

Compliance Checklist for Victorian Government Agencies

Heritage Act 2017



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Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it.

We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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Introduction

Managers of government-owned heritage assets have a responsibility to ensure that all works and activities are compliant with the requirements of the *Heritage Act 2017*.

The *Heritage Act 2017* provides statutory protection to all places and objects of State-level cultural heritage significance included in the Victorian Heritage Register, historical archaeological sites, and shipwrecks and shipwreck artefacts included in Victorian coastal waters.

This document provides a "before you start" checklist when undertaking works and activities, including transfer of ownership, to government-owned assets protected by the *Heritage Act 2017*. It does not, however, address all provisions of the *Heritage Act 2017* which may apply. It is the responsibility of asset managers to ensure that all applicable legislative requirements are complied with.

For more information and resources relating to management of government-owned heritage assets in Victoria, please refer to the [Heritage Victoria website](#).

Heritage Act 2017 compliance checklist

1. General	Guidance
<p>a. Do you have experience or qualifications in the management of heritage assets, or applying the provisions of the <i>Heritage Act 2017</i>?</p>	<p>It is important that people managing and overseeing works and activities to heritage assets have the appropriate skills and qualifications to do so.</p> <p>If you, or other organisational staff, don't have these skills or experience, it is recommended that you consult a qualified heritage practitioner as early as possible. Please consult the Victorian Heritage Services Directory for a list of qualified heritage practitioners operating in Victoria.</p>
<p>b. Are your works or activities covered by other pieces of legislation?</p>	<p>Multiple legislative frameworks often apply to government-owned heritage assets, and it is a common misconception that works authorised under one statute automatically override the requirements of the <i>Heritage Act 2017</i>.</p> <p>For example, works to heritage assets that are authorised, even required, under such legislation as the <i>Electricity Safety Act 1998</i>, <i>Road Management Act 2004</i> or <i>Cemeteries and Crematoria Act 2013</i>, also require approvals from Heritage Victoria if they are subject to the provisions of the <i>Heritage Act 2017</i>.</p> <p>Managers of government-owned heritage assets have a responsibility to ensure that the full legislative framework applicable to assets under their control is understood, and incorporated into any planning and management strategies made in relation to an asset, including non-operational assets.</p> <p>For more information about the different legislation that applies to heritage assets owned by the Victorian Government, please refer to the Guidelines for Implementing the Victorian Government Cultural Heritage Asset Management Principles.</p>
2. Victorian Heritage Register (State-listed heritage places and objects)	Guidance
<p>a. Is the place or object that you own or manage included in the Victorian Heritage Register?</p>	<p>The Victorian Heritage Register (VHR) lists and provides legal protection for heritage places and objects that are significant to the history and development of Victoria.</p> <p>Check the is my place heritage listed? interactive map, or request a heritage certificate from Heritage Victoria to find out if a place or object is included in the VHR.</p> <p>If your place or object is not included in the VHR, an application to exclude your asset from the VHR can be made for the sole purposes of facilitating a major development [s.36A]. For further information, please contact the Heritage Victoria Assessments Team.</p> <p>If your place or object is not included in the VHR, but is included in the Local Government Heritage Overlay under the <i>Planning and Environment Act 1987</i>, it is recommended that you consult your Local Government Authority to better understand how the requirements of the relevant planning scheme apply to your asset.</p>
<p>b. Are you intending to sell a registered place or object?</p>	<p>In accordance with s.59 of the <i>Heritage Act 2017</i>, the owner of a registered place or registered object must notify the Executive Director, Heritage Victoria, within 28 days of entering into a contract of sale of the whole, or any part of, the place or object. This can be done via Heritage DESK.</p>
<p>c. Have you recently purchased or acquired the registered place or object?</p>	<p>In accordance with s.60 of the <i>Heritage Act 2017</i>, a person who purchases or acquires a registered place or registered object must give written notice to the Executive Director, Heritage Victoria, within 28 days of the purchase or acquisition. This can be done via Heritage DESK.</p>

<p>d. Do you or does your organisation have effective measures in place to ensure your registered place or object is adequately conserved, protected and maintained?</p>	<p>All heritage assets included in the VHR are protected by the <i>Heritage Act 2017</i>. Owners of a registered heritage asset are legally required to ensure that it is maintained to the extent that its conservation is not threatened [s.153], and to ensure that it does not fall into a state of disrepair [s.152].</p> <p>Please refer to Heritage Victoria guidance Minimum standards for maintenance and repair of heritage places, for further advice on maintaining heritage assets and preparing a maintenance schedule.</p> <p>Managers of government-owned heritage assets should also adopt and comply with the Victorian Government Cultural Heritage Asset Management Principles and refer to the following associated guidance:</p> <ul style="list-style-type: none"> • Guidelines for Implementing the Victorian Government Cultural Heritage Asset Management Principles; and • Heritage Asset Management Strategy Model for Victorian Government Agencies.
<p>e. Have you checked whether specific exemptions or s.92(1) general permit exemptions apply to your registered place or object?</p>	<p>If your agency manages heritage assets included in the VHR, then certain works and activities will be exempt from requiring a permit in accordance with s.92(1) general permit exemptions. General permit exemptions apply to all places and objects included in the VHR.</p> <p>Additionally, many VHR-listed places and objects have exemptions in place which are tied to their registration, and are specifically tailored to the needs of that place or object (known as “specific exemptions”).</p> <p>Please refer to the Heritage Permit Exemptions webpage for more information on the types of heritage permit exemptions that may apply to your VHR-listed heritage asset.</p>
<p>f. If undertaking works or activities in accordance with s.92(1), have you kept records of works and activities undertaken?</p>	<p>Owners and managers of registered places and objects are encouraged to keep records of works and activities completed under general exemptions. This is encouraged but not mandatory.</p> <p>You can lodge a voluntary general exemptions record form in Heritage DESK.</p>
<p>g. If s.92(1) general permit exemptions or specific exemptions don’t apply to your registered place or object, have you identified and obtained the required approval from Heritage Victoria prior to works and activities commencing?</p>	<p>All works or activities to a registered place or object not covered by an existing exemption require approval from Heritage Victoria in the form of either a permit or permit exemption. You must not commence works or activities until an approval has been obtained.</p> <p>You can apply for a permit exemption if the proposed works or activities will not harm the cultural heritage significance of the place or object. Otherwise, a permit will be required.</p> <p>More information about permits and permit exemptions is available on the Heritage Victoria website. If you are unsure if your project requires a permit or permit exemption, it is recommended that you book a permit pre-application meeting using Heritage DESK early in the planning stages of any project.</p>
<p>h. Have you satisfied all conditions and notification requirements associated with the permit or permit exemption authorising the works and activities undertaken to your registered place or object?</p>	<p>You must comply with all conditions set out by a permit or permit exemption (including s.92(1) general permit exemptions and specific exemptions).</p> <p>Some conditions require you to notify or submit further information to Heritage Victoria in certain instances. It is important to factor all reporting and notification requirements into the timelines of any project.</p>

3. Victorian Heritage Inventory (Historical archaeology)	Guidance
<p>a. Have you checked <u>prior</u> to works or activities commencing whether the subject area includes any archaeological sites included in the Victorian Heritage Inventory (VHI)?</p>	<p>To locate known archaeological sites included in the VHI, search for the relevant address in the is my place heritage listed? interactive map, or request a heritage certificate from Heritage Victoria.</p> <p>If you have any questions about the details of a VHI listing (e.g. relating to the mapped extent of the site, or whether or not the site can be determined to be of low archaeological value in accordance with s.118(1) (a) of the <i>Heritage Act 2017</i>), please contact the Heritage Victoria Archaeology Team.</p>
<p>b. Have you notified Heritage Victoria of your intention to carry out a survey for the purpose of discovering a historical archaeological site?</p>	<p>You must notify Heritage Victoria of your intention to conduct an archaeological survey for the purpose of discovering a historical archaeological site prior to commencement. A survey report must be submitted to Heritage Victoria within 6 months of completion of the survey, irrespective of whether any previously unrecorded historical archaeological sites are identified or not.</p>
<p>c. If the planned works and activities are expected to disturb an archaeological site included in the VHI, have you obtained a consent or consent exemption from Heritage Victoria prior to the works and activities commencing?</p>	<p>If you are undertaking site disturbance or other works that may affect historical archaeological sites, you must obtain a consent or consent exemption from Heritage Victoria before works or activities commence. This applies to a wide range of activities, including minor works such as geo-technical testing, destructive and non-destructive digging or drilling, and testing as part of a Cultural Heritage Management Plan.</p> <p>Different activities affect archaeological sites in different ways. The activity and level of impact will dictate the type of consent you need, such as:</p> <ul style="list-style-type: none"> • A consent to uncover • A consent to excavate • A consent to damage • A consent for other works. <p>You may need more than one consent for your project. Please visit the Heritage Victoria website for more information on the type(s) of consent you may need.</p>
<p>d. Have you satisfied all conditions and notification requirements associated with the consent issued by Heritage Victoria?</p>	<p>You must comply with all conditions listed on a consent. Some consents contain conditions requiring a program of detailed archaeological investigation, site recording and report production. Other consents may require the monitoring of works by an archaeologist. Some consents list requirements for the conservation of any significant artefacts that are found during works.</p> <p>It is important to factor all reporting and notification requirements into the timelines of any project.</p>
<p>e. If works and activities revealed a previously unknown historical archaeological site, has Heritage Victoria been notified of the discovery within the required timeframes?</p>	<p>The <i>Heritage Act 2017</i> provides protection for all historical archaeological sites in Victoria that are 75 years old or more, including those that have not yet been discovered or recorded in the VHI.</p> <p>If during an investigation or survey of land a previously unknown historical archaeological site is uncovered, the person undertaking the investigation or survey is legally required to notify Heritage Victoria by submitting a site card with 30 days of the discovery [s.127(1)]. The submission of a survey report is also required within 6 months of completion of the investigation or survey.</p> <p>If a historical archaeological site is discovered in the course of any construction or excavation on any land, the person in charge of the construction or excavation must report the discovery to Heritage Victoria as soon as practicable [s.127(2)].</p>

4. Underwater Cultural Heritage	Guidance
<p>a. If the subject area includes land covered by water, have you ascertained prior to works or activities commencing whether there is potential to impact on known shipwrecks and shipwreck artefacts?</p>	<p>The <i>Heritage Act 2017</i> and the <i>Underwater Cultural Heritage Act 2018</i> (Cth) under delegation to Heritage Victoria, provide blanket protection to shipwrecks and shipwreck artefacts in Victorian internal and coastal waters. There are approximately 660 known shipwrecks in Victorian waters, but only approximately 330 have been found.</p> <p>Use the Advanced Shipwreck Search in the Victorian Heritage Database to locate known shipwrecks protected by the <i>Heritage Act 2017</i> and the Australasian Underwater Cultural Heritage Database to locate known shipwrecks protected by the <i>Underwater Cultural Heritage Act 2018</i>. For further advice on locating shipwrecks and shipwreck artefacts in Victoria, please contact the Heritage Victoria Maritime Heritage Team.</p>
<p>b. If your planned works or activities apply to an area of land covered by water, have you ascertained prior to works and activities commencing whether the subject area is located within a protected zone?</p>	<p>Protected zones are no-entry zones around some shipwreck sites in Victoria. They provide extra protection for significant and fragile shipwrecks. There are ten protected zones in Victoria.</p> <p>Protected zones are marked on most navigational software, and on the following charts:</p> <ul style="list-style-type: none"> • AUS 158 Port Phillip South and West Channels • AUS 143 Port Phillip and the Rip • AUS 182 Approaches to Corner Inlet and Port Albert <p>It is an offence to enter, anchor, trawl, fish or dive in a protected zone without a heritage permit. It is the responsibility of boat operators to know where the zones are and to avoid them.</p>
<p>c. If your planned works or activities apply to an area of land covered by water, have you ascertained prior to works and activities commencing whether the planned works and activities have the potential to impact on maritime infrastructure sites or underwater archaeological sites included in the VHI?</p>	<p>To locate known maritime archaeological sites included in the VHI, including maritime infrastructure sites or underwater archaeological sites (e.g. wharfs, jetties and subsurface deposits), search for the relevant address in the is my place heritage listed? interactive map, or request a heritage certificate from Heritage Victoria.</p> <p>If you have any questions about the details of a VHI listing (e.g. relating to the mapped extent of the site, or whether or not the site can be determined to be of low archaeological value in accordance with s.118(1) (a) of the <i>Heritage Act 2017</i>), please contact the Heritage Victoria Archaeology Team.</p>
<p>d. If the answer was 'yes' to any of the above questions 4a), b), or c), have you obtained a permit or consent (as appropriate) from Heritage Victoria prior to works and activities commencing?</p>	<p>You must obtain an approval from Heritage Victoria prior to undertaking planned works or activities within a protected zone, or which may impact shipwrecks, shipwreck artefacts, underwater archaeological sites or maritime infrastructure included in the VHR and VHI.</p> <p>Heritage assets included in the VHI will require an archaeology consent, while any works or activities within a protected zone, or which impact a shipwreck or shipwreck artefact, will require a heritage permit. There are no exceptions.</p>
<p>e. If a previously unknown shipwreck or shipwreck artefact, or material that satisfies the definition of 'archaeological site' under the <i>Heritage Act 2017</i>, is revealed during the course of works and activities, has Heritage Victoria been notified within the required timeframes?</p>	<p>All shipwrecks and shipwreck artefacts within Victorian internal and coastal waters over 75 years old, and all historical archaeological sites, are protected by the <i>Heritage Act 2017</i>, even if they have not yet been recorded or discovered.</p> <p>If your works or activities uncover a previously unrecorded shipwreck or shipwreck artefact or historical archaeological site, you are legally required to notify Heritage Victoria.</p> <p>Maritime infrastructure or material considered to be a historical archaeological site must be reported either within 30 days or as soon as practicable following the discovery depending on the method of its discovery (refer to point 3d) above), and a shipwreck or shipwreck artefact must be reported within 7 days of discovery.</p>