

**Submission
No 119**

**INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN
PLANNING FRAMEWORK**

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The Secretary
Inquiry into the protections within the Victorian Planning Framework
Parliament of Victoria
planninginquiry@parliament.vic.gov.au

Dear Chair of the Inquiry,

Thank you for the invitation to make a submission to the Inquiry into the protections within the Victorian Planning Framework. I am an Associate Lecturer in Urban and Cultural Heritage at the University of Melbourne School of Design in the Australian Centre for Architectural History, Urban and Cultural Heritage. From my research and my academic, industry, and government collaborations, I am acquainted with the heritage policy arena in various Australian and international jurisdictions. My research examines issues relevant to the Inquiry, including my forthcoming monograph *Values in Cities: Urban Heritage in Twentieth-Century Australia* (2022, Routledge).

I have considered the Terms of Reference for the Review dated 28 October 2021 In relation to issue “(4) protecting heritage in Victoria”, I see two potential pathways arising from this review:

1. A recommendation for a 3-to-5-year policy development programme to create a new local heritage governance framework for the twenty-first century; or,
2. Recommendations for a series of incremental changes to improve the performance of existing local heritage legislation and associated policy frameworks.

Pathway 1: A new municipal heritage governance framework

The Victorian heritage governance and planning framework is now approaching 30 years old. It emerged either side of the 1980s in line with the dramatic economic, social, and cultural transformations of that era. The Environment and Planning Act (1987) and, specifically, the Heritage Overlay largely equates the protection of cultural heritage with the retention of old buildings and built fabric (ie. focussing on conserving ‘age value’ and, to a lesser extent, ‘architectural/historic value’). Yet, today, we recognise that the cultural significance of heritage places can only be wholistically conceived with reference to a broader range of contemporary and past values: social, aesthetic, architectural, historic, scientific, spiritual, cultural, social, economic, environmental, etc. Addressing this range of values would fundamentally transform heritage protections for the twenty-first century to make them relevant for all Victorians.

To re-establish the purpose of heritage requires a multi-year policy development programme. By way of comparison, Scotland, with its statutory agency Historic Scotland, has spent much of the past decade pursuing a whole-of-government effort to re-consider the role of heritage in Scottish society, culture, planning, and economy. Under UK devolution, the Scottish Parliament is responsible for urban planning and for cultural heritage in a jurisdiction of 5.4 million people.

The ongoing Scottish policy development programme has proceeded with the following key outputs:

1. Historic Environment Scotland, *Our Place in Time*, 2014.
2. Historic Environment Scotland, *What’s Your Heritage?*, 2017.
3. Historic Environment Scotland, *Historic Environment Policy for Scotland*, 2019.
4. Revision to Planning (Scotland) Act 2019.
5. Infrastructure Commission for Scotland, *A Blueprint*, 2020.

Some themes emerging from the Scottish policy programme:

1. Moving beyond the development/heritage oppositional binary
2. Community Engagement and Participation
3. Sustainability and Heritage intersections



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Scotland is emerging as a world-leader in heritage policy. It points to the opportunity before Victoria to similarly take the initiative by investing in policy capacity to rethink its heritage governance models for the future. The Act cannot substantively and meaningfully protect heritage for the coming decades without multi-year policy work.

Pathway 2: Incremental Changes

If the Committee adopts pathway 2, I note the following against Inquiry item (4) line items:

- a) Victoria does not have state-wide municipal criteria nor a standard assessment process for local heritage.
 - i. Local criteria may well be developed based on the existing National (HERCON) / Victorian State Heritage criteria. However, that criteria have not been updated for more than two decades, which would raise additional challenges around their suitability and usefulness today, that must be considered.
 - ii. The improvement of processes requires examination of the operation and implementation of the Heritage Overlay. Some key challenges have been identified in the State of Local Heritage Report, 2020. As noted on Pathway 1, the existing legislation and, specifically, the Heritage Overlay, has much potential to be reformed to meet evolving public expectations of heritage protections.
- b) Federal leadership in heritage protections, including at a local level, should be advocated for; following the dissolution of the Australian Heritage Commission and the resultant two-decade leadership and policy vacuum.
- c) To separate heritage protection from urban planning would likely require the pursuit of Pathway 1.
- d) Re-allocating responsibility for local heritage arbitration, from Planning Panels Victoria and VCAT to an expert tribunal or council, has the potential to strengthen decisions and protections. Possible models include expanding the role of the existing Heritage Council or looking to the NSW Land and Environment Court—Heritage division.
- e) The reinstatement of funding to provide full-time and appropriately qualified heritage advisers to all councils and shires would help to address the lack of heritage expertise held by many municipal authorities and thus improve decision making (as identified in the State of Local Heritage Report, 2020).
- f) Municipal authorities are essential for ensuring the adequate protection of local, state, national and world heritage. Providing them with resources, funding, expertise, and policy frameworks would help to address the existing issues.
- g) The arrangements and penalties for property neglect and illegal demolitions introduced into the Heritage Act (2017) for state heritage might be replicated for local heritage.

Finally, another imperative of local heritage reform must be the centring of First Nations built and urban heritage priorities.

I am available to provide further advice should I be requested to do so.

Sincerely,


Dr James Lesh
Associate Lecturer, University of Melbourne

Dr James Lesh