|  |
| --- |
| Chapter 9 – Developing the reserve |
| This chapter looks at the approvals required to develop the reserve. |

# 

# 9.1 Introduction

Many committees choose to develop their reserve by:

* upgrading existing facilities
* constructing new facilities
* landscaping the reserve.

Any proposed development must be consistent with the use and purpose for which the land is reserved and mindful of any impacts on activities undertaken at the reserve.

# 9.2 Approvals must first be obtained

Before your committee can develop its reserve by **extending, adding, altering, removing or otherwise changing an asset (built or natural)**, it must first obtain all necessary approvals. The approvals process is designed to ensure that only appropriate developments proceed. It includes the need to obtain:

* the Minister’s consent (landowner consent)
* any required local council, state government and commonwealth government approvals.

## Routine maintenance

Your committee should also check that what it considers to be routine maintenance does not require any approvals to be granted. For example, the removal of certain vegetation is regulated. See 8.3 ‘Native vegetation clearing’.

# 9.3 Obtaining the Minister’s consent

## Step 1 – Consult DELWP

Contact the department well in advance of developing any plans or seeking any approvals. Your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) can advise on the process for obtaining:

* the Minister’s consent as landowner, and
* if applicable, other consents, for example, under the Marine and Coastal Act 2018 and the *Planning and Environment Act 1987*.

The department can also provide information on other matters, such as the requirements of the *Aboriginal Heritage Act 2006* and Aboriginal Heritage Regulations 2018.

## Step 2 – Apply for the Minister’s consent

The Minister is the landowner of Crown land on behalf of the Victorian Government. The Minister’s consent must be obtained for all developments.

* Your committee’s application for ‘landowner consent’ must be in writing and include supporting material, such as site plans and works specifications.
* For coastal and marine Crown land, the Minister’s consent must be obtained in accordance with the requirements of the Marine and Coastal Act.

# 9.4 Planning and building approvals

When the Minister’s consent has been obtained, your committee then needs to apply for the same planning, building and other approvals as a developer of private land. For example, the development may require:

* a planning permit
* a building permit, or
* both.

## Planning permits

Planning permits give permission to develop or use land in a particular way. Your committee may need a planning permit for a new building, extension or renovation. The local council is responsible for issuing a planning permit.

## Building permits

Under the *Building Act 1993* all building work requires a building permit, unless it is exempt under the Building Regulations 2018. Your committee can seek advice from the local council. It can also choose to consult a building surveyor for advice. For further information see the Victorian Building Authority (VBA) website:

* [Planning and building permits](https://www.vba.vic.gov.au/consumers/building-renovating-essentials/permits)
* [When is a building permit required](https://www.vba.vic.gov.au/__data/assets/pdf_file/0008/99377/PN-32-When-is-a-building-permit-required.pdf)? (VBA practice note 32-2018).

## Other approvals

The committee may need other approvals under:

* local council laws, for example, permits
* state government laws
* commonwealth government laws.

Your local council and DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations) are excellent starting points for obtaining information about all approvals likely to be required from all levels of government (local, state and commonwealth).

## Ownership of improvements

The land and permanent improvements to the reserve belong to the Crown.

If a tenant makes improvements (with the necessary approvals), these become the property of the Crown at the end of the lease unless the tenant removes the asset in accordance with the terms and conditions of the lease.

# Heritage overlays and registers

## Heritage overlays – local council

Places of heritage significance to a locality may be protected by a **heritage overlay** in the local council planning scheme. If the reserve is covered by a heritage overlay, a planning permit may need be obtained before any works or developments are undertaken. Contact the planning department of your local council for advice.

## Victorian Heritage Register

The *Heritage Act 2017* protects Victoria’s significant cultural heritage. This can include:

* archaeological sites and artefacts
* historic buildings, structures and precincts
* gardens, trees and cemeteries
* cultural landscapes
* shipwrecks and artifacts
* significant objects.

The Victorian Heritage Register is part of the Victorian Heritage Database, which also includes, for example, heritage places and objects classified by the National Trust.

Your committee needs consent for a permit or permit exemption from Heritage Victoria before proceeding with a development if it may affect a site or heritage object, for example, an historic building or tree listed on the Victorian Heritage Register. The consent of the Minister or their delegate as ‘landowner’ must be included on the application form. Your committee also needs to contact Heritage Victoria if the site or heritage object is nominated but not yet listed.

For further information contact [Heritage Victoria](http://www.heritage.vic.gov.au/) on 9938 6894 or 9938 6891 or [heritage.victoria@delwp.vic.gov.au](mailto:heritage.victoria@delwp.vic.gov.au)

# 9.6 Liquor and gaming

If a proposed development includes the addition or expansion of liquor or gaming facilities, an appropriate licence is required. For details and further advice, contact the [Australian Business Licence and Information Service](https://ablis.business.gov.au).

# 9.7 Aboriginal cultural heritage

[*Aboriginal Victoria*](https://www.aboriginalvictoria.vic.gov.au/about-aboriginal-victoria) *provides information about Aboriginal cultural heritage.*

### Aboriginal places and objects

Aboriginal people have lived in Victoria for thousands of years, leaving physical evidence of their activities that now survive as cultural heritage places and objects.There are also cultural heritage places where there is no physical evidence of past cultural activities, such as places of spiritual or ceremonial significance; places with traditional plant or mineral resources; and trade and travel routes. Aboriginal places and objects can be found on both Crown land and private property, often near major food sources such as rivers, lakes, swamps and the coast. Aboriginal Victoria works in partnership with landowners, land managers such as committees of management, and Aboriginal communities to record, protect and manage these places and objects.

### Is there a recorded Aboriginal Cultural Heritage Place on the reserve?

To find out if the reserve your committee manages or adjoining land has any recorded Aboriginal cultural heritage places or sites, for example, scarred trees, occupation sites and places of burial, the committee needs to access the Victorian Aboriginal Heritage Register. As land manager of the reserve, your committee can apply for permission to do so. Phone the Heritage Registry on [1800 762 003](tel:1800762003) to request an application form.

## Aboriginal Heritage Act and regulations – state government

Before proceeding with any development work or other activities that disturb the ground or vegetation in a way that could impact on Aboriginal Cultural heritage, the committee must ensure that any approvals required under the *Aboriginal Heritage Act 2006* and Aboriginal Heritage Regulations 2018 have been obtained.

Example

Depending on the location of the reserve and the nature of the proposed activity or works, a Cultural Heritage Permit or Cultural Heritage Management Plan may be required. It is illegal to harm Aboriginal cultural heritage without appropriate authorisation.

### Guidance

For further information, see the [heritage](https://w.www.vic.gov.au/aboriginalvictoria/heritage.html) section of the **Aboriginal Victoria** website, in particular:

* [Planning and heritage management processes](https://w.www.vic.gov.au/aboriginalvictoria/heritage/planning-and-heritage-management-processes.html)
* [Aboriginal places and objects](https://www.aboriginalvictoria.vic.gov.au/aboriginal-places-and-objects)
* [Aboriginal Cultural Heritage Register and Information System](https://achris.vic.gov.au/#/onlinemap) – which has an indicative map of areas known or likely to contain Aboriginal cultural heritage places and objects (shaded in green), and information on how to obtain exact locations with the help of Registered Aboriginal Parties.

DELWP has published a short [Aboriginal Cultural Heritage Guide](https://www.landcarevic.org.au/resources/aboriginal-cultural-heritage-guide/). It includes a one-page step-by-step summary that can help your committee understand if it may require approvals under the law and regulations. The guide is written for Landcare and similar groups, but the same principles apply for committees of management.

## Working in collaboration with Traditional Owners

Committees of management are encouraged to work in partnership with Victorian Traditional Owners to manage Victoria’s land. This will help to ensure that the history and cultural heritage contained within the landscape is preserved and protected for future generations. Aboriginal Victoria can provide your committee with the contact details of local Traditional Owner groups.

# 9.8 **Native title and Traditional Owner rights**

Native title may exist over areas of Crown land or waters in Victoria. If it exists, this needs to be taken into account during the application and approvals process for development of the reserve. In addition, under Victorian law, Traditional Owners may be party to:

* a **Recognition and Settlement Agreement**, an overarching agreement that provides traditional owners with certain rights over Crown land and waters
* a **Land Use Activity Agreement** that provides Traditional Owners with procedural rights for activities proposed to occur on Crown land or waters within their agreement area.

Before developing the reserve, your committee must ensure it is complying with any procedural rights requirements under the Native Title Act 1993 (Cth) or the Traditional Owners Settlement Act 2010 (Vic).

## Assistance from DELWP

To help your committee ensure that it complies with these laws, contact your local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations). In most cases, a Native Title Coordinator or staff member with relevant expertise will conduct a procedural rights assessment of the proposed activities and advise your committee what, if any, procedural rights apply.

## **Further information**

Further information is available on the following pages of the DELWP website:

* [Native Title](https://www.forestsandreserves.vic.gov.au/land-management/what-we-do/native-title)
* [Traditional Owner Settlement Act 2010](https://www.forestsandreserves.vic.gov.au/land-management/what-we-do/the-traditional-owner-settlement-act-2010)
* [Agreements with Traditional Owners](https://www.forestsandreserves.vic.gov.au/land-management/what-we-do/agreements-with-traditional-owners).

Also see the [Victorian Traditional Owner Settlement Act 2010](https://www.justice.vic.gov.au/your-rights/native-title/traditional-owner-settlement-act) page on the Victorian Department of Justice and Community Safety website.

# 9.9 Electronic copy

An electronic copy of this document is available from the DELWP website ([www.delwp.vic.gov.au/committees](http://www.delwp.vic.gov.au/committees)).