

# **Heritage Council** Regulatory Committee

## **Pella St Johns Lutheran Church Complex (PROV H2444)**

220 Pella Church Road, Rainbow

‘On the papers’ consideration

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### **DETERMINATION OF THE HERITAGE COUNCIL**

**Inclusion in the Victorian Heritage Register** – After considering the Executive Director’s recommendation, and all submissions received, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017* (Vic), that the Pella St Johns Lutheran Church Complex at 220 Pella Church Road, Rainbow, Victoria is of State-level cultural heritage significance and is to be included in the Victorian Heritage Register.

**Margaret Baird (Chair)**  
**Michael McMahon**  
**Dr Ursula de Jong**

**Decision Date** – 5 June 2024

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## ACKNOWLEDGEMENT

As a peak heritage body, we acknowledge the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

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## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### CONFLICTS OF INTEREST

01. Before appointment, the Heritage Council Regulatory Committee ('the Committee') was invited to consider whether written declarations or otherwise were required to be made in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest. All members were satisfied that there were no relevant conflicts of interests and made no such declarations.

### FUTURE USE, MAINTENANCE AND DEVELOPMENT OF THE PLACE

02. It is not the role of the Committee to consider future proposals or to pre-empt any decisions regarding future permits under the *Heritage Act 2017* ('the Act'). Pursuant to section 49(1) of the Act, the role of the Committee is to determine whether the Pella St Johns Lutheran Church Complex at 220 Pella Church Road, Rainbow, Victoria ('the Place') or part of it, is of State-level cultural heritage significance and is, or is not, to be included in the Victorian Heritage Register ('Register').

## INTRODUCTION/BACKGROUND

### NOMINATION & RECOMMENDATION OF THE EXECUTIVE DIRECTOR

03. On 28 June 2023, the Executive Director made and accepted a nomination to include the Place in the Register ('the Nomination').
04. On 16 January 2023, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council pursuant to Part 3, Division 3, of the Act. The Recommendation submitted that the Place should be included in the Register in the category of Registered Place and Registered Object Integral to a Registered Place.
05. The Place is described on page 3 of the Recommendation as follows:

*"The Pella St Johns Lutheran Church Complex is located on the traditional land of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk People.*

*The complex*

*The Pella St Johns Lutheran Church Complex comprises three coursed limestone rubble single-storey buildings (church, school and manse), four outbuildings, and three water tanks located in an expansive rural landscape setting.*

*School and object integral*

*The building at the west of the complex is the school (1903) constructed in a simple utilitarian style. It is a single volume space, and has a timber ceiling,*

*corrugated iron gable roof, and chimney on the west side. The school currently operates as a museum and contains many objects and photos related to the history of German settlement in the area. One object integral is located in this building:*

- *Original school desk.*

#### *Church and objects integral*

*The building at the centre of the complex is the church (1911). It is constructed in a Federation Gothic Revival style<sup>1</sup> and uses the same masonry techniques as the school and manse. The building has a corrugated iron roof with parapeted gables, stepped buttresses, a timber ceiling and pointed arch windows with leadlight diamond pane glass. The front facade has a group of three pointed arch windows above a central buttress flanked by pointed arch doors. The church retains the following objects integral:*

- *Timber pulpit*
- *Hymn board, letters, numbers and wooden box*
- *Timber baptismal font and glass bowl*
- *Timber altar and candleholders*
- *Timber lectern*
- *27 church pews*
- *Fuller organ.*

*The Fuller Organ (1885)<sup>2</sup> is located at the south end of the nave and retains its attractive painted case, with diapered facade pipes, pipework, tonal scheme, mechanical action and console fittings.*

#### *Manse*

*The building at the east of the complex is the manse (1909) constructed using the same masonry techniques as the church and school. It has a corrugated iron verandah supported by timber posts which wraps around the building. There are five rooms and a west facing kitchen, outbuildings and tanks. Two older WC structures are located around 30 metres south of the church. A modern toilet block is located about 7 metres south of the manse, and a modern utility shed a further 13 metres south. A stone cairn and plaque celebrating 100 years of worship at St Johns is located around 9 metres southeast of the church. There are three modern circular water tanks at the place, one at the rear of the church, and two at the rear of the modern toilet block.”*

- 06.** The Recommendation provides that the Place is of historical and architectural significance to the State of Victoria and satisfies the following criteria for inclusion in Register:

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<sup>1</sup> The Committee considers that use of the terms ‘Federation Gothic revival’ to describe the Place and Objects Integral as being inaccurate and inconsistent with other parts of the Executive Director’s Recommendation. The Committee prefers the simple term ‘Gothic’ instead be used to describe the Place and Objects Integral in the registration.

<sup>2</sup> The Committee notes that two different dates for the organ are cited in the Executive Director’s recommendation.

- Criterion A – Importance to the course, or pattern, of Victoria’s cultural history; and
- Criterion D – Importance in demonstrating the principal characteristics of a class of cultural places and objects.

- 07.** Page 29 of the Recommendation sets out the proposed Statement of Significance for the Place. It reads:

*“The Pella St Johns Lutheran Church Complex is historically significant for its demonstration of German migration to northwest Victoria. From the 1870s, successive waves of German migrants from western Victoria and South Australia established a strong farming presence in the Wimmera, and from the 1880s and 90s settlements extended into the southern Mallee. Closeknit multigenerational communities developed in which German language and culture was proudly maintained. The Pella Church Complex, once the centre of a thriving rural German settlement with a resident pastor from 1912, speaks to the commitment of migrants to build and sustain a strong community around the Lutheran faith, values and identity in the Wimmera-Mallee region. [Criterion A]*

*The Pella St Johns Church Complex is architecturally significant as a fine complex of Lutheran church buildings which demonstrate a simple Gothic revival style and the use of natural materials (principally limestone and timber), key elements in the Lutheran design tradition. Constructed in a rustic style by men from the congregation using vernacular building techniques, the school, manse and church all demonstrate high levels of intactness. A visually cohesive complex, the place retains its setting in a flat expansive area of Wimmera-Mallee farmland, and original church furnishings are still located at the place, including the timber baptismal font and altar, which were handmade by a community member, and a Fuller organ (1886)<sup>3</sup> which is a fine example of the work the prominent Melbourne organ builder Alfred Fuller. [Criterion D]”*

- 08.** Page 30 of the Recommendation outlines proposed categories of works which the Executive Director considers may be carried out in relation to the Place (and objects integral to the Place) for which a permit under section 49(3) of the Act is not required (‘permit exemptions’).

## **PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR**

- 09.** After the Executive Director’s Recommendation was received by the Heritage Council, notice of the Recommendation was published on 21 July 2023 in accordance with section 41 of the Act for a period of 60 days.
- 10.** During the period of public advertisement of the Recommendation, two (2) submissions were received pursuant to section 44 of the Act (‘the section 44 submissions’) from:
- Ms Maddi Moore, Advocacy Strategic Manager on behalf of the National Trust of Australia (Victoria) (‘National Trust’) who supported the Executive Director’s Recommendation; and
  - Ms Norelle Eckermann, a member of the Church congregation who objected to the Executive Director’s recommendation and requested a hearing into the matter.

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<sup>3</sup> See footnote 2.

11. Accordingly, pursuant to section 46 of the Act, a hearing was scheduled and a Heritage Council Regulatory Committee ('the Committee') was constituted to consider the Recommendation and the submission received.
12. On 28 September 2023 the Committee made orders requesting prospective hearing participants submit a '*Heritage Council Form B – Registration Hearing Participation Form*' ('Form B') by 12 October 2023 advising of their intention to participate in a hearing.
13. Three (3) Form B forms were received from the Executive Director, Ms Eckermann and Mr Stephen Mildred, District Administrator and Chief Operating Officer on behalf of the Lutheran Church of Australia Victorian District (LCoVD).

### **DIRECTIONS HEARING**

14. By letter dated 26 October 2023, hearing participants were advised that a directions hearing had been scheduled for 15 November 2023 to be conducted by way of videoconference using Microsoft Teams ('the directions hearing').
15. The listed purpose of the directions hearing was to make arrangements for the hearing, discuss procedural issues and clarify representation of the parties and the witnesses to be called.
16. At the directions hearing on 15 November 2023, the following parties made representations to the Committee:
  - Mr Geoff Austin, Manager Heritage Register, who appeared on behalf of the Executive Director; and
  - Mr Neil Young, Senior Solicitor, Kabo Lawyers, who appeared on behalf of the LCoVD. Ms Eckermann (also in attendance) confirmed that she, as part of the congregation, was also being represented by Mr Young.
17. At the directions hearing, Mr Young advised that the LCoVD did not object to the property being recognised for its heritage and significance as a protected heritage building or complex in the Register in principle, but that the church and congregation had concerns with the listing causing undue restrictions on regular maintenance works or other works required to further preserve the Place. Mr Young submitted that the Place was in 'pristine condition' and was already subject to 'a well organised preservation plan' which negates the need to further protect the Place through listing in the Register.
18. Mr Austin, on behalf of the Executive Director, explained the three types of permit exemptions proposed (specific exemptions, general exemptions and exemptions for unforeseen works) which would allow a number of general maintenance and repair works to a place listed in the Register without a permit. Mr Austin also pointed to sections 90 and 268 of the Act, which together permit certain works or activities relating to religious services or rites to occur without a permit, provided notice is given to the Executive Director at least 20 days prior.
19. At the conclusion of the directions hearing, given that both parties did not oppose the listing of the Place on the Register, the parties agreed they would benefit from the further opportunity to discuss existing and proposed permit exemptions and the effects of registration amongst themselves with a view of potentially reaching a negotiated outcome, without the need for hearing, and sought directions from the Committee which would allow for this to transpire. They also explained likely timeframes for such discussions.

20. Following the directions hearing, by letter dated 16 November 2023, the Committee seeking to facilitate further negotiations, wrote to parties ordering each party to advise the Committee in writing of the status of discussions between them (including whether some or all matters in dispute are agreed) by Friday 9 February 2024.
21. On 9 February 2024, both parties wrote to the Committee advising that their initial discussions, which canvassed future works, permit approvals and potential permit exemptions for the Place, were encouraging and sought further time to allow these discussions to continue.
22. In a further directions letter dated 14 February 2024, the Committee acknowledged these responses, and in accordance with parties' requests, provided the parties until 3 April 2024 to advise whether some or all matters in dispute were agreed.
23. By letters dated 3 April 2024, both parties wrote to the Committee advising the discussions have 'resolved the differences between the parties'. The substance of the parties' agreement is discussed further below.

## AGREEMENT BETWEEN THE PARTIES

### VICTORIAN HERITAGE REGISTER CRITERIA

24. The Committee had regard to the assessment framework and steps in the Victorian Heritage Register Criteria and Threshold Guidelines (updated by the Heritage Council on 1 December 2022) ('the Guidelines') in reaching its findings. Any reference to 'the Guidelines', 'steps 1 and 2' or 'threshold for inclusion' refers to the Guidelines (see **Attachment 1**).
25. In the Recommendation, the Executive Director submitted that the Place be included in the Register as a place of State-level cultural heritage significance in relation to Criteria A and D. It was submitted that the Place is historically significant for its illustration of German migration to this part of Victoria from the 1870s onwards, community building and efforts by migrants to preserve their language, culture and faith. It was further submitted by the Executive Director that the Place is architecturally significant as a fine and visually cohesive complex of buildings demonstrating a simple Gothic revival style.
26. In its letter of 3 April 2024, the LCoVD confirmed that it now supports the Recommendation of the Executive Director that the Place is of State-level cultural heritage significance and should be included in the Register.
27. The Committee finds that the Place is historically and architecturally significant and warrants inclusion in the Register for its association with German migration in Western Victoria, the representation of a long-term commitment to developing community through German language and culture, and as a fine example of rustic limestone and timber construction. The Committee also agrees with the recognition of cultural significance of the noted objects integral.
28. For these associations and those summarised in paragraph 7 above, the Committee accepts that Criteria A and D are satisfied at a State-level.

### EXTENT OF REGISTRATION

29. The Executive Director recommended that the extent of registration for the Place be gazetted as:

*“All of the place shown hatched on Diagram 2444 encompassing all of Crown Allotment 1A and 1B Parish of Pigick, and all the registered objects integral to the place being:*

1. *Timber pulpit*
  2. *Hymn board, letters, numbers and wooden box*
  3. *Timber baptismal font and glass bowl*
  4. *Timber altar and candleholders*
  5. *Timber lectern*
  6. *27 church pews*
  7. *The Fuller organ (1885), bench, organ case and all mechanical and decorative elements*
  8. *Original school desk.”*
30. The Executive Director’s recommended extent of registration comprises all of the built fabric which is the Pella St Johns Lutheran Church Complex (including the school, church, manse and outbuildings) and its historical setting within the flat, expansive agricultural landscape of the Wimmera-Mallee. It also includes original and early objects integral to the Place, listed in paragraph 29 above.
31. LCoVD does not dispute the extent of registration proposed by the Executive Director in the Recommendation.
32. The Committee agrees with the parties and considers that the proposed extent of registration will ensure that any proposed works take into consideration the cultural heritage significance of the place (both internally and externally) as well as its setting. The Committee also supports the recognition in the listing of the cultural significance of the noted objects integral, including the Fuller Church Pipe Organ (‘Pipe Organ’).
33. The Committee accepts the extent of registration proposed by the Executive Director in the Recommendation and believes it will ensure that any proposed works adequately take into consideration the cultural heritage significance of the Place and objects integral to the Place.
34. The Committee records its determination regarding extent in **Attachment 2**.

### **PERMIT EXEMPTIONS**

35. The Executive Director recommended specific permit exemptions for exterior maintenance and repair, all interior works and wholesale removal of the water tanks, toilet block and corrugated iron shed, which are newer components of the Place built after the year 2000.
36. Through responses dated 3 April 2024, the Executive Director has proposed, and LCoVD have agreed, to further specific exemptions to allow for the tuning, maintenance, and repair of the Pipe Organ.
37. The Committee considers that the agreed permit exemptions, including the additional exemptions for the Pipe Organ, are appropriate and provide the LCoVD with sufficient latitude to undertake important repairs and maintenance works which are unlikely to adversely affect the overall cultural significance of the Place and the objects integral to the Place. The categories of works and activities that may be carried out in relation to the Place (and objects integral to the Place) without the need for a permit under the Act are as agreed by the parties and listed in **Attachment 3**.

## CONCLUSION

38. After considering the Recommendation, the submissions received in response to the advertising of the Recommendation, verbal submissions made at the directions hearing, the letters of agreement by the parties, pursuant to sections 49(1)(a) and 49(1)(e) of the *Heritage Act 2017* (Vic), that the Pella St Johns Lutheran Church Complex at 220 Pella Church Road, Rainbow, Victoria is of cultural heritage significance to the State of Victoria and is to be included in the Heritage Register as a Registered Place and Registered Objects Integral to a Registered Place.
39. The Committee thanks the parties for their efforts to negotiate a mutually agreeable outcome. This reflects the positive and constructive approach taken by everyone involved. The Committee also wishes to record and acknowledge the manner in which the Place is carefully and proudly being cared for and managed.



## **ATTACHMENT 1**

### **HERITAGE COUNCIL CRITERIA FOR ASSESSMENT OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE**

CRITERION A	Importance to the course, or pattern, of Victoria's cultural history.
CRITERION B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
CRITERION C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
CRITERION D	Importance in demonstrating the principal characteristics of a class of cultural places and objects.
CRITERION E	Importance in exhibiting particular aesthetic characteristics.
CRITERION F	Importance in demonstrating a high degree of creative or technical achievement at a particular period.
CRITERION G	Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

**These were updated by the Heritage Council at its meeting on 1 December 2022 and replace the previous criteria adopted by the Heritage Council on 3 December 2020.**

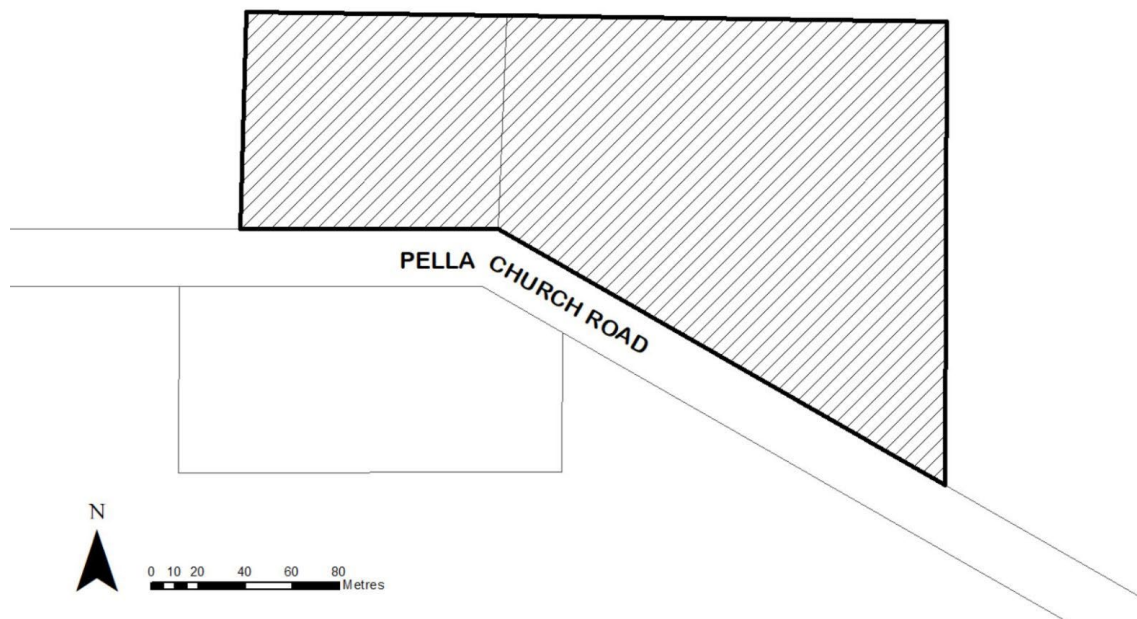
## ATTACHMENT 2

### EXTENT OF REGISTRATION

All of the place shown hatched on Diagram 2444 encompassing all of Crown Allotment 1A and 1B Parish of Pigick, and all the registered objects integral to the place being:

1. Timber pulpit
2. Hymn board, letters, numbers and wooden box
3. Timber baptismal font and glass bowl
4. Timber altar and candleholders
5. Timber lectern
6. 27 church pews
7. The Fuller organ (1885), bench, organ case and all mechanical and decorative elements
8. Original school desk.

## DIAGRAM 2444



## ATTACHMENT 3

### PERMIT POLICY AND PERMIT EXEMPTIONS

**Permit policy and categories of works or activities which may be carried out in relation to the place for which a permit is not required pursuant to section 49(3) of the *heritage act 2017* ('permit exemptions')**

#### General Permit Exemptions

General exemptions apply to all places and objects included in the VHR. General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which don't harm its cultural heritage significance, to proceed without the need to obtain approvals under the Act.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions [here](#).

#### Specific Permit Exemptions

The works and activities below are not considered to cause harm to the cultural heritage significance of the Pella St Johns Lutheran Church Complex subject to the guidelines and conditions which follow:

*Water tanks, toilet block, corrugated iron shed (all built after 2000)*

- Exterior maintenance and repair
- All interior works
- Removal

*Pipe Organ*

- The reeds of the organ may be tuned by the Church Organist or by an organ builder who has experience in the type of work to be undertaken. When tuning, the original pitch, temperament and voicing (if still in original form) should not be altered.
- Maintenance also includes playing through every note on every register (i.e. a stop or rank of pipes) at frequent time intervals if the organ is seldom used, in order to prevent the settling of dust and dirt in pipes and other parts vital to wind conduction.
- The repair of minor faults and defects by an organ builder who has experience in the type of work to be undertaken if discovered during tuning or cleaning and dust removal. The repairs must maximise protection and retention of existing fabric.
- Electrical repairs to the modern electric blower.

#### Specific Permit Exemption Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with

either section 49(3) or section 92(3) of the *Heritage Act 2017*(the Act) and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.

2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.
5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.
6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works or activities in accordance with this category. Approvals under Part 5 of the Act must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.
8. All works should be informed by a Conservation Management Plan prepared for the place or object. The Executive Director is not bound by any Conservation Management Plan, and permits still must be obtained for works suggested in any Conservation Management Plan.

### **Specific Permit Exemption Conditions**

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.

2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006* .
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Secretary (as defined in the *Aboriginal Heritage Act 2006*).