

## 43.01 HERITAGE OVERLAY

Shown on the planning scheme map as **HO** with a number (if shown).

### Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To conserve and enhance heritage places of natural or cultural significance.

To conserve and enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

### Scope

The requirements of this overlay apply to heritage places specified in the schedule to this overlay. A heritage place includes both the listed heritage item and its associated land. Heritage places may also be shown on the planning scheme map.

#### 43.01-1 Permit requirement

A permit is required to:

- Subdivide or consolidate land.
- Demolish or remove a building.
- Construct a building.
- Externally alter a building by structural work, rendering, sandblasting or in any other way.
- Construct or carry out works.
- Construct or display a sign.
- Externally paint a building if the schedule to this overlay identifies the heritage place as one where external paint controls apply.
- Externally paint an unpainted surface.
- Externally paint a building if the painting constitutes an advertisement.
- Internally alter a building if the schedule to this overlay identifies the heritage place as one where internal alteration controls apply.
- Remove, destroy, prune or lop a tree if the schedule to this overlay identifies the heritage place as one where tree controls apply. This does not apply:
  - To any action which is necessary to keep the whole or any part of a tree clear of an electric line provided the action is carried out in accordance with a code of practice prepared under Section 86 of the Electricity Safety Act 1998.
  - If the tree presents an immediate risk of personal injury or damage to property.

The construction of a building or the construction or carrying out of works includes a fence, a domestic rainwater tank, roadworks and street furniture other than traffic signals, traffic signs, fire hydrants, parking meters or post boxes.

#### **43.01-2 No permit required**

No permit is required for:

- Repairs or routine maintenance which do not change the appearance of a heritage place. The repairs must be undertaken to the same details, specifications and materials.
- Anything done in accordance with an incorporated plan specified in a schedule to this overlay.

#### **43.01-3 Victorian Heritage Register**

No permit is required under this overlay to develop a heritage place identified in the schedule to this overlay as a place which is included on the Victorian Heritage Register if either:

- A permit for the development has been granted under the Heritage Act 1995.
- The development is exempt under Section 66 of the Heritage Act 1995.

#### **43.01-4 Exemption from notice and appeal**

An application under this overlay for any of the following classes of development is exempt from the notice requirements of Section 52(1) (a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act:

- Demolition or removal of an outbuilding (including a carport, garage, pergola, shed or similar structure) unless the outbuilding is identified in the schedule to this overlay.
- Demolition or removal of a fence unless the fence is identified in the schedule to this overlay.
- External alteration of a building if the alteration does not adversely affect the natural or cultural significance of the heritage place.
- External painting of a building.
- Construction of a fence.
- Construction of a carport, garage, pergola, shed or similar structure.
- Construction of a vehicle cross-over.
- Construction of a swimming pool.
- Construction of a tennis court.
- Construction or display of a sign.
- Pruning of a tree.
- Construction of seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards, telephone boxes.

#### **43.01-5 Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable heritage study and any applicable conservation policy.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

- Whether the proposed subdivision or consolidation will adversely affect the significance of the heritage place.
- Whether the proposed subdivision or consolidation may result in development which will adversely affect the significance, character or appearance of the heritage place.
- Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.
- Whether the pruning, lopping or development will adversely affect the health, appearance or significance of the tree.

#### **43.01-6 Use of a heritage place**

A permit may be granted to use a heritage place for a use which would otherwise be prohibited if all of the following apply:

- The schedule to this overlay identifies the heritage place as one where prohibited uses may be permitted.
- The use will not adversely affect the significance of the heritage place.
- The benefits obtained from the use can be demonstrably applied towards the conservation of the heritage place.

#### **Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The views of the Heritage Council if the heritage place is included on the Victorian Heritage Register and is subject to the requirements of the Heritage Act 1995.
- The effect of the use on the amenity of the area.

#### **43.01-7 Aboriginal heritage places**

A heritage place identified in the schedule to this overlay as an Aboriginal heritage place is also subject to the requirements of the Archaeological and Aboriginal Relics Preservation Act 1972 and the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984.

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**Notes:** *Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land*

*Check the requirements of the zone which applies to the land.*

*Other requirements may also apply. These can be found at Particular Provisions.*