

NOMINATION REVIEWS

This protocol outlines the Heritage Council's process for conducting Nomination Reviews under s.30 of the *Heritage Act 2017* (the Act). Nomination Reviews will ordinarily follow the steps and timeframes set out below, although the steps and timeframes may be subject to change at the direction of the Heritage Council. Hearings will not be held into Nomination Reviews.

1. Request for a Nomination Review

- 1.1 Under s.29 of the Heritage Act, the Executive Director may refuse a nomination of a place or object to the Victorian Heritage Register if the Executive Director considers that the place or object has no reasonable prospect of inclusion in the Victorian Heritage Register.
- 1.2 The nominator may request the Heritage Council review a decision by the Executive Director to refuse a nomination [s.30(1)].
- 1.3 The request to the Heritage Council must be in writing (see *Heritage Council Form G – Request for a Nomination Review* at: <http://heritagecouncil.vic.gov.au/heritage-protection/new-registrations>) and must be lodged within 28 days of the Executive Director's decision to refuse the nomination.
- 1.4 For the request to be valid, it must be accompanied by the prescribed fee.

2. The Nomination Review

- 2.1 At least three (3) members of the Heritage Council will conduct the Nomination Review (the Committee).
- 2.2 Notification
 - 2.2.1 Upon receipt of a Nomination Review request, the following people and organisations will be notified that a review will be held by the Committee:
 - (i) the Executive Director, Heritage Victoria;
 - (ii) the nominator
 - (iii) the responsible authority for the area in which the place or object is located and, if the responsible authority is not a municipal council, the relevant municipal council;
 - (iv) any person who the Heritage Council allows in order to inform itself.
 - 2.3 Request for Information
 - 2.3.1 The Committee will request the Executive Director to provide all information used in determining to refuse the nomination [s.30(3)].
 - 2.3.2 The Committee will also provide the opportunity for others identified at 2.2.1 above to provide additional information that will assist the Committee in undertaking its Nomination Review.
 - 2.3.3 Information requested by the Committee must be provided within 14 days of the information request being made.
 - 2.3.4 Information received by the Committee will be circulated to all those identified at 2.2.1 above and those people and organisations will be provided with a further 7 days in which to respond to matters raised in the further information.
 - 2.3.5 If in the process of obtaining the additional information the Committee receives new information from the nominator that the Committee considers is material, the Committee must remit the matter to the Executive Director for reconsideration [s.30(6)].

HERITAGE COUNCIL PROTOCOL 3

2.4 Meeting of the Committee

- 2.4.1 If the Committee considers it necessary, it will ask those people and organisations identified at 2.2.1 above to attend a meeting of the Committee.
- 2.4.2 The meeting will provide an opportunity for the Committee to directly ask questions of affected parties to assist the Committee in completing its review.
- 2.4.3 The meeting is not a hearing and will be informal. It will not involve the presentation of submissions or evidence and will not provide an opportunity for direct questioning between the attendees.

2.5 Matters to be Considered

- 2.5.1 The relevant matter to be considered in a Nomination Review is whether the place or object has 'no reasonable prospect' of inclusion in the Victorian Heritage Register.

2.6 Site Inspection

- 2.6.1 The Committee may conduct a site inspection as part of the Nomination Review.
- 2.6.2 Ordinarily site inspections will be unaccompanied, except for the Hearings Coordinator. A representative of the owner may be in attendance if it is necessary to obtain access or for security reasons.

2.7 Withdrawals

- 2.7.1 A 'withdrawal' is a written notification from the nominator that they no longer wish the Committee to conduct a Nomination Review.
- 2.7.2 The Committee must be notified of the withdrawal in writing as soon as practicable.
- 2.7.3 On receipt of notification of a withdrawal, the Committee will cease the Nomination Review and the Executive Director's original determination will stand.

3 Determination of the Nomination Review

- 3.1 The Committee must make a determination on the Nomination Review within 40 days of the Nomination Review request being made [s.30(7)].
- 3.2 In determining the Nomination Review, the Committee may:
 - (a) Affirm the determination of the Executive Director [s.30(5)(a)]
 - (b) Set aside the determination of the Executive Director and make another determination in substitution for it [s.30(5)(b)]
 - (c) Set aside the determination and remit the matter for reconsideration by the Executive Director in accordance with any directions or recommendations [s.30(5)(c)]
- 3.3 A statement of reasons for the decision will be provided to all people and organisations involved in the matter as well as the responsible authority for the area in which the place or object is situated and will be made available through the Heritage Council's website and Australian Legal Information Institute's Victorian Law Resources at www.austlii.edu.au/au/vic.
- 3.4 Each person participating in the review is to bear their own costs. The Heritage Council is not able to award costs and determinations will not address any claims for costs.

4 Further Reference

- (i) *Heritage Act 2017* (<http://heritagecouncil.vic.gov.au/heritage-protection/new-registrations/>)
- (ii) Heritage Council Hearings Coordinator (phone (03) 9651 5060 or email heritage.council@delwp.vic.gov.au)