing to read "Steven Avery", with a horizontal line underneath.

Steven Avery
Executive Director
Heritage Victoria

HERITAGE
VICTORIA
HERITAGE
VICTORIA
HERITAGE
VICTORIA