

Obligations of owners of places and objects subject to an Executive Director recommendation

Sections 42 and 43 of the *Heritage Act 2017* ensure that places and objects that are the subject of an Executive Director recommendation maintain their cultural heritage values until the Heritage Council of Victoria decides whether to them in the Victorian Heritage Register (VHR).

Owners must notify the Executive Director of current and proposed works, any permit applications, and/or intentions to sell the place or object.

Section 42 of the Heritage Act 2017

(1) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of—

(a) any works or activities that are being carried out in relation to the place or object at the time the statement is given; and

(b) any application for a planning permit or a building permit, or for an amendment to that permit, that has been made in relation to the place but not determined at the time the statement is given; and

(c) any works or activities that are proposed to be carried out in relation to the place or object at the time the statement is given.

(2) An advice under subsection (1) **must be given within 10 days** after the statement of recommendation is given under section 40.

(3) The owner of a place to whom a statement of recommendation has been given must advise the Executive Director in writing of an application, permit or amendment if, before a determination under section 49 or 52 in respect of a place—

(a) an application for a planning permit or a building permit or for an amendment to that permit in relation to the place is made; or

(b) a planning permit or building permit or an amendment to that permit in relation to the place is granted.



(4) An advice under subsection (3) must be given **within 10 days** after the making of the application or the grant of the permit or amendment.

(5) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of the following activities or proposals if, before a determination is made under section 49 or 52 in respect of a place or object—

(a) any activities are carried out in relation to the place or object that could harm the place or object;

(b) any activities are proposed to be carried out in relation to the place or object that could harm the place or object.

(6) An advice under subsection (5) must be given within 10 days after the owner becomes aware of the activity or the proposal, as the case requires.

(7) If, before a determination is made under section 49 of a place or object, a proposal is made to dispose of the whole or any part of the place or object, the owner of the place or object must advise the Executive Director in writing of that proposal.

(8) An advice under subsection (7) must be given at least 10 days before entering into the contract for the disposal of the place or object.

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(9) The owner of a place or object who proposes to dispose of the whole or any part of the place or object before a determination is made under section 49 or 52 in respect of the place or object must, before entering into a contract for that disposal, give a copy of the statement of recommendation to the person who, under the proposed contract, is to acquire the place or object or part of the place or object.

Section 43 of the Heritage Act 2017

An owner of a place or object to whom section 42 applies must comply with that section.

Penalty: In the case of a natural person, 120 penalty units; In the case of a body corporate, 240 penalty units.

Recommendations not to include

Sections 42 and 43 of the Act applies regardless of whether the Executive Director has recommended to include the place or object in the VHR.

Enquires about sections 42 and 43 of the *Heritage Act 2017*

Please direct enquiries about IPOs:

Heritage Victoria

Phone: (03) 9938 6891

Email: heritage.registrations@delwp.vic.gov.au

Visit: heritage.vic.gov.au

If you are an owner of a place or object subject to an Executive Director recommendation, please contact Heritage Victoria on (03) 9938 6891 if you are undertaking or contemplating works or sale.



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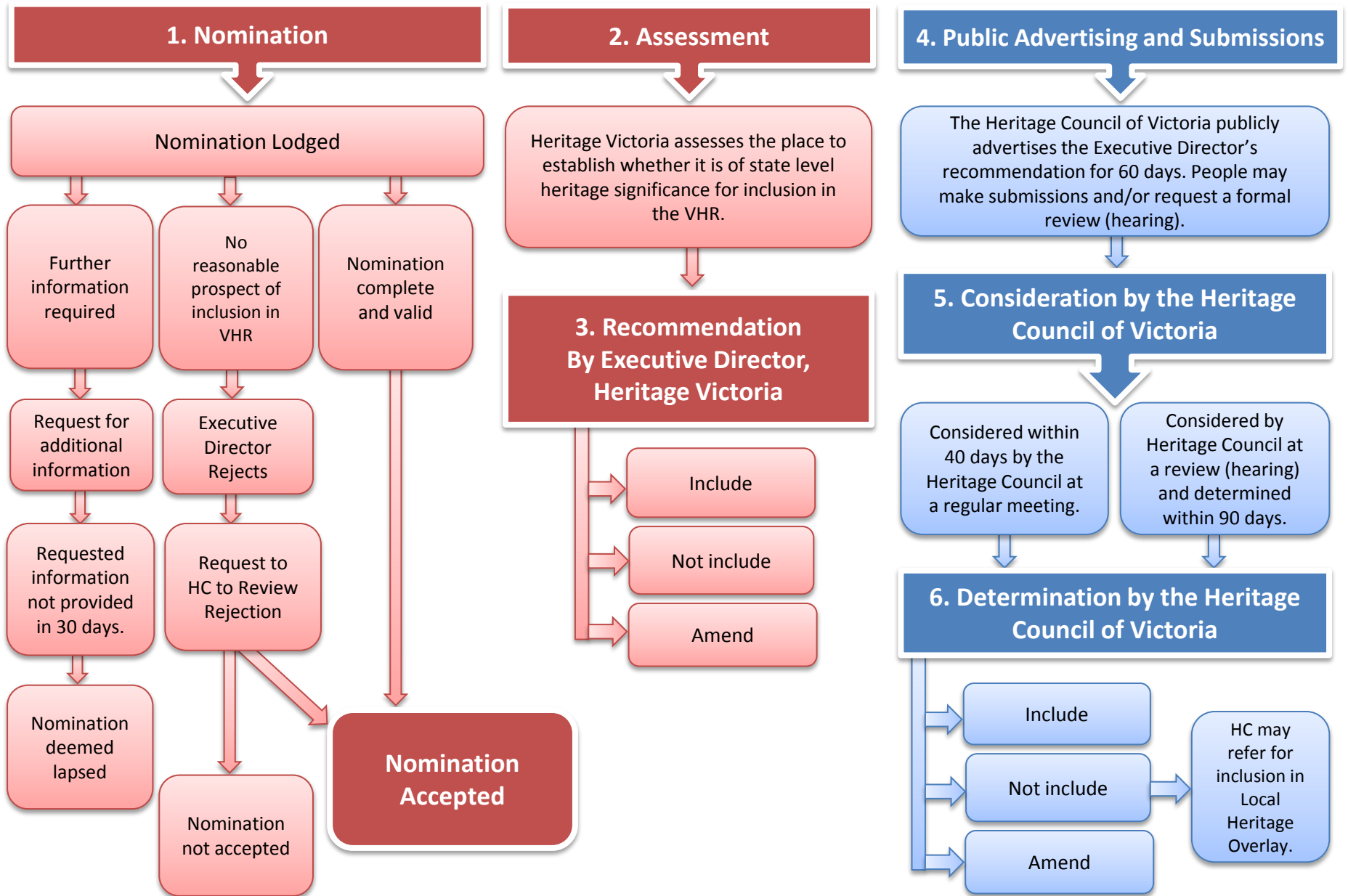
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Victorian Heritage Register Assessment Process *Heritage Act 2017*



What does registration mean? Victorian Heritage Register (VHR)

The Victorian Heritage Register (VHR) is established under the *Heritage Act 2017*. It is a statutory list of places and objects which are considered to have State level cultural heritage significance.

The VHR

Places and objects in the VHR are:

- of State-level cultural heritage significance to Victoria.
- protected under the *Heritage Act 2017* ('the Act') for current and future generations to appreciate.
- eligible for financial assistance under heritage incentive schemes.

What kind of places and objects are included in the VHR?

There are around 2,400 places and objects in the VHR. They are listed on the publicly accessible online Victorian Heritage Database and include:

- any heritage place of state level significance including buildings, gardens, structures, trees, archaeological sites, historic landscapes.
- any heritage object of state level significance.

Who decides which places and objects are included in the VHR?

Registration is a process which includes the following steps:

1. The Executive Director, Heritage Victoria accepts a nomination and assesses the place or object to form a view whether it is of state level cultural significance.
2. The Executive Director makes a recommendation to the Heritage Council of Victoria to include or not include a place or object in the VHR.
3. The Heritage Council of Victoria calls for public submissions on the recommendation which is publicly advertised for 60 days.
4. The Heritage Council considers the recommendation and submissions, and makes a determination. It may do so at one of its two-monthly meetings or convene a public review.

Who nominates place and objects for the VHR?

Any person or organisation.

Can building works and alterations be undertaken at VHR places?

Yes. Registration by the Heritage Council does not stop places being altered or developed. Under the Act, however, all works are subject to a permits process and must be approved by Heritage Victoria. More than 95 per cent of permit applications are approved often after a process of negotiation and design refinement. Owners are encouraged to discuss proposed works with Heritage Victoria early in the planning process. Expert staff can offer building and conservation advice which balances the needs of owners with the preservation of cultural heritage values. Some minor works may be approved by means of a permit exemption (rather than a permit) because of their low impact on cultural heritage values at a place.

Registration in the VHR does not:

- prevent the sale of a place or object.
- prevent a place or object being used for a different purpose.
- guarantee that a place or object will never be altered or developed.

There are around 2,400 places and objects in the VHR. They are listed on the publicly accessible online Victorian Heritage Database at vhd.heritagecouncil.vic.gov.au

How does VHR registration differ from National Trust classification?

The VHR provides statutory (legal) protection for VHR places and objects under the *Heritage Act 2017*. There are penalties for damaging VHR places and objects. The National Trust's classification system identifies places of significance but offers no legal protection.

Is there any financial help for owners of registered places?

All VHR places and objects are potentially eligible for modest and conditional financial assistance which may be offered from time to time by Heritage Victoria.

Do owners of VHR places have to provide access to the public?

No. The Heritage Council recognises the privacy rights of private property owners. The public has no special right of access to VHR places.

Does Heritage Council registration affect the property's ownership?

No. Although registration is noted on the property title, it does not mean the Heritage Council has any proprietary interest in the property.

Can the Heritage Council force owners to restore their place or object?

Owners of registered places are not legally required to repair or restore the property to its original condition. It is, however, in an owner's interests to carry out normal ongoing maintenance and repair work to protect the value of their property and to avoid expensive remedial work. The Act requires that an owner not allow a registered place or object fall into disrepair or fail to maintain it to the extent that its conservation is threatened.

Is technical assistance available for owners?

Yes. Conservators, architects, planners, historians, archaeologists and horticulturists working with Heritage Victoria provide a free service to owners, advising on technical or design problems or directing owners to an appropriate specialist. However, due to time constraints, this does not extend to preparing architectural drawings and documentation.

Will the value of the property be affected?

Probably not. Some people fear that inclusion in the VHR will reduce a property's value. Recent research suggests this is dependent on the particular type of property, its location, planning considerations and its overall condition. Because of their special character and short supply, heritage properties will sometimes attract a premium price.

Is it harder to get insurance for a registered property?

Heritage listing alone should have no effect on the capacity to obtain insurance or its cost. Insurance premiums are calculated on the risk of claims, so the age, construction and condition of the building or object will primarily determine the premium. As Heritage Victoria is unlikely to require an owner to rebuild or restore a place or object to its original condition if it is severely damaged, items can usually be insured at no greater risk for the insurance company than for any other building or object.

Enquires about VHR nominations

Please direct enquiries about VHR nominations to:

Heritage Victoria

Phone: (03) 9938 6891

Email: heritage.registrations@delwp.vic.gov.au

Visit: www.heritage.vic.gov.au

Enquires about permits for VHR places and objects

Please direct enquiries about VHR nominations to:

Heritage Victoria

Phone: (03) 9938 6891

Email: heritage.permits@delwp.vic.gov.au

Visit: www.heritage.vic.gov.au

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INSTRUCTIONS FOR COMPLETING AN *APPLICATION FOR PERMIT TO CARRY OUT WORKS OR ACTIVITIES TO A HERITAGE PLACE OR OBJECT*

Important Information for Applicants Prior to Lodging an Application

This information sheet is provided to assist applicants apply for a Heritage Permit to undertake works to a Heritage Place or Object. Places and Objects included in the Victorian Heritage Register have been determined to be of State significance and have therefore been afforded the highest level of protection. It should never be assumed that works are 'minor' or that certain 'works' do not require a permit. **Where any doubt exists, confirmation from Heritage Victoria must be sought prior to undertaking works.**

Due to the importance placed on ensuring that the cultural heritage significance of each place on the Victorian Heritage Register is protected for future generations, Parliament has determined that it is a criminal offence to undertake works to a Heritage Place without first obtaining a permit. The only exceptions to this being where:

1. permit exemptions have been granted for works by the Heritage Council;
2. written confirmation that a permit is not required has been provided by the Executive Director - for example where the works have been determined to not harm the heritage place or object.

The penalty for undertaking works without a permit is up to \$380,568 and or five years imprisonment for a natural person. For a body corporate the penalty is up to \$761,136. Only works authorised by a permit are legal.

A new permit or amendment to a permit is required **wherever** it is proposed to alter permitted works or do additional works. If works other than those authorised by a permit are undertaken, those works will be illegal works. Applicants are considered to be responsible for the actions of any person they engage to do works to a Heritage Place and must ensure that adequate steps are taken to prevent works being undertaken other than in accordance with a permit.

It is the responsibility of permit applicants to provide full details, current documentation and the appropriate fee in support of their Application. INCOMPLETE APPLICATIONS WILL BE RETURNED AND RESULT IN DELAY. Applicants are advised that, once submitted, a Permit Application is a public document.

The information which follows provides explanatory details as to what information is required to complete each of the parts of the Application. An 'Application Checklist' is included in this leaflet and should be read carefully by applicants prior to lodging the Application.

If you require further information please contact Heritage Victoria on **(03) 9938 6891**.

COMPLETING THE APPLICATION

THE HERITAGE PLACE OR OBJECT

Full address or location details are required. Each place on the Victorian Heritage Register is allocated its own unique number. If this number is not known, please contact Heritage Victoria. This information is important so that Heritage Victoria can determine if any permit exemptions may exist in relation to the Heritage Place or Object.

A current Certificate of Title for the Heritage Place **must** be provided. **TO BE CONSIDERED 'CURRENT' THE CERTIFICATE OF TITLE SUPPLIED MUST BE DATED WITHIN 30 DAYS OF THE DATE THAT THE APPLICATION IS LODGED.** Current Certificates of Titles can be obtained online from: www.land.vic.gov.au or from the Land Information Centre located on the 10th floor, 570 Bourke Street, Melbourne. Office hours are 8:30am to 4:00pm. Phone (03) 8636 2456.

The applicant **must** disclose whether a Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006* is required. If a CHMP is required, Heritage Victoria must not grant a permit until a CHMP has been approved (see section 52(1) of the *Aboriginal Heritage Act*). Under section 52(4) of the *Aboriginal Heritage Act*, the time required for Heritage Victoria to make a permit decision is deemed **not** to have commenced until a copy of an approved CHMP is provided.

Applicants can use the online tool developed by the Office of Aboriginal Affairs Victoria to determine whether a CHMP is required: www.aav.nrms.net.au/aavQuestion1.aspx. For further information on Cultural Heritage Management Plans and the *Aboriginal Heritage Act* see the Office of Aboriginal Affairs Victoria website at: www.aboriginalaffairs.vic.gov.au and the [General Practice Note: 'The Aboriginal Heritage Act 2006 and the planning permit process'](#) (note: this document is aimed at local government planning processes but applies equally to Heritage Victoria permit considerations).

APPLICANT AND OWNER DETAILS

Anyone can apply for a permit but the owner's consent must be provided either by signing the application form or by providing separate written consent (see separate leaflet *Owner Consent Form*). Applications which do not provide the owner's consent will not be accepted. The Owner who signs the declaration should be that person shown on the current certificate of title. It is the applicant's responsibility to ensure that any third party, such as tradesmen employed to undertake works or a consultant engaged to oversee works, are aware of the heritage status of the place and to ensure that any works are undertaken strictly in accordance with a permit.

Where a company owns the Heritage Place, it is a legal requirement that a director of the company provides the owner consent. These details may be verified through the Australian Securities & Investments Commission (ASIC).

Where the Heritage Place is owned by the Government, only a person with a delegation to sign on behalf of the relevant Government department is legally able to provide the owner consent. Alternatively a Committee of Management may have been delegated responsibility for the management of the heritage place. In this case a member of the Committee of Management may provide the owner consent. These details may be verified via the request for a copy of the relevant delegation.

Where the applicant is a company or a government department or a committee of management, full details are to be supplied together with the name of the person who will oversee the works on behalf of the company or government department.

CONTACT PERSON DETAILS

This section should be completed in instances where the permit applicant has engaged a third party agent to either:

1. compile the supporting information for the Application; or
2. ensure that works allowed by any permit will be completed in accordance with the permit.

Typically these may include heritage consultants, heritage architects or an appropriately qualified builder. Any person nominated at Part C will, in most instances, be the person Heritage Victoria will consider as the primary contact for all future queries related to the permit application or the future works. **Any person or company nominated in this section will also be considered to be the agent of the applicant.**

Any works undertaken or overseen by them will be viewed as works undertaken by the applicant. It is the applicant's responsibility to ensure that all works are undertaken with a permit. **Any** person who does works not in accordance with a permit faces prosecution.

DESCRIPTION OF THE WORKS AND SUPPORTING DOCUMENTATION

A brief summary of the proposed works **must** be supplied. The summary is to provide a general overview of what works are proposed. Please do not write 'see attached' or similar comment in lieu of a summary.

In addition to the summary, permit applicants are required to enclose with their application **full details** of the proposed works, including a detailed project description. **This information is the most important information required to be supplied by the applicant. It is the applicant's responsibility to ensure that sufficient information is supplied so that the Executive Director and other parties are provided with a clear understanding of precisely what works are proposed and their scope.** Where insufficient detail is provided the "clock will be stopped" and no permit will be granted until additional required information is provided.

The following items **must** be provided with your permit application before Heritage Victoria can commence assessment of the application. It is possible that some applications will traverse more than one category:

Permit application for development of new buildings at a heritage place and extensions, alterations or additions to a heritage building(s).

- Existing and proposed site plans
- Existing and proposed floor plans
- Existing and proposed elevations
- Heritage Impact Statement
- Materials and colour schedule
- All plans to be in A3 or A4

Major applications may also require photo montages and a site plan showing the extent of heritage registration overlaid.

Permit application for landscape works

- Existing conditions plan
- Proposed landscape plan(s)
- Heritage Impact Statement
- Tree reports if tree removal proposed
- All plans to be in A3 or A4

Permit application for subdivision/consolidation

- Existing lot arrangement/site plan
- Subdivision plan prepared by a licensed surveyor showing existing heritage buildings and extent of heritage registration overlaid
- Heritage Impact Statement

Painting a heritage registered building

- Sketch or elevation showing component colours (eg roof, walls gutters, downpipes etc)
- Colour chips of proposed colours
- Rationale for proposed colour scheme
- Job specification setting out details of preparatory work

Re-roofing works

- Details of existing roofing materials
- Schedule of proposed roofing materials
- Rationale for proposed materials if different from existing
- Roof plans-existing and proposed
- Job specification setting out work methods

Signage

- Plans showing any existing signage
- Plans showing proposed signage including retention of existing
- Specifications of signs including form, dimensions, materials and whether illuminated
- Details of how signs will be affixed to a heritage building or structure

Note: where proposed activities may affect any historical archaeological values of the place, the Heritage Impact Statement must include an archaeology assessment.

Where a permit application is not emailed, one completed copy of all supporting documentation is required for referral and administrative purposes. The plans supplied must be in A3 or A4 suitable for photocopying. Where possible electronic copies would be encouraged.

FURTHER CLARIFICATION REGARDING THE REQUIRED DOCUMENTATION

Photographs which document the current condition of the place and show the locations of the proposed works are always useful. The photographs should clearly show any parts of the place which will be altered as a result of the proposed work.

Where structural changes are proposed, drawings and or plans (shown to scale, preferably 1:100) which show the existing condition of the place must be provided and contrasted against plans detailing the proposed works. Any plans submitted should, as relevant, clearly show existing external and interior features such as fireplaces, panelling, staircases, decorative ironwork etc.

Where it is proposed to alter the existing condition of the property, such as repainting or replastering, full details of any proposed materials and finishes must be provided and contrasted against the existing conditions.

For proposed works to gardens and landscapes, an existing scale plan of the garden and landscape is to be provided and contrasted against a plan detailing all proposed changes. Full details of any proposed landscaping, including type and location of plants and the type of ground surface treatment, is to be provided.

A *Heritage Impact Statement* details what impact the proposed works will have on the cultural heritage significance of the place, describes any conservation works, and provides an assessment of the impact of the works on neighbouring places. Guidelines for compiling a *Heritage Impact Statement* are available from Heritage Victoria. Please contact Heritage Victoria or visit: www.heritage.vic.gov.au

If relevant, you have the opportunity to provide a detailed report demonstrating the extent to which the application, if refused, would affect the reasonable or economic use of the place or cause undue financial hardship to the owner of the place.

To expedite the processing of permit applications, it is strongly recommended that applicants consider having relevant support documentation produced by an appropriate professional. Heritage Victoria can assist by providing contact details for persons with recognised expertise in the area of heritage conservation. Relevant details are also available at www.heritage.vic.gov.au

Applicants should also provide time lines for the project and completion dates. This information will ensure that, should a permit be granted, the permit can be tailored to operate within reasonable timeframes.

WORKS TO COMMON PROPERTY

Where applications involve works to Common Property (as defined under the *Subdivision Act 1988*), the written consent of the Chair of the Body Corporate is required to be attached to the Permit Application. It is the Applicant's responsibility to ensure that all necessary enquiries are made and any required consent obtained.

COST OF WORKS & PAYMENT OF FEE

The permit application form requires you to provide an accurate estimate of the total cost of the proposed works. This estimate is to be determined at commercial rates. Verification by Heritage Victoria may be requested as to sufficiency of the estimate prior to the issue of a permit. The Heritage Regulations 2017 specify the fee amount payable for works. A fee, or part thereof, may be waived in certain circumstances. Please refer to the associated brochure [*Permit Application Fees for Works and Activities to Registered Places or Objects*](#) which is available online at or at the offices of Heritage.