

Strengthening the protection of Victoria's heritage



The *Heritage Act 2017* will come into operation on 1 November 2017.

The Act modernises and improves processes and protections provided under the *Heritage Act 1995*.

It simplifies key statutory processes to reduce regulatory burden and provides clarity and certainty for all users. It also improves compliance and enforcement to ensure higher level protection for State significant heritage and provides an appropriate fee structure for heritage approvals, appeals and penalties.

Victoria has a proud legacy of heritage protection. It was the first Australian state or territory to enact heritage legislation in 1974 and has remained a national leader in the identification, conservation and management of heritage.

The *Heritage Act* is Victoria's principal legislation for the identification and management of heritage places and

objects of State significance, historical archaeological sites and maritime heritage.

The review of the *Heritage Act* was identified in the Andrews Government's *Keeping it Liveable, Labor's Plan for Your Community* to improve protection of Victoria's built heritage.

The Department of Environment, Land, Water and Planning ("the Department") sought public comment on proposed changes to the *Heritage Act*. Between June and August 2015, consultation included:

- a mail-out of information to more than 5,000 stakeholders;
- public forums in Melbourne, Ballarat, Bendigo, Traralgon, Warrnambool and Wangaratta; and
- targeted meetings with more than 50 key stakeholders including government departments and agencies, industry and community organisations.

In total, more than 125 submissions were received with broad support for the proposed changes.

In early 2016, copies of submissions were made available online on the Department's website, along with a report titled *Review of the Heritage Act 1995 Summary of submissions* which provided an overview of submissions received and other issues raised during the consultation process.

The *Heritage Bill 2016* was introduced to the Legislative Assembly on 8 November 2016 and was passed by the Legislative Council without amendment on 9 March 2017. It received Royal Assent on 15 March 2017.

The *Heritage Act 2017* will repeal and re-enact with amendments the *Heritage Act 1995*.

What are the key changes to the Heritage Act?

Key changes to the Heritage Act include:

- providing a greater role for local government in permit processes, including a clearer opportunity to comment on permit applications and allowing local government to be heard in any permit review before the Heritage Council. This will allow for local heritage concerns and issues to be appropriately considered in permit decisions;
- removing 'undue financial hardship' considerations in permit decisions to avoid outcomes determined on the basis of changeable circumstances;
- reforming the heritage nomination process to allow the Executive Director to reject a nomination for a place or object which has no reasonable case for inclusion in the Victorian Heritage Register and allowing the nominator to request a review of the decision;
- enabling more selective protection of Victoria's archaeology by including only significant sites 75 years or more on the Heritage Inventory (rather than all sites over 50 years old) and introducing review rights for consents issued for archaeological sites. This will ensure that the inventory is a transparent and useful management tool, and that Victoria's significant archaeological sites are appropriately protected into the future;
- significantly increasing maximum penalties for unauthorised works to deter damage to registered heritage places and objects;
- new compliance and enforcement tools tailored to protect heritage including:
 - a stop order tool to halt unauthorised works without a permit or permit exemption; and
 - a rectification order tool to allow a party to undertake corrective works without the need to prosecute an offence;
 - a strict liability offence to reduce the likelihood of

works being undertaken without a permit; and

- changes to the membership of the Heritage Council to increase its expertise. New membership categories include an Aboriginal person with relevant experience or knowledge of cultural heritage, and people with recognised skills in financial management and planning.

When will the *Heritage Act 2017* come into operation?

The changes to the Heritage Act will come into effect on 1 November 2017. Until this date the *Heritage Act 1995* will remain in operation. The Department is currently working to make the Heritage Act's Regulations and to prepare processes and documentation to support the new provisions.

Who can I talk to about the *Heritage Act 2017*?

Heritage Victoria is available to answer any questions you may have regarding the Heritage Act and can be contacted at Heritage.ActReview@delwp.vic.gov.au.



Members of the Winchelsea community outside the state-listed Globe Theatre (Source: Emily McLean, Heritage Victoria)

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