

The purpose of this VPP Practice Note is to give guidance about the use of the Heritage Overlay in new format planning schemes.

What places should be included in the heritage overlay?

- Any place that has been listed on the Australian Heritage Commission's *Register of the National Estate*.
- Any place that has been recommended for planning scheme protection by the Heritage Council.
- Places listed on the *National Trust Register* of the National Trust of Australia (Victoria), provided the significance of the place can be shown to justify the application of the overlay.
- Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay

All places that are proposed for planning scheme protection, including places identified in a heritage study, should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.

Places listed on the *Register of the National Estate* (except Commonwealth places) or on the *National Trust Register* of the National Trust of Australia (Victoria) do not have statutory protection unless they are protected in the planning scheme.

The heritage process leading to the identification of the place should be undertaken with rigour. The documentation for each place should include a statement of significance that clearly establishes the importance of the place.

What are recognised heritage criteria?

Recognised heritage criteria should be used for the assessment of the heritage values of the heritage place. Heritage criteria which could be adopted for the assessment of heritage places include those adopted by the Australian Heritage Commission or Heritage Victoria. The Australian Heritage Commission's assessment criteria have the benefit of encompassing natural and cultural heritage places, including aboriginal places.

Under the Australian Heritage Commission's eight broad criteria, a place may possess significance or other special value for future generations as well as the present community because of:

- Criterion A:** its importance in the course, or pattern, of Australia's natural or cultural history
- Criterion B:** its possession of uncommon, rare or endangered aspects of Australia's natural or cultural history
- Criterion C:** its potential to yield information that will contribute to an understanding of Australia's natural or cultural history
- Criterion D:** its importance in demonstrating the principal characteristics of:
- (i) a class of Australia's natural or cultural places; or
 - (ii) a class of Australia's natural or cultural environments
- Criterion E:** its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group
- Criterion F:** its importance in demonstrating a high degree of creative or technical achievement at a particular period
- Criterion G:** its strong or special associations with a particular community or cultural group for social, cultural or spiritual reasons
- Criterion H:** its special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history.

The Australian Heritage Commission has adopted more specific sub-criteria for each of the above eight criteria.

Other heritage criteria exist for the assessment of heritage places and have been used over the years. They include the criteria used by the Victorian Heritage Council and those set out in the Department of Infrastructure's 1991 publication, *Local Government Heritage Guidelines*. These or other criteria sets may be acceptable. The most important thing is that the assessment of heritage places has been rigorous and that heritage controls are applied judiciously and with justification.

Additional resources may be required

When introducing the Heritage Overlay, councils should consider the resources required to administer the heritage controls and to provide assistance and advice to affected property owners. This might include providing community access to a heritage adviser or other technical or financial assistance.

Drafting the heritage overlay schedule

The example of a Heritage Overlay schedule, shows how the schedule is used.

WHAT IS A HERITAGE PLACE?

A heritage place could include a site, area, building, group of buildings, structure, archaeological site, tree, garden, geological formation, fossil site, habitat or other place of natural or cultural significance and its associated land. It cannot include movable or portable objects (such as machinery within a factory or furniture within a house).

WHAT IS THE PLANNING SCHEME MAP REFERENCE NUMBER?

In column one of the schedule, the Planning Scheme Map Reference prefix should read HO1, HO2, HO3 etc. Each heritage place in the schedule will have its own identifying number. The planning scheme maps should also record these numbers as a cross reference between the maps and the schedule.

STREET NUMBERS AND LOCATION DESCRIPTIONS

Street numbers and locality addresses should be included for properties wherever possible. Where a street address is not available, plan of subdivision details (for example, Lot 1 of PS12345) should be used. Avoid using Crown Allotment details, Certificate of Title details or obscure location descriptions if possible.

HOW SHOULD THE HERITAGE SCHEDULE BE ARRANGED?

There are two preferred options for arranging the schedule. Heritage places may be grouped according to their suburb, town or location and then arranged alphabetically by street address within each grouping. Alternatively, all places may be listed alphabetically by their street address irrespective of their location. Use the method which most assists users of the planning scheme to find the relevant property by a simple search through the schedule.

APPLYING EXTERNAL PAINTING CONTROLS

Councils can nominate in the schedule whether they wish to apply external painting controls over particular heritage places. External painting controls are applied by including a 'yes' in the External Paint Controls Apply? column.

APPLYING INTERNAL ALTERATIONS CONTROLS

The schedule can nominate whether internal alteration controls are to apply over specified buildings. External painting controls are implemented by including a 'yes' in the Internal Alteration Controls Apply? column. This provision should be applied sparingly and on a selective basis to special interiors of high significance. The statement of significance for the heritage place should explain what is significant about the interior and why it is important.

APPLYING TREE CONTROLS

The schedule can apply tree controls over heritage places. The tree controls could apply to the whole of a heritage place (for example, over a house site or an area) or a tree or group of trees could be specifically nominated as the heritage place. Tree controls are applied by including a 'yes' in the Tree Controls Apply? column.

The control is designed to protect trees that are of intrinsic significance (such as trees that are included on the National Trust register or trees that contribute to the significance of a heritage place (for example, trees that contribute to the significance of a garden or area). The control is not meant to protect trees for their amenity value. See the VPP Practice Note *Vegetation Protection in Urban Areas* for alternative methods of vegetation protection.

How should places on the Victorian Heritage Register be treated in the schedule?

Under Clause 43.01-3, places on the *Victorian Heritage Register* are subject to the requirements of the Heritage Act 1995 and not the planning provisions of the Heritage Overlay. Places included on the *Victorian Heritage Register* should be listed in the schedule.

A dash should be recorded in columns three (external paint controls), four (internal alteration controls), five (tree controls) and six (outbuildings and fences) to avoid any possible confusion as to whether planning controls apply to these properties. In column seven ('Included on the *Victorian Heritage Register* ...') the reference number of the property on the *Victorian Heritage Register* should be included as an aid to users of the planning scheme.

The *Government Buildings Register* was abolished in May 1998. Some buildings were removed from this register while others were automatically transferred onto the *Victorian Heritage Register*. If there is any uncertainty about which places were transferred to the *Victorian Heritage Register*, contact Heritage Victoria. A new register number will also apply to these places.

Allowing a prohibited use of a heritage place

Specific places can be nominated in the schedule so that it is possible to apply for a permit for a prohibited use. To allow prohibited uses to be considered, include a 'yes' in the Prohibited uses may be permitted? column.

This provision should not be applied to significant areas as to do so might result in the de facto rezoning of a large area. The provision should only be applied to a limited range of places. For example, the provision might be used for redundant churches, warehouses or other large building complexes where it is considered that the existing uses will create difficulties for the future conservation of the building. Currently this provision applies in the metropolitan area of Melbourne to places that are included on the *Victorian Heritage Register*.

Aboriginal heritage places

Scarred trees, stone arrangements and other places significant for their Aboriginal associations may also be included in the Heritage Overlay. Such places should be identified by including a 'yes' in the **Aboriginal Heritage Place?** column. As with any place to which the Heritage Overlay applies, it is expected that there will be supporting justification for the application of the control.

The standard permit requirements of Clause 43.01-1 of the Heritage Overlay apply to Aboriginal heritage places included in the schedule. In addition, Clause 43.01-7 reminds responsible authorities that the requirements of the *Archaeological and Aboriginal Relics Preservation Act 1972* and the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* also apply to these places.

It is recommended that planning authorities consult with the Aboriginal Heritage Services Branch of Aboriginal Affairs Victoria (Ph 9616 7777) prior to applying the Heritage Overlay to an Aboriginal heritage place.

How are conservation precincts and areas treated?

Significant precincts and areas should be identified in the schedule as well as being mapped.

How are individual buildings, trees or properties of significance located within significant areas treated?

As the controls applying to individual buildings and structures are the same as the controls applying to areas, there is no need to separately schedule and map a significant building, feature or property located within a significant area.

The Heritage Overlay map, like all overlay maps, is intended to show which places are subject to a control. The Heritage Overlay map is not intended to indicate those buildings, structures, trees or other features considered to be important within a significant area.

The only instance where an individual property within a significant area should be scheduled and mapped is in instances where it is proposed to trigger a variation to the control. For example, external painting controls may be justified over an individual building of significance but not over the heritage precinct in which the building is located. Alternatively, tree controls over a specific tree or property within a significant precinct but not over the precinct as a whole. In such situations the individual property or tree should be both scheduled and mapped.

If it is considered important to identify the significant buildings or structures within a significant precinct, this can be achieved through a local planning policy.

How is a building, tree or feature on a large parcel of land listed and mapped?

The Heritage Overlay applies to both the listed heritage item and its associated land (refer Clause 43.01 - Scope). It is usually important to include land surrounding a building, structure, tree or feature of importance to ensure that any new development does not adversely affect the setting or context of the significant feature. In most situations, the extent of the control will be the whole of the property (for example, a suburban dwelling and its allotment).

However, there will be occasions when the control should be reduced in its extent so that it does not apply to the whole of the property. Examples might include:

- a homestead on a large pastoral property where only the buildings and their immediate surroundings are important but not the remainder of the property
- a significant specimen tree on an otherwise unimportant property
- a horse-trough, fountain or monument in a road reservation
- a grandstand or shelter in a large but otherwise unimportant public park.

Where a heritage place does not encompass the whole of the property, care should be taken to show the most accurate parcel of land affected by the control. For instance, if a homestead is affected by the Heritage Overlay but not the whole of the farm, a polygon should be allocated to the area of affected buildings and associated land. The wording to describe the Heritage Place in the schedule should be specific to identify the area covered by the overlay control. (See the example of Heritage Place HO4 in the attached schedule.)

Mapping Heritage places

All heritage places, both individual properties and areas, should be both scheduled and mapped.

However, mapping some heritage places may need to be undertaken in the long term as it is recognised that precise cadastral information for some places is currently not available. This is especially true of some places on the *Victorian Heritage Register*. The Heritage Overlay allows a heritage place to be included in the schedule without being mapped. Heritage places which are not mapped should be mapped as soon as practicable.

