Statement of Recommendation from the Executive Director, Heritage Victoria

Swan Hill Water Tower, PROV H2452

5 Monash Drive, Swan Hill, Swan Hill Rural City

Wamba Wemba Country

VICTORIA State Government

HERITAGE VICTORIA

Executive Director recommendation

Under section 37 of the *Heritage Act 2017* (the Act) I recommend to the Heritage Council of Victoria (Heritage Council) that the Swan Hill Water Tower, located at 5 Monash Drive, Swan Hill is of State-level cultural heritage significance and should be included in the Victorian Heritage Register (VHR) in the category of Registered Place.

In accordance with section 38 of the Act I include in this recommendation categories of works or activities which may be carried out in relation to the place without the need for a permit under Part 5 of the Act.

I suggest that the Heritage Council determine that:

- the Swan Hill Water Tower is of State-level cultural heritage significance and should be included in the VHR in accordance with section 49(1)(a) of the Act.
- the proposed categories of works or activities which may be carried out in relation to the place for which a permit under the Act is not required will not harm the cultural heritage significance of the place under section 49(3)(a) of the Act.

STEVEN AVERY
Executive Director, Heritage Victoria

Date of recommendation: 16 September 2024

Description

The following is a description of the Swan Hill Water Tower at the time of the site inspection by Heritage Victoria in June 2023.

Site context

The Swan Hill Water Tower is located on the southwest corner of McCallum Street and Monash Drive, Swan Hill, forming the northern portion of the Richards Swimming Pool Leisure Centre Complex. McCallum Street is a major thoroughfare of the area and provides access to New South Wales via the Swan Hill Bridge, which is located to the northeast of the place. The place borders Monash Drive on the east and is adjacent to the railway line and level-crossing crossing to its west. A curved water slide structure is located to the immediate south of the place and extends to its west elevation. The water slide is approximately double-storey in scale.

Site description

The place comprises a substantial cylindrical brick tower that is approximately four-storeys in height. It is articulated by six prominent tapered buttresses, which divide the elevation into six vertical bays. The buttresses extend to the cornice on the top of the tower. Beneath the cornice, three bands of brick copings encircle the upper end of the elevation.

On the elevation, stringcourses divide each bay into four levels and each level comprises six arched recesses with projecting sills. The size of the arches decreases as their height increases. Most of the western arches contain window openings in-filled with timber boards. The uppermost of these window openings contains a narrow platform, from which extends a steel-framed ladder that leads to the rivetted metal water tank above. The tank shows visible signs of rust and weathering.

It is understood that the place has been vacant for an extended period and is contaminated by substantial pigeon droppings in its interior. However, it is speculated that the internal structure of the tower is in good condition. The interior potentially includes a stairway, flooring, piping and other associated structure and fittings.

Description images

2023. North elevation of the place.

2023. Northwest view of the water tower. Note the water slide to the south and the railway crossing.

2023. Internal view of the tower shows the piping and staircase. The pigeon droppings are visible on the bottom.

2023. Internal view of the tower.

History

Settlement of Swan Hill

Swan Hill is located on the southern bank of the Murray River at its junction with the Little Murray River. The Wamba Wemba people occupied present-day Swan Hill for thousands of years prior to the European settlement.[1] The area was named Swan Hill by the Scottish explorer Thomas Mitchell, while he camped beside a hill on the 31 June 1836. The place was sometimes called Castle Donnington. Both names were used interchangeably throughout the nineteenth century.

European migrants began to settle in the Swan Hill area and broader Mallee region from the early 1840s onward. Farming and grazing were the main industries. In 1853, riverboat traffic reached Swan Hill from South Australia. In 1856 the settlement was proclaimed a township.

Population of the Swan Hill township grew slowly throughout the second half of the nineteenth century. By the early 1880s, when the Water Tower was built, the European population accounted for approximately 350 people.

Swan Hill became a shire in 1871, a borough in 1939 and a city in 1965.

Establishment of the Swan Hill Shire Waterworks Trust

Water supply varied considerably across Victoria in the nineteenth century. Reliable streams, rivers and lakes are available along the coastline, in the central area and the mountainous north-east. However, the climate became much drier and more prone to drought in the northern part of the State. In the early stage of their settlement, European settlers in northern Victoria collected water through primitive methods. They carted water manually from nearby creeks and rivers. Groundwater and rainwater were also collected when possible.[2] Rudimentary dams and weirs were also constructed by European settlers for farming and grazing purposes. In Swan Hill, water was carted around the town in barrels on a sled for sale and customers purchased the water by the cask.

Drought from the late 1870s to the early 1880s impacted Swan Hill and northern Victoria, resulting in financial loss for farmers.[3] It was clear by this time that European settlements in the drier part of Victoria would need more comprehensive water supply and irrigation systems to survive. This led to the government commissioning two engineers, George Gordon and Alexander Black, to investigate and report on water supply issues in northern Victoria. Their findings recommended the following:

1) the water of each river in the northern districts should, as far as possible, be used within its own basin.
2) summer supplies should be conserved in the creeks and watercourses by the construction of weirs and dams. Where possible, waters from winter floods should be diverted to and conserved in creeks for the use in the dry seasons.
3) the forementioned schemes should be carried out by local waterworks trusts or similar authorities.[4]

Gordon and Black's findings propelled Alfred Deakin, then Minister for Water Supply, to introduce the *Water Conservation and Distribution Act 1881* for the establishment of local waterworks trusts. These trusts were permitted to borrow funds from the government for the construction of irrigation works. The trusts could then charge water rates to users, recoup their costs and pay the interest on the loans. In addition, the Act also alienated the frontages of virtually all the rivers, lakes and water courses in Victora that were not alienated from the Crown at that stage. This ensured the protection of waterways for future use.[5]

Following the introduction of the Act, the Swan Hill Shire Waterworks Trust was established by an Order-in-Council on 17 July 1882 alongside waterworks trusts for the East Loddon, Korong and Marong Shires.[6] The responsibilities of the Trust could be summarised as follows:[7]

1) supplying waters to the towns of Swan Hill and Kerang.
2) maintaining and upgrading the existing dams and weirs built by the early European squatters within the shire territory.

[1] Swan Hill Rural City Council, *Aboriginal culture and heritage*. https://www.swanhill.vic.gov.au/Community/Aboriginal-culture-and-heritage (accessed 10 July 2024).
[2] Context, *Victorian Water Supply Heritage Study, Vol* 1, pp. 3-4
[3] "Water Conservation Act" in *Australasian*, 23 Dec 1882, p 23.
[4] L R East, 1934, "Irrigation and Water Supply in Victoria', in *One hundred years of engineering 1834-1934*, p 390
[5] Context, 2007, Victoria Water Supply Heritage Study, p 32.
[6] Victoria Government Gazette No 71, 07 July, 1882, p1664.
[7] "The Water Conservation Act" in *Australasian*, 30 December 1882, p 25; "The Water Conservation Act" in *Australasian*, 27 January 1883, p 23.

3) managing the Gunbower and Loddon River water scheme infrastructure located within the shire territory.

The Trust committee comprised the Swan Hill Shire council members plus a commissioner appointed by the Colonial Government. In its inaugural year, the Trust employed an engineer, two draughtsmen, one secretary and two surveyors. Charles Henry Kempson, who later supervised the construction of the Swan Hill Water Tower, was the Water Trust inaugural engineer, was appointed to the position in 1881.[8]

Following the *Irrigation Act 1886*, the Trust became the Swan Hill Irrigation and Water Supply Trust in September 1887.[9] It was dissolved in 1906. The functions of the Trust were carried out by the Swan Hill Irrigation and Water Supply District under the newly established State Rivers and Water Supply Commission.

Swan Hill Water Tower

Swan Hill Water Tower was constructed in 1883 by the Swan Hill Shire Waterworks Trust,[10] under the supervision of Henry Charles Kempson, the Shire Engineer. A notice was published in January 1883 calling for tenders from bricklayers, carpenters and joiners.[11] Thomas Edwards of Reedy Lake (on the north of Kerang) was appointed the bricklayer, with George Betts being the manufacturer of the bricks. W Barker was contracted to supply the 20,000-gallon water tank. The tower was complete in late 1883.[12] In addition to the water tower, the site also consisted of a boiler house and a wood-fired steam engine. The facilities pumped water out of the Murray River and into the water tank atop, which took four and half hours of pumping to fill. Water than flowed to the surrounding businesses and residences by gravitation.

The Water Tower supplied water to the Swan Hill township in the ensuing decades. However, the tower began to struggle by 1897. This was due to blocked pipes, corroded mains and deteriorating engines and pumps. Supply to residences on higher ground was regularly interrupted as the water system needed to be turned off to allow enough pressure to send water uphill.[13] Due to wood shortages at the time, the pump operation had to be ceased after 11pm daily, leading to insufficient water reserves in the tower.

By the early 1900s, it was clear that the water supply system was inadequate. Residents in Swan Hill township had increased to 950 by 1900-01. Another drought also hit the region around this time. This sharply increased the levels of salt and hydrochloric acid in the Murray, leading to the further corrosion of the water tank.[14] In response, a second brick water tower was constructed in 1902 and a third concrete water tower was built in 1937 to increase the water supply capacity. [15] These two towers are located further eastward on McCallum Street and Splatt Street.

The Swan Hill Water Tower was disused from the ca.1950s. The engine and boiler houses were subsequently removed. The tower was later incorporated into the Richards Swimming Pool Leisure Centre.

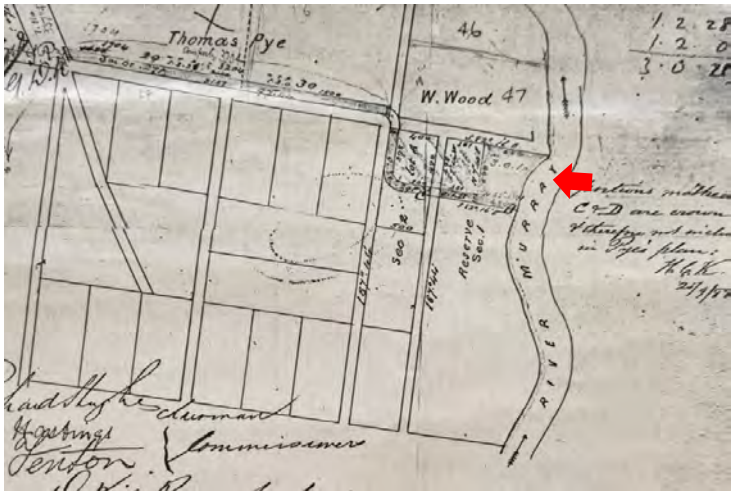
Henry Charles Kempson

Henry Charles Kempson (1826-1899), a native of Birmingham, was trained as a civil engineer in England. He worked on the construction of the Caledonian Railway in Scotland prior to migrating to Australia in 1852. After a short stint in the gold fields, Kempson resumed his engineering career and worked firstly for the Roads and Bridges Department of the Victorian Colonial Government and then for various road boards and shires. In 1878 he moved to the Swan Hill and Kerang areas and stayed there for the rest of his life. He worked as engineer for both the Shire and various water trusts and supervised the construction of several schemes.[16] An advertisement published in 1899 lists Kempson as a civil engineer, architect and licenced surveyor.[17]

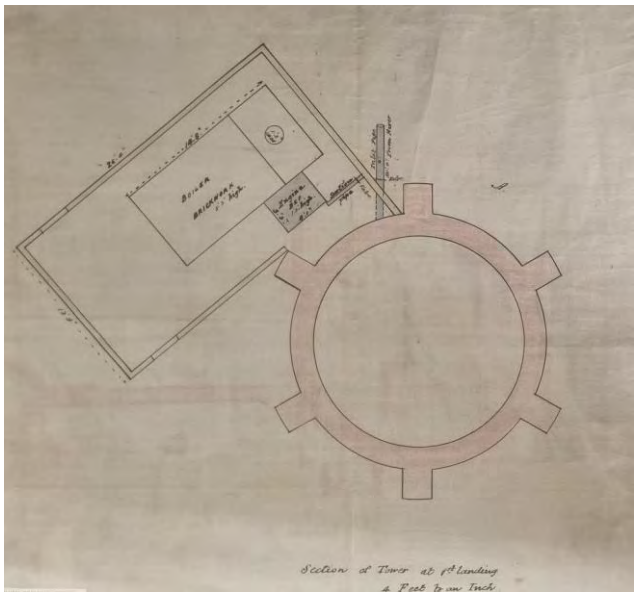
Apart from the Swan Hill Water Tower, Kempson also supervised the construction of the Kerang Water Tower in 1883, which has been converted into a lookout tower. Kempson's other building works remain unknown.

[8] "Death of Mr Kempson, C.E" in *Bendigo Advertiser*, 05 October 1899, p 3.
[9] Victoria Government Gazette 30 Sept 1887, No 91, p2841.
[10] "Watering the City", *Swan Hill Guardian*, 04 April 2007, p2.
[11] "Swan Hill Shire Waterworks Trust Notice" in *Bendigo Advertiser*, 05 January 1883, p 4.
[12] "Swan Hill Shire Water Works Trust" in *Bendigo Advertiser,* 02 February 1884, p2.
[13] "Watering the City", *Swan Hill Guardian*, 04 April 2007, p2.
[14] Ibid.
[15] "150,000 gallon reinforced concrete structure", *Riverina Recorder*, 11 September 1937, p 3.
[16] 'Death of Mr H C Kempson, C.E." *Kerang Times*, 06 Oct 1899, p 2.
[17] *Kerang Times and Swan Hill Gazette*, 12 March 1889, p 1.

Historical images



1888. Land record signed by Kempson shows the approximate extent of allotment in which the water tower is located (indicated with an arrow). Source: Swan Hill Historical and Genealogical Society



1900. Site plan shows the water tower and the inlet pipe that brought water from the river. The nearby boiler and engine houses are also captured. Source: Swan Hill Historical and Genealogical Society

Early 1900s. The water tower as viewed from the railway. Source: Item AF00243980, New South Wales State Archives

C1896. Photo taken near the base of the water tower. The engine house is next to the tower. The weatherboard house on the left is the former customs house (burnt down in 1910s). Source: Nominator's collection

C1908. View of the water tower from north, Source: Item No 1679054, State Library Victoria

Early 1900s. Note the colours of the photo were restored by the owner. Source: Nominator's collection

Early 1900s. Image showing the water tower from south. Note the boiler and engine houses adjacent to the tower and the connecting pipe. Source: Nominator's collection

C 1920s-50s. Aerial view shows the water tower. The boiler works, engine house and inlet pipe are removed. Source: Item rg009333, Rose Stereography Series, State Library Victoria

Selected bibliography

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East, L., R., 1934, "Irrigation and Water Supply in Victoria', in *One hundred years of engineering 1834-1934*, pp.389-393.

Kerang Times and Swan Hill Gazette

Riverina Recorder

Kerang Times

The Guardian (Swan Hill)

Swan Hill Rural City Council, undated, *Aboriginal culture and heritage* https://www.swanhill.vic.gov.au/Community/Aboriginal-culture-and-heritage (accessed 10 July 2024).

Swan Hill Historical and Genealogical Society collection

Victorian Government Gazette

Further information

Traditional Owner Information

The Wamba Wemba people are the traditional owners for the place. In 2024 the Wamba Wemba Aboriginal Corporation was appointed Registered Aboriginal Party under the *Aboriginal Heritage Act 2006* for the area.

Native Title

Native title is the recognition in Australian law that some Aboriginal and Torres Strait Islander people continue to hold rights and interests in land and water. Native title is not granted by governments. It is recognised through a determination made by the Federal Court of Australia under the *Native Title Act 1993* (Cth).

In 2010, acknowledging the difficult nature of having native title determined under the Native Title Act, the Victorian Government developed an alternate system for recognising the rights of Victorian traditional owners. The *Traditional Owner Settlement Act 2010* (Vic) allows the government and traditional owner groups to make agreements that recognise traditional owners' relationship to land and provide them with certain rights on Crown land.

As of June 2024, there is no Native Title determination or Recognition and Settlement Agreement affecting this place.

Victorian Aboriginal Heritage Register

The place is not included in the Victorian Aboriginal Heritage Register.

(June 2023)

Integrity

The integrity of the place is good. The cultural heritage values of the Swan Hill Water Tower can be easily read in the extant fabric.

The external appearance of Swan Hill Water Tower can be clearly read as a Victorian-era structure. Internal integrity may be high but subject to further investigation.

(June 2023)

Intactness

The intactness of the place is good.

However, the former engine and boiler house and other associated historical fabric have been removed. The immediate environs of the tower are now occupied by a water slide.

(June 2023)

Condition

The condition of the Swan Hill Water Tower is good. In some locations there has been minor damage to brickwork, such as to the base of the eastern buttress caused by a car strike.

The interior of the Swan Hill Water Tower is currently infested by pigeons and was inaccessible for inspection.

(June 2023)

Note: The condition of a place or object does not influence the assessment of its cultural heritage significance. A place or object may be in very poor condition and still be of very high cultural heritage significance. Alternatively, a place or object may be in excellent condition but be of low cultural heritage significance.

Condition images

2023. Minor damage to the buttress is indicated by an arrow. Source: Nominator's collection

2023. Internal shot shows the extent of pigeon dropping.

Heritage Overlay	HO 138 *Water Tower, McCallum Street (cnr Monash Drive), Swan Hill*
Other Overlays	There are no other overlays for the place.
Other Listings	There are no other listings for the place.
Other Names	There are no other widely known names for the place
Date of construction/creation	1883
Architect//Builder/Designer/Maker	Henry Charles Kempson (supervising engineer and project supervisor)
Architectural style	Victorian

Statutory requirements under section 40

Terms of the recommendation (section 40 (3)(a))

The Executive Director recommends that the Swan Hill Water Tower is included in the VHR.

Information to identify the place or object (section 40(3)(b))

Number: PROV H2452

Category: Registered Place

Name: Swan Hill Water Tower

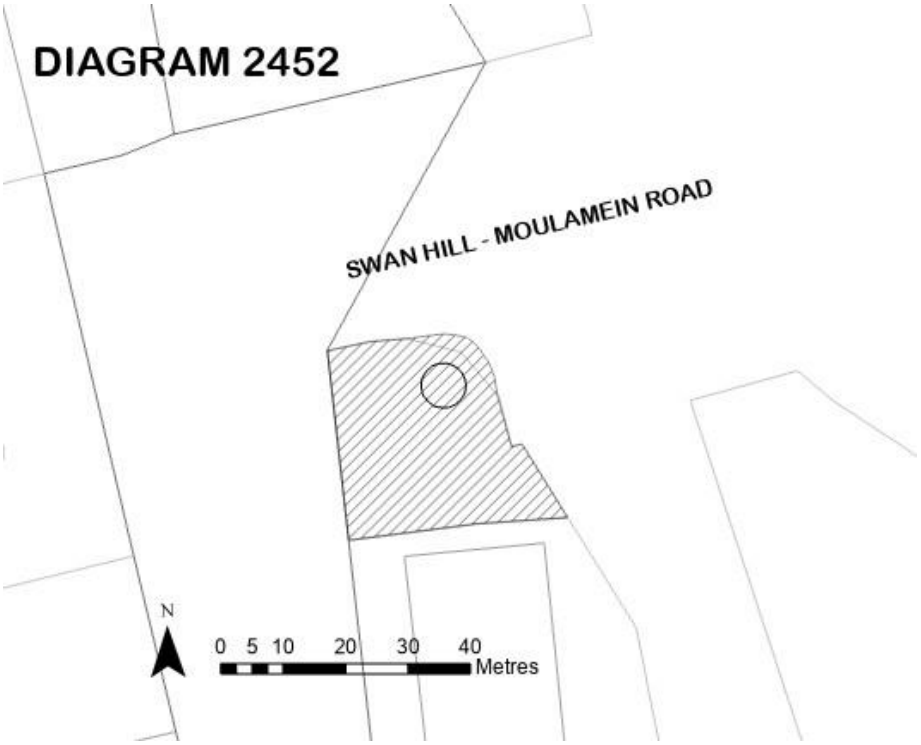
Location: 5 Monash Drive, Swan Hill

Municipality: Swan Hill Rural City

Proposed extent of registration

The Executive Director recommends that the extent of registration for the Swan Hill Water Tower be gazetted as:

All of the place shown hatched on Diagram 2452 encompassing part of Crown Allotment 8 Section 2 Township of Swan Hill and the road reserves of Monash Drive and Swan Hill-Moulamein Road to the extent of 5 metres measured from the base of the circular wall of the water tower at ground level.



Aerial Photo of the Place Showing Proposed extent of registration

Note: This aerial view provides a visual representation of the place. It is not a precise representation of the recommended extent of registration. Due to distortions associated with aerial photography some elements of the place may appear as though they are outside the extent of registration.

Rationale for the extent of registration

The recommended extent of registration comprises the following:

1) The land parcel in which the Swan Hill Water Tower is located.
2) The adjacent northeast road reservation to the extent of five metres measured from the base of the circular wall of the water tower at ground level.

The recommended extent will ensure the adequate protection of the Water Tower and its immediate environs.

It should be noted that everything included in the proposed extent of registration including all of the land, all soft and hard landscape features, and all buildings (exteriors, interiors and fixtures) are proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

Reasons for the recommendation, including an assessment of the State-level cultural heritage significance of the place(section 40(3)(c))

Following is the Executive Director's assessment of Swan Hill Water Tower against the tests set out in *The Victorian Heritage Register Criteria and Thresholds Guidelines (2022)*. A place or object must be found by the Heritage Council to meet Step 2 of at least one criterion to meet the State level threshold for inclusion in the VHR.

CRITERION A: Importance to the course, or pattern, of Victoria's cultural history.

Step 1 Test for Criterion A

No.	Test	Yes/No	Reason
A1)	Does the place/object have a clear association with an event, phase, period, process, function, movement, custom or way of life in Victoria's cultural history?	Yes	The place has a clear association with the following historical phases in Victoria's cultural history: • Establishing water supply systems for country towns. Historical evidence indicates that the Swan Hill Water Tower was used to supply water to the Swan Hill township from 1883 to the 1950s.
A2)	Is the event, phase, period, process, function, movement, custom or way of life of historical importance, having made a strong or influential contribution to Victoria?	Yes	This phase is of historical importance having made a strong and influential contribution to Victoria. • The establishment of water supply systems for country towns has been essential in the historical development, settlement, and growth of regional areas of the State.
A3)	Is there evidence of the association to the event, phase, period, process, function, movement, custom or way of life in Victoria's cultural history?	Yes	There is evidence of the association between the place and these historical phases: • Documentary and physical evidence indicates that the Swan Hill Water Tower is associated with supplying water to the Swan Hill township in the late nineteenth and early twentieth centuries.
If A1, A2 and A3 are <u>all</u> satisfied, then Criterion A is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		Yes	Criterion A is likely to be relevant.

Delete Step 2 if a place object does not meet Step 1.

Step 2 State-level test for Criterion A

No.	Test	Yes/No	Reason
SA1)	Does the place/object allow the clear association with the event, phase, period, process, function, movement, custom or way of life of historical importance to be understood better than most other places or objects in Victoria with substantially the same association?	Yes	The Swan Hill Water Tower allows the association with the phase of establishing water supply systems for country towns to be better understood than most other similar places in the VHR. The Swan Hill Water Tower represents an important phase associated with the development of local water trusts in Victoria following the drought of the 1870s and before the era of the State Rivers and Water Supply Commission.

		The Swan Hill Water Tower represents a significant municipal investment and piece of infrastructure for its time. Infrastructure of this type was essential to the growth and expansion of towns in the drier northern regions of Victoria away from the Great Dividing Range and area of reliable rainfall. See the comparative analysis section for more details.

If SA1 is satisfied, then Criterion A is likely to be relevant at the State level

Executive Director's Response:	Yes	Criterion A is likely to be relevant at the State level.

CRITERION B: Possession of uncommon, rare or endangered aspects of Victoria's cultural history.

Step 1 Test for Criterion B

No.	Test	Yes/No	Reason
B1)	Does the place/object have a clear association with an event, phase, period, process, function, movement, custom or way of life of importance in Victoria's cultural history?	Yes	The place has a clear association with the following historical phases which are of importance in Victoria's cultural history: • Establishing water supply systems for country towns.
B2)	Is there evidence of the association to the historical phases etc identified at B1)?	Yes	There is evidence of the association between the place/object type and this historical phase.
B3)	Is there evidence that place/object is rare or uncommon, or has rare or uncommon features? See definition of 'rare' on p.6 of the Guidelines.	No	B3(i) There is no evidence that the place is rare or uncommon. There are a number of nineteenth-century water towers in Victoria. B3(ii) There is no evidence that the place type has rare or uncommon features.

If B1, B2 AND B3 are satisfied, then Criterion B is likely to be relevant (but not necessarily at the State level)

Executive Director's Response:	No	Criterion B is not likely to be relevant.

CRITERION C: Potential to yield information that will contribute to an understanding of Victoria's cultural history.

Step 1 Test for Criterion C

No.	Test	Yes/No	Reason
C1)	Does physical fabric and/or documentary evidence and/or	No	The: 1) physical fabric and

	associated oral history or cultural narratives relating to the place/object indicate a likelihood that the place/object contains evidence of cultural heritage significance that is not currently visible and/or well understood or available from other sources?		2) documentary evidence or 3) associated oral history or cultural narratives. relating to the Swan Hill Water Tower do not indicate a likelihood that the place contains evidence of cultural heritage significance that is not currently visible and/or well understood or available from other sources.
C2)	And, from what we know of the place/object, is the physical evidence likely to be of an integrity and/or condition that it could yield information through detailed investigation?	No	The integrity and condition of the place may be good but is unlikely to yield information through investigation that is not currently visible and/or well understood or available from other sources (see C1).
If <u>both</u> C1 AND C2 are satisfied, then Criterion C is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		No	Criterion C is not likely to be relevant.

CRITERION D: Importance in demonstrating the principal characteristics of a class of cultural places and objects

Step 1 Test for Criterion D

No.	Test	Yes/No	Reason
D1)	Is the place/object one of a class of places/objects that has a clear association with an event, phase, period, process, function, movement, custom or way of life in Victoria's history?	Yes	The Swan Hill Water Tower belongs to the class of water towers. This class has a clear association with the following in Victoria's history: • Establishing water supply systems for country towns
D2)	Is the event, phase, period, process, function, movement, custom or way of life of historical importance, having made a strong or influential contribution to Victoria?	Yes	a) is a historical phase which has made a strong and influential contribution to Victoria. The Swan Hill Water Tower is a fine example of water tower structures that provided water services to a regional township in Victoria in the nineteenth century.
D3)	Are the principal characteristics of the class evident in the physical fabric of the place/object?	Yes	The principal characteristics of the class are evident in the physical fabric of the place. The Swan Hill Water Tower is a fine example of a nineteenth century regional water tower. The intactness and integrity of the water tower structure itself is high.
If D1, D2 AND D3 are satisfied, then Criterion D is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		Yes	Criterion D is likely to be relevant.

Step 2 State-level test for Criterion D

No.	Test	Yes/No	Reason
SD1)	Is the place/object a notable (fine, influential or pivotal) example of the class in Victoria? See definition of 'notable' see Reference Tool D on p.14 of the Guidelines.	Yes	The Swan Hill Water Tower is a notable example of the class of water towers. The Swan Hill Water Tower is a fine example of a regional water tower and is notable for its cylindrical form, impressive height, rivetted metal tank, and arched openings. The brickwork is a testament to the fine work of nineteenth century bricklayers, builders and engineers. Its buttressed form, which is required to support its overall height, is unusual for a structure of its kind in Victoria.
If SD1 is satisfied, then Criterion D is likely to be relevant at the State level			
Executive Director's Response:		Yes	Criterion D is likely to be relevant at the State level.

CRITERION E: Importance in exhibiting particular aesthetic characteristics.

Step 1 Test for Criterion E

No.	Test	Yes/No	Reason
E1)	Does the physical fabric of the place/object clearly exhibit particular aesthetic characteristics? See definition of 'aesthetic' on p.5 of the Guidelines	Yes	The physical fabric of the place clearly exhibits aesthetic characteristics particular to a water tower. The prominent buttressed form is unusual amongst the regional water towers.
If E1 is satisfied, then Criterion E is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		Yes	Criterion E is likely to be relevant.

Step 2 State-level test for Criterion E

No.	Test	Yes/No	Reason
SE1)	Are the aesthetic characteristics 'beyond the ordinary' or are outstanding as demonstrated by: • Evidence from within the relevant discipline (architecture, art, design or equivalent); and/or • Critical recognition of the aesthetic characteristics of the place/object within a relevant art, design, architectural or related discipline within Victoria; and/or • Wide public acknowledgement of exceptional aesthetic qualities of the place/object in Victoria	No	There is no evidence that the aesthetic characteristics at the place are 'beyond the ordinary' or are outstanding. There is no evidence from within the architecture discipline, nor critical recognition, nor wide public acknowledgement of the aesthetic characteristics of the Swan Hill Water Tower as 'beyond the ordinary'.

	expressed in publications, print or digital media, painting, sculpture, songs, poetry, literature, or other media?		

If SE1 is satisfied, then Criterion E is likely to be relevant at the State level

Executive Director's Response:	No	Criterion E is not likely to be relevant at the State level.

CRITERION F: Importance in demonstrating a high degree of creative or technical achievement at a particular period.

Step 1 Test for Criterion F

No.	Test	Yes/No	Reason
F1)	Does the place/object contain physical evidence that clearly demonstrates creative or technical achievement for the time in which it was created?	No	The Swan Hill Water Tower does not contain physical evidence that clearly demonstrates creative or technical achievement for the time in which it was created.
F2)	Does the physical evidence demonstrate a high degree of integrity?	Yes	The physical evidence at the Swan Hill Water Tower demonstrates a high degree of integrity. The level of integrity of the place is relatively high, as it allows the class of the place to be easily understood.

If <u>both</u> F1 and F2 are satisfied, then Criterion F is likely to be relevant (but not necessarily at the State level)

Executive Director's Response:	No	Criterion F is not likely to be relevant.

CRITERION G: Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons

Step 1 Test for Criterion G

No.	Test	Yes/No	Reason
G1)	Does the place/object demonstrate social value to a community or cultural group in the present day in the context of its cultural heritage significance? Evidence must be provided for all three facets of social value listed here: See definitions of 'social value' and Criterion G terms in the Guidelines		
i)	Existence of a community or cultural group; <u>and</u>	Yes	There is evidence that the place has social value in the present day to the Swan Hill community.
ii)	Existence of a strong attachment of a community or cultural group to the place or object; <u>and</u>	Yes	There is evidence of a strong attachment of the Swan Hill community to the Swan Hill Water Tower. The Swan Hill Water Tower was built in 1883 and was the first water tower that supplied reticulated water to the Swan Hill community up to the 1950s.

			The attachment of the local community to the Water Tower is also demonstrated by the fact that this landmark continues to feature in published lists of Swan Hill town attractions and walking tours. The continuing attachment of the Swan Hill community to the tower is further demonstrated by the installation of lighting in 2023 to illuminate the Water Tower at night.
iii)	Existence of a time depth to that attachment.	Yes	There is evidence of the attachment dating to 1883. As outlined in the history section, the tower supplied water to the Swan Hill Township from 1883 to the 1950s. In recent decades, the Tower has featured in lists of local attractions.
If <u>all facets</u> of G1 are satisfied, then Criterion G is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		Yes	Criterion G is likely to be relevant.

Step 2 State-level test for Criterion G

No.	Test	Yes/No	Reason
SG1)	Is there evidence that the social value resonates across the broader Victorian community as part of a story that contributes to Victoria's identity?	Yes	SG1(i) The social value of the Swan Hill Water Tower is part of a story that contributes to Victoria's identity. The development of water infrastructure is recognised as an important aspect of Victoria's history and development.
		No	SG1(ii) There is no evidence that the social value of the Swan Hill Water Tower resonates beyond Swan Hill to the broader Victorian community. Tall water towers are prominent features and local landmarks in various towns across Victoria.
If <u>all facets</u> of SG1 are satisfied, then Criterion G is likely to be relevant at the State level			
Executive Director's Response:		No	Criterion G is not likely to be relevant at the State level.

CRITERION H: Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

Step 1 Test for Criterion H

No.	Test	Yes/No	Reason
H1)	Does the place/object have a direct association with a person, or group of persons who has made a strong or influential contribution in their field of endeavour?	Yes	(i) There is a direct association of the Swan Hill Water Tower with Henry Charles Kempson and Swan Hill Shire Water Works Trust (ii) The person and the organisation have made a strong or influential contribution to the construction of regional water supply systems.

H2)	Is there evidence of the association between the place/object and the person(s)?	Yes	There is evidence of the association of the Swan Hill Water Tower with Henry Charles Kempson and Swan Hill Shire Water Works Trust. Documentary evidence indicates the Swan Hill Water Tower was constructed by Swan Hill Shire Waterworks Trust under the supervision of engineer Henry Charles Kempson.
H3)	Does the association relate: • directly to achievements of the person(s); and • to an enduring and/or close interaction between the person(s) and the place/object?	Yes	(i) The association between the Swan Hill Water Tower and Henry Charles Kempson relates directly to the achievements of the person. (ii) The association relates to an enduring interaction between Henry Charles Kempson, the Swan Hill Shire Water Works Trust and the Swan Hill Water Tower.
If all facets of H1, H2 AND H3 are satisfied, then Criterion H is likely to be relevant (but not necessarily at the State level)			
Executive Director's Response:		Yes	Criterion H is likely to be relevant.

Step 2 State-level test for Criterion H

No.	Test	Yes/No	Reason
SH1)	Are the life or works of the person/persons important to Victoria's history?	No	Evidence suggests that Kempson's and Swan Hill Water Works Trust's influence is of local significance and limited to the Swan Hill and Kerang region. Their influence does not have a State-wide reach.
SH2)	Does this place/object allow the association between the person or group of persons and their importance in Victoria's history to be readily appreciated better than most other places or objects in Victoria?	Yes	The place does allow the association between Henry Charles Kempson and Swan Hill Water Works Trust and their importance in Victoria's history to be readily appreciated more than most other places or objects in Victoria. Kempson's and the Trust's only other equivalent known work, the Kerang Water Tower, has been altered. As such, the Swan Hill Water Tower is the best example that demonstrates Kempson's achievement as an engineer of water supply systems.
If SH1 and SH2 are satisfied, then Criterion H is likely to be relevant at the State level			
Executive Director's Response:		No	Criterion H is not likely to be relevant at the State level.

Comparisons

The *Victorian Water Supply Study* (Context 2007) notes that 'township systems' were in 2007 an under-represented category in the VHR. The report stated:

> *The majority of water supply places on the VHR are associated with railways (predominantly water towers and some examples of reservoirs and other infrastructure) and gold mining sites (hydraulic sluicing and puddling sites being well represented).*

The following places were selected as comparators to the Swan Hill Water Tower because they represent systems and infrastructure that supplied reticulated water to townships that were developed from the late nineteenth century. As such, they are similar to the Swan Hill Water Tower in terms of historical period, history and function.

MUNICIPAL WATER SUPPLY INFRASTUCTURE IN THE VHR

BENALLA WATER SUPPLY DEPOT

1-3 RIVERVIEW ROAD, BENALLA, BENALLA RURAL CITY

VHR H1048

The Benalla Water Supply Depot is an intact example of a complex which demonstrates the changes in water tower design since the 1880s.

The Depot is a rare surviving example of a nineteenth-century water supply complex and contains all the required elements and structures to supply drinking water to a rural town in the nineteenth century. These include an iron water tower, blacksmith's shop, carpenters' shop and pump house.

2001. Benalla Water Supply Depot. Source: Heritage Victoria

BAIRNSDALE PUMPING STATION

JENNINGS STREET AND MAIN STREET, BAIRNSDALE, EAST GIPPSLAND SHIRE

VHR H2040

Bairnsdale Pumping Station is historically significant for being the most intact example in Victoria of an early municipal pumping station. The site has an unparalleled collection of buildings, tanks and machinery that demonstrate the operations of a nineteenth and early twentieth century municipal water station.

The Pumping Station is scientifically significant for its ability to demonstrate changes in water delivery technology from the 1880s, especially relating to the development of pumping, tank construction and water treatment.

A 30-metre high water tower was built in the town centre in 1926 but is of concrete construction and not directly comparable to the tower at Swan Hill.

2005. Concrete water tower (1926), Bairnsdale Pumping Station. Source: Heritage Victoria

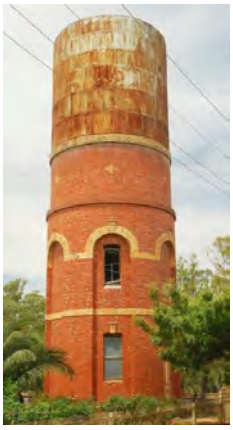
FORMER ELMORE WATER TOWER

47 CARDWELL STREET, ELMORE, GREATER BENDIGO CITY

VHR H1678

The water tower is architecturally significant for being a fine example that displays the skills of the nineteenth century bricklayers.

The water tower is constructed in 1891 and is historically significant for being a rare surviving remnant of early urban infrastructure in a Victorian rural settlement.



2008. Elmore Water Tower. Source: Heritage Victoria

MURTOA WATER TOWER

COMYN STREET AND HAMILTON STREET, MURTOA, YARRIAMBIACK SHIRE

VHR H1193

The Murtoa Water Tower is historically significant for its association with the growth of Victoria's steam train network in the nineteenth century. It demonstrates the importance of water-related infrastructure for railway steam engines and the role of the Victorian Railways in its engineering and construction. Water towers were central to the expansion of the colony's railway network and Murtoa was an important 'water station' on the Serviceton line which connected to Adelaide in 1887.

The Murtoa Water Tower is significant as a notable nineteenth-century water tower demonstrating fine engineering and construction skills to provide a gravity-fed reticulated water supply across a flat landscape. The 182 kilolitre (40,000 gallon) wrought-iron tank is supported by a four-storey brick cylindrical building which ensured sufficient water pressure for the distribution of water pumped from Lake Marma to the nearby Murtoa Railway Station and throughout the town.

The Murtoa Water Tower provided water for both railway and township purposes.

c2008. Murtoa Water Tower. Source: Heritage Victoria

MUNICIPAL WATER SUPPLY INFRASTRUCTURE INCLUDED IN HERITAGE OVELAYS

KERANG WATER TOWER

WELLINGTON STREET, KERANG

HERITAGE OVERLAY - HO5

The former Kerang Water Tower is historically significant for the important role it played in the early establishment and development of Kerang. The brick tower with a wrought iron tank was constructed in 1884.

The Kerang Water Tower was also built by the Swan Hill Shire Waterworks Trust, with water drawn from the Loddon River and then pumped to the water tank.

Water supply to the town was augmented in 1901 by a steel tank. The brick water tower continued to supply water to the town until the 1950s.

In 1973, a lookout tower was built atop the iron tank.

2008. Kerang Water Tower. Source: Heritage Victoria

MOOROOPNA BRICK WATER TOWER

35 AND 35A MCLENNAN STREET, MOOROOPNA

HERITAGE OVERLAY - HO308

The Mooroopna Brick Water Tower is of historic significance as it provides tangible physical evidence of the development of Mooroopna.

It is of aesthetic significance for its landmark qualities and its fine brickwork.

The water tower was erected in 1886 by the Mooroopna Waterworks Trust and drew water from the Goulburn River. It was once topped by a riveted wrought-iron water tank.

The Mooroopna Brick Water Tower was supplemented by a new, taller, concrete tower and tank in late 1927 built by John Monash's Reinforced Concrete and Monier Pipe Construction Co.

2020 Mooroopna Brick Water Tower. Source: Heritage Citation Report Greater Shepparton Heritage Study Stage II

WATERWORKS BUILDING AND TOWER

174-194 WELSFORD STREET, SHEPPARTON

HERITAGE OVERLAY - HO135

The Shepparton Waterworks complex is of local historic and aesthetic significance.

Constructed in 1889, the water tower is a local landmark and is associated with the early operations of the Shepparton Waterworks Trust, which was established in 1882 to provide Sheppartons' first regulated water supply.

The water tower drew water from the Goulburn River. The tower consists of a cylindrical three-storey red-brick, base with concrete coping around the top. The tower walls contain round-arched, timber-framed, double-hung sash windows.

The iron water tank which originally sat above the tower has been removed.

2020 Waterworks Building and Tower, Shepparton. Source: Heritage Citation Report Greater Shepparton Heritage Study Stage II

SALE WATER TOWER

VICTORIA PARK, SALE

HERITAGE OVERLAY – HO102 (Applies to Victoria Park in which the water tower is located)

Victoria Park is a significant part of the heritage of Sale as a major public reserve in Sale, in continuous use since the 1850s for a variety of civic functions, most notably market reserve, water supply and public recreation. Tangible reminders of these uses include the water tanks.

The water tower at the corner of Marley Street and Cunningham Street is a handsome four storey structure of brick, sparingly decorated with cream brick contrasting against the orange hue of the circular structure and topped by an iron tank.

1994 Sale Water Tower, Victoria Park, Sale. Source:https://www.wellington.vic.gov.au/development/heritage-overlay-citations

Summary of Comparisons

The focus of the comparisons in this report has been on township water infrastructure of the nineteenth-century which were the works of local water trusts. The *Victorian Water Supply Study* (Context 2007) noted that township water supply systems were an under-represented category in the VHR in 2007.

The *Victorian Water Supply Study* also noted that railway water towers were well represented in the VHR at that time. There are railway water towers included in the VHR which are of unbuttressed cylindrical masonry construction supporting iron tanks. These include water towers at Newport Railway Workshops (VHR H1000), Wangaratta Railway Station Complex (VHR H1597) and Murtoa (VHR H1193). Given that there is a high representation of railway water towers in the VHR, with the exception of the Murtoa Water Tower (which served both trains and the township), railway water towers have not been considered for comparative purposes.

Also excluded from the above comparative examples are water towers of concrete construction. Concrete water towers are prominent landmarks in many Victorian towns including Echuca, Mildura, Mooroopna, Nagambie, Tatura and Wodonga. Concrete water towers are generally associated with the work of the State Rivers and Water Supply Commission (SRWSC) which was established in 1905 following the passage of the *Water Act 1905*. The SRWSC's role was to coordinate and manage the State's rural water resources and eventually to take over all Victorian rural water trusts and irrigation schemes. Given the ubiquity of concrete water towers, their different historical origins, and their later construction date, they have been excluded from this list of comparisons.

The Swan Hill Water Tower is similar to the selected comparators in terms of age, function and materials. All these examples were nineteenth-century, river-based water supply systems that catered for water consumption in regional communities. Amongst the selected comparators, Benalla Water Depot (VHR H1048) and Bairnsdale Pumping Station (VHR H2040) retain most of their original elements and structures. Both these township water supply systems contain collections of buildings and structures constructed over several decades. However, neither Benalla nor Bairnsdale feature cylindrical brick water towers with iron tanks, which is a feature associated with nineteenth century water supply systems in Victoria.

The Swan Hill Water Tower is most directly related to the former Kerang Water Tower (HO5) which was also built by the Swan Hill Shire Waterworks Trust at the same time. Both the Kerang and Swan Hill towers were built by the same contractor and are of brick construction supporting rivetted iron tanks. Both tanks drew water from nearby rivers. However, the Kerang Water Tower is shorter in height and the integrity of the tower has been affected by the addition of a metal and glass observation deck on top of the structure. The Kerang Water Tower was assessed for the VHR in 2008. The Heritage Council resolved not to include the place in the VHR but to recommend it for consideration for inclusion in the local planning scheme.

All the comparative examples found in this report are, with the exception of Kerang, unbuttressed cylindrical brick towers. Built from the 1880s, these water towers drew water from nearby rivers by means of pumping stations to supply rivetted iron tanks. In the case of Mooroopna and Shepparton, the rivetted iron tank no longer remains. In all cases, the above examples were augmented or supplanted in the twentieth century by new water towers and tanks, usually of concrete construction.

Although the pump house at Swan Hill no longer survives, the Swan Hill Water Tower itself remains an imposing, refined and intact example of its class. Architecturally, the imposing height and prominent buttressed form, complemented by fine brickwork, distinguishes the Swan Hill Water Tower. It is considered to be of a similar level of significance to the water towers at Elmore (VHR H1678) and Murtoa (VHR H1193) and superior to the selected comparators that are currently protected at a municipal level in Heritage Overlays.

Summary of cultural heritage significance (section 40(4)(a))

The Executive Director recommends that Swan Hill Water Tower be included in the VHR in the category of Registered Place.

Statement of significance

What is significant?

The Swan Hill Water Tower, constructed in 1883 by the Swan Hill Shire Waterworks Trust under the supervision of engineer Henry Charles Kempson. It was the first of several water towers constructed in Swan Hill and supplied water to the township from 1883 to the 1950s. The Swan Hill Water Tower is a tall brick water tower featuring a permanent buttressed form supporting a riveted iron tank.

How is it significant?

The Swan Hill Water Tower is of historical and architectural significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

Criterion A

Importance to the course, or pattern of Victoria's cultural history.

Criterion D

Importance in demonstrating the principal characteristics of a class of cultural places and objects.

Why is it significant?

The Swan Hill Water Tower is of historical significance as an example of major infrastructure constructed by a local water trust in Victoria in the late nineteenth-century. The water tower was built by the Swan Hill Shire Water Trust in 1883. Its construction followed a period of drought in the 1870s which affected much of northern Victoria. The 1870s drought led to a Government inquiry and legislation that enabled the formation of local water trusts and the building of water infrastructure. This infrastructure was designed to ensure consistent water supply and enabled the growth and expansion of townships and settlements across the semi-arid regions of the Wimmera, the Mallee and northern Victoria. The Swan Hill Water Tower is an example of early and substantial infrastructure from the local water trust phase of the late nineteenth-century which applied until the creation of the State Rivers and Water Supply Commission in 1905. The water tower was essential to the provision of a reticulated water-supply for the development of Swan Hill as a major population centre in regional Victoria. [Criterion A]

The Swan Hill Water Tower is architecturally significant for being a notable, fine and intact example of a nineteenth-century water tower. With its impressive height, rivetted iron tank, and fine brickwork, the Swan Hill Water Tower demonstrates the high-quality work of nineteenth-century bricklayers, builders and engineers. The prominent buttressed form displayed by the Swan Hill Water Tower is a variation to the design of most nineteenth century water towers to be found in Victoria. [Criterion D]

Recommended permit exemptions under section 38

Introduction

A heritage permit is required for all works and activities undertaken in relation to VHR places and objects. Certain works and activities are exempt from a heritage permit, if the proposed works will not harm the cultural heritage significance of the heritage place or object.

Permit Policy

It is recommended that a Conservation Management Plan is prepared to manage the place/object type in a manner which respects its cultural heritage significance.

Permit Exemptions

General Exemptions

General exemptions apply to all places and objects included in the VHR. General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which do not harm its cultural heritage significance, to proceed without the need to obtain approvals under the Act.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions here

If not including specific exemptions, delete the remainder of the permit exemption content from here down.

Specific Exemptions

The works and activities below are not considered to cause harm to the cultural heritage significance of the Swan Hill Water Tower subject to the following guidelines and conditions:

Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the Act and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.
5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.

6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works or activities in accordance with this category. Approvals under Part 5 of the Act must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.
8. All works should be informed by a Conservation Management Plan prepared for the place or object. The Executive Director is not bound by any Conservation Management Plan and permits still must be obtained for works suggested in any Conservation Management Plan.

Conditions

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.
2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006*.
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Secretary (as defined in the *Aboriginal Heritage Act 2006*.

Exempt works and activities

Swimming pool, water slide and any associated structures

- Maintenance and repair of the existing water slide and associated swimming pool structures, providing there is no damage to or alteration of the original structure or fabric of the Water Tower.
- Demolition or removal of the existing water slide and associated swimming pool structures, providing there is no damage to or alteration of the original structure or fabric of the Water Tower.

Soft landscaping

- Removal, pruning and lopping of all vegetation.

Footpaths and road reservation

- Maintenance, repairs and replacement of footpaths and ancillary works within the road reservation.

Appendix 1

Heritage Council determination (section 41)

The Heritage Council is an independent statutory body that will make a determination on this recommendation under section 49 of the Act. It will consider the recommendation after a period of 60 days from the date the notice of recommendation is published on its website under section 41.

Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website.

Consideration of submissions to the Heritage Council (section 46)

(1) The Heritage Council must consider—

(a) any written submission made to it under section 44; and

(b) any further information provided to the Heritage Council in response to a request under section 45.

(2) The Heritage Council must conduct a hearing in relation to a submission if—

(a) the submission includes a request for a hearing before the Heritage Council; and

(b) the submission is made by a person or body with a real or substantial interest in the place or object that is the subject of the submission.

(3) Despite subsection (2), the Heritage Council may conduct a hearing in relation to a submission in any other circumstances the Heritage Council considers appropriate.

Determinations of the Heritage Council (section 49)

(1) After considering a recommendation that a place or object should or should not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing into the submissions, the Heritage Council may—

(a) determine that the place or part of the place, or object, is of State-level cultural heritage significance and is to be included in the Heritage Register; or

(b) determine that the place or part of the place, or object, is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

(c) in the case of a recommendation in respect of a place, determine that the place is not to be included in the Heritage Register but—

(i) refer the recommendation and any submissions to the relevant planning authority for consideration for an amendment to a planning scheme; or

(ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place; or

(d) in the case of a recommendation in respect of additional land which has been nominated to be included in the Heritage Register as part of a registered place in accordance with section 32, determine that the land be included in the Heritage Register if—

(i) the State-level cultural heritage significance of the place would be substantially less if the land or any part of the land which is or has been used in conjunction with the place were developed; or

(ii) the land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the place; or

(e) determine that the object is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register.

(2) The Heritage Council must make a determination under subsection (1)—

(a) within 40 days after the date on which written submissions may be made under section 44; or

(b) if any hearing is conducted into the written submissions, within 90 days after the completion of the hearing.

(3) A determination that a place or part of a place, or object, should be included in the Heritage Register may include categories of works or activities which may be carried out in relation to the place or object for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place or object.

(4) If the Heritage Council determines to include a place in the Heritage Register, with the consent of the owner of the place, the Heritage Council may determine to include in the Heritage Register additional land of the owner that is ancillary to the place.

(5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.

(6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

Obligations of owners of places and objects (section 42)

(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 or 52 in respect 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.

(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 proposed contract, is to acquire the place or object or part of the place or object.

Owners of places and objects must comply with obligations (section 43)

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.