



Heritage Victoria and Heritage Council of Victoria Policy Guideline

MATTERS TO BE CONSIDERED IN THE MAKING OF AN INTERIM PROTECTION ORDER UNDER SECTION 143(1) OF THE *HERITAGE ACT 2017*

Adopted 2 November 2017

Purpose

1. This Guideline is intended to provide guidance as to the matters that should be considered by the Executive Director of Heritage Victoria (**the Executive Director**) or the Heritage Council of Victoria (**Heritage Council**) in exercising discretion in making an Interim Protection Order (**IPO**) under s143(1) of the *Heritage Act 2017* (**the Act**).
2. The Guideline is intended to assist:
 - 2.1 Heritage Victoria staff advising the Executive Director (or delegate) on a request for an IPO to be made.
 - 2.2 The Executive Director (or delegate) in considering whether or not to make an IPO.
 - 2.3 The Heritage Council in considering whether or not to make an IPO.

Relevant legislation

3. This Guideline relates to s143(1) of the Act:
 143. Heritage Council or Executive Director may make interim protection order
 - (1) The Heritage Council or the Executive Director may make an interim protection order in relation to a place or object if, in the opinion of the Heritage Council or the Executive Director, it is necessary or desirable to do so for the purposes of this Act.
4. The purposes of the Act being defined by s1
 1. Purposes

The main purposes of this Act are-

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Environment,
Land, Water
and Planning



- (a) to provide for the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects; and
- (g) to create offences and other enforcement measures to protect and conserve cultural heritage.

Policy Statement

- 5. The following policy and guidelines apply to the consideration of whether or not to make an IPO under s143(1) of the Act.
- 6. If the Executive Director or the Heritage Council forms the opinion that the place or object may have a *prima facie* case for inclusion on the Victorian Heritage Register (**the Register**) AND is under immediate or imminent threat of damage or destruction that may detrimentally affect the cultural heritage significance of that place or object they may make an IPO.
- 7. The Executive Director or the Heritage Council will not consider that a place or object is under immediate or imminent threat purely on the basis of the intention of the owner to sell, lease or dispose of the property or that title has transferred or changed hands.

***Prima facie* case for inclusion on the Register**

- 8. In considering whether or not a place or object may have a *prima facie* case for inclusion on the Register, the Executive Director or the Heritage Council may take into account whether or not:
 - 8.1 a completed nomination to the Register for the place or object that meets the requirements of s27 and s28 of the Act has been accepted; and
 - 8.2 the place or object has been identified as meeting the threshold for inclusion in the Register in an area, thematic, typological or other heritage study prepared by a suitably qualified heritage consultant or other relevant professional; and/or
 - 8.3 the Heritage Council has previously determined not to include the place or object in the Register and no material new information has been received since the determination.

Immediate or imminent threat

- 9. In considering whether or not a place or object may be under immediate or imminent threat the Executive Director or the Heritage Council may take into account whether or not:
 - 9.1 a demolition permit has been issued under the *Building Act 1993*; and/or
 - 9.2 a planning permit has been issued by the responsible authority for the redevelopment of that land; and/or
 - 9.3 there is evidence of plant and equipment being mobilised for the purposes of demolishing the place; and/or



- 9.4 there is evidence of an imminent proposal to destroy, remove or disassemble the object (or group of objects) or elements of the place; and/or
- 9.5 there are known proposals to relocate the object to another location.