

Changes to The Aboriginal Heritage Act

Prepared by:

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What's changed?

The Aboriginal Heritage Amendment Bill was passed on 22 March 2016. It amends the Aboriginal Heritage Act 2006 which has been in operation since 2007. Amendments include a number of significant changes to the way that Aboriginal heritage is managed in Victoria.

The general scheme of the original Act remains in place. It continues to be the case that Aboriginal heritage may not be legally harmed other than in accordance with Cultural Heritage Management Plans (CHMPs) or specific agreements and permits.

The Amendments are aimed at increasing protection for Aboriginal Cultural Heritage, improving reporting requirements and providing an increased role for Traditional Owners.

When do the changes take effect?

The Amendments come into effect **01 August 2016**. Regulations are currently being developed and some measures will be introduced gradually from this date.

What are the main features?

- Preliminary Aboriginal Heritage Test – a new formal process to determine whether a CHMP is required
- Ability to make minor amendments to a CHMP less than 5 years old
- A “Stop the Clock” mechanism during CHMP evaluation
- Wider access to The Registry
- New agreements for managing public land
- New measures for managing Intangible Heritage and Ancestral Remains
- Greater enforcement
- Increased roles for Registered Aboriginal Parties and Traditional Owners

Contact Andrew Orr on 0411217404 for further info.

How will this affect my Project?

Introduction of a voluntary Preliminary Aboriginal Heritage Test (PAHT): The PAHT is aimed at replacing the current Due Diligence process which investigates whether a CHMP is required. The PAHT a formal process involving the Traditional Owners, with AV as the decision maker.

Enforcement: There is a new suite of offences which focus on adherence to the CHMP process. It an offence to commence works without a CHMP (if one is required). “Recommendations” are now termed “Conditions” with associated penalties for non-compliance.

Costs: A fee structure will be introduced. AV have yet to detail associated costs. Costs in Non-RAP areas are likely to now be on a par with those in RAP areas.

Timing: The introduction of a “stop the clock” mechanism for approvals should facilitate the speedy resolution of issues during CHMP evaluation. This replaces the previous system which involved the 30-day evaluation period recommencing.

Contact Andrew Orr MA at Triskel Heritage Consultants for further info.

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Glossary – terms and abbreviations

AV/Aboriginal Victoria: formerly known as (Office of) Aboriginal Affairs Victoria

AAG/Aboriginal Advisory Group: A group made up of Traditional Owners, appointed to advise on a proposed activity and its impact on Aboriginal cultural heritage. Their role includes participating in assessment and consulting with the Sponsor.

ACHLMA/Aboriginal Cultural Heritage Land Management Agreement: A formal agreement between a land manager and a registered Aboriginal party for the purposes of managing or protecting Aboriginal cultural heritage in a specified area.

PAHT/Preliminary Aboriginal Heritage Test: A formal process to determine whether a CHMP is required.

RAP/Registered Aboriginal Party: An Aboriginal Organisation that has been appointed to have rights and responsibilities under the Aboriginal Heritage Act.

Heritage Advisor: replaces the term Cultural Heritage Advisor. An individual that meets the necessary qualifications to prepare CHMPs.

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