Heritage Council of Victoria

PRACTICE NOTE

Use of Generative Artificial Intelligence (Gen AI) in Heritage Council of Victoria Proceedings[1]

Adopted by the Heritage Council 6 November 2025

Commencement

01. This Practice Note was endorsed by the Heritage Council on 6 November 2025. It applies to the following proceedings of the Heritage Council under the *Heritage Act 2017* (Vic) that commenced after that date:

(a) Registration hearings

(b) Permit reviews and hearings

(c) Exclusion determination reviews

(d) Nomination reviews

(e) Archaeological consent reviews.

Introduction

02. Generative AI ('Gen AI') is a form of artificial intelligence that is capable of creating new content, including text, images or sounds, based on patterns and data acquired from a body of training material. That training material may include information obtained from 'scraping' publicly and privately available text sources to produce large language models.

03. Gen AI may take the form of generic large language model programs such as Chat-GPT, Claude, Grok, Llama, Google Bard, Co-Pilot, AI Media or Read AI or more bespoke programs specifically directed to lawyers such as Lexis Advance AI, ChatGPT for Law, Westlaw Precision, AI Lawyer, Luminance and CoCounsel Core. These examples are not intended to be exhaustive. Such programs may use 'chatbots' and prompt requests and refined requests from users.

04. This Practice Note applies to both closed-source and open-source large language model Gen AI.

05. Gen AI is capable of being used to assist legal practitioners and unrepresented parties with various tasks, including drafting documents and summarising information. This Practice Note is directed to the circumstances where such use is acceptable.

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[1] This Practice Note has been adapted from the Land and Environment Court of New South Wales *Practice Note: Use of Generative Artificial Intelligence (Gen AI)*, issued by the Honourable Justice Brian J Preston, Chief Judge, 11 February 2025, and the current *Guidelines for litigants: responsible use of artificial intelligence in litigation* Supreme Court of Victoria, December 2023 and the County Court of Victoria, July 2024.

06. For the avoidance of doubt, for the purposes of this Practice Note, Gen AI does not include technology or functionality which merely corrects spelling or grammar, provides transcription or translation, assists with formatting and otherwise does not generate substantive content, and nothing in this Practice Note is intended to preclude or apply to the use of:

   (a) search engines such as Google which produce a list of websites that match search criteria but which do not produce an apparently personalised textual answer in response to a specific prompt;

   (b) dedicated legal research software which uses AI or machine learning to conduct searches across material comprising legislation or subordinate legislation, judgments of courts or tribunals, and/or books or articles written for a legal audience.

07. Legal practitioners and self-represented parties should be aware of limits, risks and shortcomings of Gen AI programs. These may include:

   (a) the scope for 'hallucinations', that is, the generation of apparently plausible, authoritative and coherent responses but which are in fact inaccurate or fictitious. Examples include false citations and fabricated legislative, case or other secondary references;

   (b) the dependence of Gen AI on the quality and reach of underlying data sets, including the possibility that that underlying database(s) may include misinformation or selective or incomplete data, data that is not up to date or data that is not relevant in Victoria or Australia;

   (c) the scope for biased or inaccurate output including by reason of the nature or limitations of the underlying data sets;

   (d) the fact that any search requests or prompts entered into a Gen AI program may be automatically added to the large language model database, remembered and used to respond to queries from other users;

   (e) the lack of adequate safeguards to preserve the confidentiality, privacy or legal professional privilege that may attach to information or otherwise sensitive material submitted to a public Gen AI program; and

   (f) the fact that data contained in a Gen AI data set or database may have been obtained in breach of copyright.

08. Legal practitioners and unrepresented parties should also be aware that data entered into Gen AI programs may be used to train large language models, potentially making confidential information available to others.

09. Witnesses should ensure that documents filed in accordance with *Heritage Council Protocol 6 – Expert Evidence* reflect that person's own knowledge and words.

10. A party or practitioner signing or certifying a document, filing a document with the Heritage Council, or otherwise relying on a document's contents in a proceeding, remains responsible for accuracy of the content. Whether a document before the Heritage Council is signed by an individual or on behalf of a firm, the act of signing a document that is filed with the Heritage Council is a representation that the document is considered by those preparing it to be accurate and complete. Reliance on the fact that a document was prepared with the assistance of a Gen AI tool is unlikely to adequately account for a document that contains errors or omissions.

General prohibition on information entered into Gen AI

11. Information which is not in the public domain (for example, the names, contact details and written submissions of other parties to a Heritage Council of Victoria proceeding and any matter which the Heritage Council or Regulatory Committee has ruled confidential), or any material that is the subject of a statutory prohibition upon publication, must **not** be entered into any Gen AI program.

12. In rare cases, an exception to paragraph 11 may apply if the legal practitioner or unrepresented party can demonstrate that the information:

(a) will remain within the controlled environment of the technological platform being used and that the platform is the subject of confidentiality restrictions on the supplier of the relevant technology or functionality to ensure that the data is not made publicly available and is not used to train any large language models;

(b) is to be used only in connection with that proceeding (unless otherwise required or permitted by law to be disclosed or required to be reviewed by a law enforcement agency for policy purposes);

(c) is not used to train the Gen AI program and/or any large language model.

13. Subject to paragraph 11 and for the avoidance of doubt, a Gen AI program may be used for any of the following purposes:

(a) the generation of chronologies and indexes;

(b) the summarising or review of publicly available documents and transcripts;

(c) the preparation of written submissions or summaries of argument (subject to paragraphs 14 to 16 below).

Written submissions and summaries of argument

14. Where Gen AI has been used in the preparation of written submissions or summaries or skeletons of argument, the author must verify in the body of the submissions, summaries or skeleton, that all citations, legal and academic authority and case law and legislative references:

(a) exist;

(b) are accurate;

(c) are relevant to the proceedings;

(d) and make similar verification in relation to references to evidence in written submissions or summaries or skeletons of argument to evidence.

15. Such verification must not be solely carried out by using a Gen AI tool or program.

16. Any use of Gen AI to prepare written submissions or other hearing materials does not qualify or absolve the author(s) of any professional or ethical obligations to the Heritage Councill of Victoria or the administration of justice.

Expert evidence reports

17. Expert evidence reports are required to state the opinion or opinions of the expert, and his or her reasoning process.

18. Gen AI must not be used to draft or prepare the content of an expert evidence report (or any part of an expert report) except in accordance with the requirements and obligations in *Heritage Council Protocol 6 – Expert Evidence*.

19. Legal practitioners and unrepresented parties must draw the requirements of this Practice Note and *Heritage Council Protocol 6 – Expert Evidence* to the attention of experts when instructing them.

Use of Gen AI by Heritage Council of Victoria Members and Officers

20. The Heritage Council of Victoria is bound by Department of Transport and Planning policies regarding the use of Gen AI.

21. Gen AI is not used by the Heritage Council of Victoria for decision making, nor is it used to develop or prepare statements of reasons for decision.

Review

22. Due to the rapidly developing nature of Gen AI, this Practice Note will be periodically reviewed.