Heritage Act Amendment Factsheet 2024

Changes affecting archaeology



*Heritage Amendment Act 2023* and *Heritage Amendment Regulations 2024* make several changes affecting the regulation of historical archaeology in Victoria.

Changes take effect 1 February 2024

The amended *Heritage Act 2017* (the Act)makes several changes to the archaeology provisions. In particular the introduction of consent exemptions and amendments, and re-introduction of survey requirements. The key changes are detailed in this document.

# Consent exemption

Section 123A of the Actallows for consent exemptions for works that would have negligible damage or disturbance to the archaeological site.

This application must be made on the prescribed form through the HeritageDesk portal and does not incur an application fee. Prior to lodging an application, contact Heritage Victoria at archaeology.admin@delwp.vic.gov.au to see if the proposed works qualify for a consent exemption. There is no statutory timeframe for the assessment of a consent exemption application.

Works that may be eligible for a consent exemption include:

* Works in areas of unlikely to contain historical archaeological remains.
* Works to surface treatments (asphalt, concrete slabs, etc), within recent fill deposits which do not have the potential to impact archaeological remains.
* Environment or site condition assessments (including geotechnical testing) where the works are minor in scope and unlikely to affect archaeological remains.
* Landscaping, installation of services, and other works with minimal ground disturbance in areas that are unlikely to contain archaeological remains.
* Introduction or replacement of services, such as cabling, pipes or fire services, provided there is no harm to the archaeological remains.
* Works to jetties, piers, wharves, or bridges, where the works do not involve ground, seabed or subsurface disturbance.

# Consent amendment

Section 124A of the Act now allows for amendments to existing consents.

Consent amendment applications must be made on the prescribed form through the HeritageDesk portal while the consent is still valid. Applications must include payment of the prescribed fee of 30% of that of the relevant Consent. The *Heritage Regulations 2017* (sections 25 and 26) of provide details of fee waivers or exemptions that may apply.

Changes that may be eligible for a consent amendment include:

* Extension to the validity of the consent or to the timeframes of project deliverables (including post-excavation requirements).
* Change to scope of site works.
* Change to scope of archaeology program.
* Change in key listed project stakeholders.
* Change in listed heritage consultancy (including archaeologist, conservator, and artefact manager).

Prior to lodging an amendment application, contact Heritage Victoria at archaeology.admin@delwp.vic.gov.au to see if the proposed change or additional works qualify for a consent amendment. The statutory timeframe for determinations of consent amendment applications is 20 business days from submission of a valid application, and another 5 business days for notification of the determination.

# Archaeological surveys requirements

## Notification of intention to undertake a survey

Section 126A of the Act re-introduces the requirement that a person who intends to undertake a survey of land for the purpose of discovering a historical archaeological site must notify Heritage Victoria prior to commencement of the survey. This notification must be made through the HeritageDesk portal.

If historical archaeological sites are discovered during the survey, a site card must be submitted through the HeritageDesk portal within 30 days of the discovery. The required survey report must include any allocated heritage inventory numbers for any archaeological sites identified during the survey.

## Archaeology survey reports

A survey report must be submitted through the HeritageDesk portal within six months of completion of the survey. A report is required when one of more historical archaeological sites has been discovered.

A survey report is also required if no sites are found. In this case, the report can simply summarise the reason for the survey, location and extent of the surveyed area, and the findings.

## Intersection with the *Aboriginal Heritage Act* 2006

Sections 127(5)-(6) of the Act requires that a person who discovers a historical archaeological site while conducting a survey for the purpose of preparing a Cultural Heritage Management Plan or Cultural Heritage Permit must prepare and submit a survey report to Heritage Victoria within 6 months of the survey.

If a historical site is discovered during any works or activities approved under the *Aboriginal Heritage Act 2006*, a Heritage Inventory site card must be lodged with Heritage Victoria within 30 days of the survey.

Please note that details of the discovery and location of Aboriginal cultural heritage must not be included in any report or site card submitted to Heritage Victoria.

Submitted survey reports will be added to Heritage Victoria’s archaeology report collection.

# Questions

If you have any questions about these Act amendments or would like to discuss an upcoming application, please contact the Archaeology team at archaeology.admin@delwp.vic.gov.au.