



Heritage Victoria and Heritage Council of Victoria Policy

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

Adopted 4 June 2020

Purpose

1. This document is intended to provide guidance as to the matters that should be considered by the Executive Director of Heritage Victoria (**the Executive Director**) or the Heritage Council of Victoria (**Heritage Council**) in exercising discretion in making an Interim Protection Order (**IPO**) under s143(1) of the *Heritage Act 2017* (**the Act**).
2. The Executive Director and the Heritage Council exercise parallel powers in determining whether to make an IPO. A request for an IPO may be made to the Executive Director and/or the Heritage Council and each organisation will consider the request independently of the other. The document is intended to assist:
 - 2.1 Heritage Victoria staff advising the Executive Director (or delegate) on a request for an IPO to be made.
 - 2.2 The Executive Director (or delegate) in considering whether or not to make an IPO.
 - 2.3 The Heritage Council in considering whether or not to make an IPO.

Relevant legislation

3. S143(1) of the Act provides:

The Heritage Council or the Executive Director may make an interim protection order in relation to a place or object if, in the opinion of the Heritage Council or the Executive Director, it is necessary or desirable to do so for the purposes of this Act.
4. The purposes of the Act are defined in s1 which includes:

The main purposes of this Act are-

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

Policy Statement

5. This policy applies to the consideration of whether or not to make an IPO under s143(1) of the Act.



6. If the Executive Director or the Heritage Council forms the opinion that the place or object may have a prima facie case for inclusion in the Victorian Heritage Register (**the Register**) AND is under immediate or imminent threat of damage or destruction that may detrimentally affect the cultural heritage significance of that place or object, they may make an IPO.

Note: The Executive Director or the Heritage Council will not consider that a place or object is under immediate or imminent threat purely on the basis of the intention of the owner to sell, lease or dispose of the property or that title has transferred or changed hands.

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

7. In considering whether or not there is a prime facie case for inclusion of a place or object in the Register, the Executive Director or the Heritage Council may take into account:
- 7.1 whether or not a completed nomination to the Register for the place or object that meets the requirements of s27 and s28 of the Act has been accepted;
 - 7.2 whether or not the place or object has been identified as meeting the threshold for inclusion in the Register in an area, thematic, typological or other heritage study prepared by a suitably qualified heritage consultant or other relevant professional;
 - 7.3 whether or not the Heritage Council has previously determined not to include the place or object in the Register and no material new information has been received since the determination;
 - 7.4 any other material that may constitute evidence of a prima facie case for inclusion in the Register.

Immediate or imminent threat

8. In considering whether or not a place or object is under immediate or imminent threat, the Executive Director or the Heritage Council may take into account:
- 8.1 whether the place is subject to a Heritage Overlay in a planning scheme;
 - 8.2 whether a planning permit has or has not been issued by the responsible authority for the redevelopment of the place or object;
 - 8.3 whether or not a demolition permit has been issued under the *Building Act 1993*;
 - 8.4 whether there is evidence of plant and equipment being mobilised for the purposes of demolishing the place or object;
 - 8.5 whether there is evidence of an imminent proposal to destroy, remove or disassemble the object (or group of objects) or elements of the place;
 - 8.6 whether there are known proposals to relocate the object to another location.