

**Submission
No 103**

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

Name: Ms Christina Branagan

Date Received: 31 January 2022

**Community submission to the Legislative Council Environment and Planning Committee
Regarding:**

An Inquiry into the protections within the Victorian Planning Framework 2022

Submitted by:

Christina Branagan

(A personal submission as a member of the community. I am also a convenor of a local heritage advocacy group in Boroondara)

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**Community submission to the Legislative Council Environment and Planning Committee
Regarding:**

An Inquiry into the protections within the Victorian Planning Framework 2022

Document Title:

Melbourne's suburban Heritage in crisis. How the current framework & legislation are directly driving heritage destruction & loss. How communities are being denied a fair voice.

This document seeks to provide the committee with evidence and information to help it consider the adequacy of the current Act and the Planning Framework in terms of their impact on Victoria's wonderful, yet disappearing Heritage

It relates to the following terms of reference

(4) protecting heritage in Victoria

Not limited to but including:

- a) the adequacy of current criteria and processes for heritage protection;
- (b) possible federal involvement in heritage protection;
- (c) separating heritage protection from the planning administration;
- (d) establishing a heritage tribunal to hear heritage appeals;
- (e) the appointment of independent local and state heritage advisers;
- (f) the role of Councils in heritage protection;

1. Introduction

This document has been prepared by and with the help of many members of local community in Boroondara. Since the early days of Melbourne, the cities and suburbs here, like a number of other inner Melbourne municipalities have been the custodians of a great deal of Melbourne's heritage architecture. Local people of all backgrounds have lived amongst this heritage and have appreciated it now for generations. That's why these places have remained in situ; because people have understood how important they are for future generations and for everyone in Melbourne and Victoria.

We welcome the opportunity to make a submission to the committee.

This document tries to shed a light from real-life, local people's perspective on what is really happening in these historic and culturally important heritage suburbs as a consequence of the now outdated and inadequate heritage protection system. **The consequences we are seeing on a now near weekly basis around us, are of heritage buildings demolished for no apparent social nor Melbourne-wide community benefit, rarely providing greater, or more accessible housing. Surely this was not what was actually planned for our communal Victorian built heritage by those who set planning strategy and planning legislation?**

Everyone knows our great city of Melbourne must develop and cater for more people and must do that in all our suburbs. But surely there are better planning solutions than simply carving up those old streets which are half full of heritage houses, demolishing them all and as a consequence not protecting thousands of houses and buildings that in many other countries, would be recognized by the State and local councils as being of architectural excellence, or historic significance and retained and celebrated for all society. We need to retain more of these heritage areas and houses of all sizes and eras, so that ordinary people can continue to live in and amongst them for hundreds of years into the future. They are a key part of what has helped to make Melbourne such a liveable place

We ask you the committee to please come out into the local streets with local people like us to see what is really happening.

We need parliament's help and very quickly. The problem with heritage buildings being lost is that there is only one opportunity to fix it. Once it's gone, it's too late.

We are currently living in a period that Victoria's history will show to have been a time of extreme risk to all Metropolitan Melbourne's built heritage. There is an urgent need to act now and we appeal for this Inquiry to help.

The debate about whether our heritage grade architecture in Melbourne is worth protecting has been had by previous parliaments and experts. The decision was an unequivocal YES. Our legislation seeks to protect it, yet it is not happening in practice. You must help to rectify this please.

The writer is one of a sizeable group of community members who have over the last several years been engaged with the current Victorian heritage system directly and have had first-hand experience of the planning protection system, including Heritage Gap Study processes, trying to achieve protection for unprotected heritage places, trying to prevent heritage from being degraded by inappropriate development and with advocating at council level for greater heritage promotion and community education.

Our experience sadly, is that numerous processes and regulations relating to the protection of heritage are inadequate and that these are leading directly to the demolition and long-term degradation of thousands of heritage buildings.

The regulations and implementation of them are outdated and were designed in an era when heritage was not at the high degree of risk of loss across Melbourne that it is today. The regulations must be changed to reflect this extreme risk and the increasing rarity of the heritage that remains.

The ways in which the current heritage criteria (A-G) are being interpreted and applied in real situations are inadequate for the current heritage climate. The DELWP guideline document for "Applying the Heritage Overlay. Planning Practice Note 1" and the DELWP precinct creation regulations are inadequate. Local planning scheme protection for heritage is inadequate.

This is evidenced by the fact that thousands of Victorian heritage buildings that are accepted by heritage experts as being of heritage grade have already been demolished and much that is left is will be gone over the next 1-10 years.

It is also evidenced by the growing occurrence of development and alterations that degrade the heritage value of heritage places even once they are protected.

Without changes and action by our representatives in parliament and by the state planning authority, the community knows that **thousands more heritage places (that all Victorians should be the guardians of) are going to be lost.** We are in the midst of an extreme Tsunami of **cultural and social decline of many of our oldest historic suburbs** in municipalities such as Boroondara and Stonnington and many more.



DEMOLISHED:1880's Contributory graded heritage house destroyed in Hawthorn 2019

2. Summary of problems at a local heritage level

We aim here to provide a summary and then some examples of the key issues that local communities are experiencing across Melbourne. Our specific examples are from Boroondara, but we know from speaking to other communities, that the same problems are occurring across Melbourne.

A summary of the key issues and areas of inadequacy in the current heritage system that those of us in the community living in heritage suburbs have now experienced

1. **The current system is not preventing the huge heritage loss** - evidenced by demolition of huge numbers of unprotected, yet accepted heritage grade places across Melbourne. If parliament does nothing this will continue.
2. **Time is of the essence.** Demolition of heritage grade places is happening on a weekly basis.
3. **There is no state heritage plan and there are no heritage retention goals**, nor any data measurement to prevent, or even record this recent record amount of heritage loss.
4. **There are no cultural heritage leaders and experts with any real power at state level.** Specifically, there is no Minister for Heritage and Heritage Victoria has limited powers and is part of the state planning department, which is itself development and growth driven. Heritage decision making is in the hands of state planners with limited cultural heritage expertise and passion.
5. **A fundamental issue is one of lack of recognition by our decision makers, of the world class nature of the architecture in Melbourne's older heritage suburbs.** This is accepted by architectural heritage experts, yet not reflected in the inadequate heritage regulations. So, now parts of older heritage rich suburbs, which community never thought would be at risk in Hawthorn, Camberwell, Kew, Canterbury, Malvern, Beaumaris etc. are gradually being destroyed
6. **Community expectations are not being met and people feel powerless.** Local communities in the heritage architecture rich and historically significant suburbs across Melbourne are shocked and feel powerless. The community did not sign up for this heritage loss.
7. **Specific Problems with the current regulations**
 - a. From the community's perspective
 - i. There is an **apparent lack of interest and passion for saving more of Melbourne's world class local architectural heritage by DELWP and State legislators.** A few thousand extra places protected by the planning minister since 2016 in a heritage rich municipality like Boroondara is a drop in the ocean compared to the number of heritage assets that are still standing there and but are now left at risk. The municipality, along with Yarra, Stonnington and other older cities probably have more than half of Melbourne's local heritage buildings.
 - ii. **There is a lack of insight into the real-world impact on our heritage by the State planning frameworks** and in particular the impact in the suburbs with the most heritage. **Are regulators and legislators actually walking the streets**, talking to local people and walking heritage suburbs first hand to appreciate the issues and

the heritage places that they have power over? It would be obvious to them, that the **current regulations are allowing pointless loss of heritage month after month. Or perhaps this loss is considered acceptable?** The community needs to be told the truth.

- b. **Inadequate heritage precinct creation thresholds that prevent protection of significant and obviously heritage streets. The framework's practical application has developed to become** obsessed with only protecting streets with nearly 100% heritage dwellings in them, whilst the history of local development often makes this impossible to meet. Precinct threshold guidelines are too narrow and have a very limited and unsophisticated understanding of how some important heritage streets have developed. For example, in Boroondara, there are a number of short streets each with over 50 Contributory heritage grade houses on them built between 1880 and 1900, which are prevented from being protected by these DELWP thresholds. Related to this, other local significance thresholds are making it impossible to protect small groups of wonderful historical and aesthetic heritage houses in Boroondara that in another municipality would be easy to protect.
- c. **Other guidelines lead to many houses that have been altered only slightly** over their 100+ years life, not being considered of Contributory or Individually Significant grade and being therefore unprotected. As further consequence, whole streets with over 50% heritage grade houses are left unprotected and will be gone in a few short years. Often to be replaced by the same number of dwellings, not more.
- d. **A too simplistic, 2 grade approach to grading heritage places.** Only allowing either a Contributory grading, or an Individually Significant grading of a heritage building has meant that thousands of Contributory heritage houses cannot be protected if the extremely tough heritage precinct creation bar is not met. Many well-developed regulatory frameworks overseas have a greater number of levels of gradings, enabling protection of a greater number of individual places if a precinct threshold is not met.
- e. There are also hundreds of unprotected, **"almost Individually Significant"** grade heritage buildings across Melbourne that will be demolished over the next 5-10 years at great loss to the character of heritage suburbs and at loss of social and cultural value to local communities. It is time for a more sophisticated, best-practice approach.
- f. **Comparative analysis rules:** Issues caused by forcing the municipalities with the richest heritage and history to compare only to within their own boundaries to determine if a particular heritage building, or street have as much value as the best in the city, have resulted in councils not being able to protect important heritage places that in another municipality would easily be protected. This impacts many hundreds of places in Boroondara alone, which are today left unprotected.
- g. **The subjective nature of the interpretation of the heritage criteria A-G is being used to the disadvantage of obviously heritage places** at planning panels and at VCAT by well-funded developers, who are using a small group of heritage experts well versed in the loop holes. This is leading to more and more complete demolition of heritage places and to "Facadism", where only a minimal percentage of a heritage place is left standing after development.
- h. **Criterion H; the historical association criterion** has an excessively difficult threshold required to meet it and is also not being applied properly in some circumstances. In practice, it is almost impossible to use it as a standalone criterion and it is seen by decisionmakers, who are not historians, as less important than other criteria, which is not the spirit of the heritage regulations. Culturally aware nations around the world use historical association as a key reason to protect some places. We have a very low percentage of places protected via historical associations versus architectural. It's important to remember just how important historical association is, and the way these places and items can become more important at time passes. The single rock in a field that was used as a stone age axe is not necessarily important as a rock, but thousands of years after it was used, it becomes highly important due to its association with our past. Ned Kelly's tin bucket helmet is not important as a bucket but it's association with him as armour gives it a strong historical meaning to Australians. So heritage grade buildings with

strong associations with people significant to history become important to preserve to help us keep that part of history alive.

- i. **Criterion G: the social value criterion is rarely used** and should now in this time of extreme heritage risk be being modelled and given a framework, so that it can be measured and applied easily by councils in heritage rich communities, where heritage streets and character are integral to community connection to place and the people's well-being. Criterion G is about emotional connection to place by identifiable communities. The community wide distress and our emotional connection to heritage streets and buildings is being ignored and denied by those in power, because it suits some of them. **Community well-being is suffering via heritage loss and this emotional connection and suffering should be measured quantitatively and identified formally.**
8. **VCAT outcomes: these are delivering Facadism, and allowing too many alterations to heritage fabric.** These heritage decisions are setting dangerous heritage precedents over time. The subjective nature of the heritage regulations is being used to developers' advantage and communities cannot win and protect their local heritage. Members at VCAT do not have heritage expertise, yet they make heritage decisions; at times overturning heritage expert opinions and the rigorous heritage review work of councils.
9. **DELWP and Ministerial decisions at times ignoring the valid heritage reviews by councils** and allowing demolition of heritage places. Ignoring the opinions and work of heritage experts. Not providing adequate rationale to councils, nor to local people when asked to explain their decisions. There are two recent examples of this in 2021 in Camberwell and Kew where the opinion of a noted leading heritage historian, at the Heritage Council was ignored (Criterion H)) and the opinions of two Mid Century expert heritage architects were dismissed in order to pave the way for the demolition of two places: a Contributory grade 100 year old heritage house where Bob Santamaria lived and undertook much of his significant work for over 20 years and also some Mid Century garden flats, providing affordable accommodation. **Both places will be replaced by luxury apartments, further driving up housing prices in Camberwell and Kew and in turn reducing affordable housing stock.**
10. **Councils:**
 - a. **Heritage is a complex area for councils.** Different councils have varying heritage skills and passion to protect heritage. Councils are **not held strongly enough by current regulations to their regulatory requirements to preserve, identify** and promote ALL HERITAGE. Some treat heritage protection and promotion as a discretionary activity and many are not allocating adequate resources to protect all their heritage and to have adequate community heritage communication strategies
 - b. Councils: **heritage is a very costly process** for them. But there is no apparent requirement for them to have on going adequate heritage budgets and heritage focused officers, nor local communication programs for owners. Very limited heritage expert support for council's at DELWP or at Heritage Victoria.
 - c. **The recommendations of the recent Heritage Council's "State of Heritage" 2020 report which recommends amongst many other sensible things, more support for councils has been largely ignored by DELWP.**
11. **The heritage regulations and DELWP's Applying the Heritage Overlay planning practice note 1** is inadequate. It provides very limited and unclear advice for precinct creation thresholds and is open to **very subjective interpretation** e.g., Does it meet the threshold? Does it meet the criteria? The guidelines for creating Group, Thematic and Serial heritage listings are vague and these approaches to protect are rarely used by councils, which is in turn a cause of heritage loss. The practice notes require the comparative analysis to be local to the study area which handicaps heritage protection in a suburb, or city with a high heritage bar. The guidance around criteria H and G, the historical and emotional connection to place criteria is vague and appears to undermine their value versus the other A- F criteria.
12. **Impossible for the community in heritage suburbs, who largely support heritage protection, to be on an equal footing with Developers** who have deep pockets. Some heritage experts are working predominantly for developers and understand how best to use the subjective nature of some of the regulations and how to set new precedents over time to change the interpretation of

the regulations. The Heritage expert world finds it understandably, difficult to call this activity out, but communities, councils and experts know this is happening and having a significant impact at planning panels and at VCAT on what gets protected and also on how extensively heritage protected places are altered.

13. **Communities have little voice and limited power in a complex system.** All the above drive this problem and hundreds of thousands of people feel powerless. Many who do try to fight for their street or community, eventually give up, which is what those who oppose more heritage protection desire.

14. **Council resourcing and structure issues:**
 - a. **Often no formal community heritage nomination processes at a local level and limited information provided to communities to aid heritage understanding and appreciation.** Councils typically do not have a process for local communities to nominate heritage places, unless they are undertaking municipal or suburb wide studies. This means if councils have “missed” buildings, or streets, or planning departments were perhaps unaware of the historical, or social significance of a place that it is very difficult, time consuming, sometimes costly and stressful for communities to navigate and find a mechanism to get their nominations considered seriously. There is often a lack of community understanding of how heritage protection is achieved and ensured long term. Councils’ communications with the community about their heritage assets - what they are and why they are protected and education to encourage better appreciation of heritage, can be minimal, or very variable across councils. There is limited sharing by councils of the best practice ways of promoting and communicating heritage to ratepayers and local communities.
 - b. **Only, some councils are setting aside inadequate on-going budgets to protect all their heritage assets and to promote heritage in their city. Most councils do not have a heritage officer nor heritage department** even in some heritage rich municipalities. How can this be?
 - c. **Heritage sits under the responsibility of the planning department alone**, where planning is mostly about managing the environment and changes to it (a quote from Planning Practice Note 1). In fact, heritage protection and promotion is equally a cultural and social activity. Planners need the support and input from departments responsible for social and cultural strategies if a council, or a State or the Commonwealth is going to manage heritage effectively, with a mix of skill sets and considerations.

15. **Empty houses: A growing number of heritage protected houses are being left empty and used as investments, or land banks, often by international purchasers.** This is leading to the degrading of these properties when they are not maintained and presents a longer-term risk to Melbourne’s and Australia’s heritage. It also removes them from the pool of available homes for renters and buyers; pushing up rents and house prices and degrading the economic and social aspects of life in these communities and streets.

16. **Over inflated and rising house prices in heritage rich suburbs are linked in part to certain financial, taxation and visa regulations over which state and federal legislators and their departments do have some control.**
 - a. **Allowing houses to remain empty** with no financial nor visa implication disincentive, nor any mandatory empty house taxation is facilitating the problem. **This needs to be addressed.**
 - b. **Allowing multiple purchases of dwellings**, without policing whether they are empty, is facilitating a growing, strange and worrying phenomenon being experienced in heritage and other inner suburbs. Here, local people know many houses in their areas are completely empty for years. Yet people arrive at the premises once a week and put out the waste bins onto the street for collection. Is this to avoid paying the house tax, or for some other reason? **This needs to be addressed.**
 - c. **NO HERITAGE OVERLAY is the new advertising message** we see for these unprotected heritage houses, on websites and on auction boards: A significant percentage of

Contributory Heritage grade places that have not been protected due to the above state framework inadequacies are being marketed both overseas and locally for development, by local and international real estate agents and developers. Typically, the lack of a heritage overlay and the proximity these houses have to the city and the prime land value is the key marketing message. Hundreds and probably thousands of **our heritage places are now in other words being marketed as knock downs. It's happening to Midcentury Modern gems by significant architects, Art Deco creations, Victorian and Federation masterpieces and historic cottages over 150 years old that have each been lovingly restored and then appreciated by the wider community for their architectural, historic and social heritage cultural value and character. They are being allowed by our regulators, to be destroyed before our eyes and we are told there is nothing to be done and that it is all in the best interest of the wider community.**

NO ONE IN THE COMMUNITY BELIEVES THIS CLAIM

d. Certain aspects of the FIRB regulations are also facilitating the loss of heritage by:

- i. requiring some international purchasers to demolish their purchase and then build new, or on sell, within maximum timeframes. This is driving long term empty lots, demolition of heritage places, replacement by single dwellings completely out of character to a heritage area and construction of houses that takes many years because there is no intention to ever live there. Examples of these situations can be seen for example on Barkers Road in Hawthorn (– a huge, partially completed house that has been empty for years), Malin Street, Kew (an empty lot where there was once a few years ago a heritage house) and in Mont Albert Road in Canterbury, where a large faux French Provincial house which replaced a Contributory grade house has been being constructed at a slow pace for nearly two years. **This must be addressed**
- ii. **The lack of policing the adherence to other rules** (such as temporary residents to only purchase one place and to be required to live there) and the lack of penalties being applied in practice. **This must be addressed.**

17. **Lack of separation of Heritage from planning at a state level and lack of treatment of Heritage protection and promotion as a long-term cultural activity:** as at local level, this is an issue at State level. **Heritage preservation should be regarded as a cultural and social area and needs a Minister for Heritage, not answerable to the minister for planning.** We need focus and caretaking of our state & local heritage, by an **expert department with heritage powers and passion and adequate budgets** Only then will adequate long term preservation plans and regulations be created for our heritage. **Heritage protection means a place is protected for hundreds of years into the future.** The strategies and activities of government and its departments should reflect this. There is no evidence of this long term thinking, or of a 100+ year protection mindset today.
18. **Degrading subdivision of land at heritage protected places and in precincts and streets of metropolitan heritage significance.** The current planning legislation and heritage framework is actively allowing the subdivision of the land on which heritage places are set. This includes carving off front and side gardens of houses on small or moderate size blocks. This will over time, significantly degrade heritage precincts as the view of the heritage streetscape is degraded and the % of heritage houses on a street declines. This makes no sense and is actually illogical, since the current precinct threshold framework itself seeks only to protect those streetscapes with over 75% heritage houses and uninterrupted heritage views. Regulators and councils know subdivision will erode the streetscape heritage and yet are allowing it. This subdivision and often loss of important garden setting context, which is often highly important to the heritage value, must be stopped.
19. **International heritage models should be reviewed and used to develop our own best practice long term heritage systems:** State planning and legislators are still behaving as if we are new to heritage protection in Australia and all we need to do is a series one off protection processes and then set and forget. Melbourne is no longer a young city; **Victoria has built heritage of 200 years now and we need to behave as other great heritage cities and countries do around the world.**

We need long term vision for our heritage and to put in place more sophisticated heritage regulations and processes that aim to protect as much as possible and forever. We must recognize and accept that unprotected heritage places will by their very nature have been altered over time, yet should still be protected.

3. Discussion of some of the issues and examples of local heritage places impacted by the issues

Examples from local streets. We detail below some community experiences with real life heritage situations to provide more evidence of the above for the inquiry.

Demolition: significant on-going Heritage loss caused by inadequate elements of the system

Council data across Melbourne shows that thousands of houses have been demolished in the last few years across Melbourne. This has been without due consideration or measurement by DELWP, or councils of the impact there has been on Melbourne's heritage and in particular in the oldest built suburbs where most of the built heritage resides, and where the greatest loss no doubt has happened. Where is the data about how many heritage places have been demolished? How much do we plan to retain?

Below are just a few examples, typical of the many unprotected houses that have been demolished in the last 5 years or so in Boroondara that were of heritage grade and hence of cultural value.

For reasons linked to the above issues they were never actually protected. In the main, they were not protectable because they were either determined to be of "only Contributory" and not quite "Individually Significant Grade", or were deemed Contributory but not located within a heritage precinct due to the precinct creation threshold inadequacies discussed earlier.

Additionally, due to the problems caused by the DELWP current comparative analysis requirements, most of these heritage places may well have been protectable if they had been built in other suburbs of Melbourne, where there is less heritage. Because they were in Boroondara, a very significant heritage areas here in Victoria, they were deemed to be unworthy. You can see in these examples how these inadequate regulations will lead over time to the distilling of heritage architecture and the loss to Victoria of what should be entire heritage conservation areas. It is likely that most of the hundreds (probably thousands) of remaining houses that look just like these in Boroondara that have not already been protected, will be demolished in the next 20 years, for little social benefit. The vast majority because developers and investors are targeting them and the valuable land they are built on.

Most people who live in Melbourne are proud of this wonderful architectural heritage that we are all the guardians of and wish to see these architectural prizes remain and the character filled streets they create, protected

DEMOLISHED RECENTLY: Below: Just a few of the recently demolished or about to be demolished heritage houses



DEMOLISHED



Above: camberwell: 1920's Art Deco and 1910 Edwardian.

Top left: Local people nominated the intact 90+ year old Art Deco house at top left to be protected and placed in a nearby Art Deco heritage precinct on the very same street that has a precinct boundary just a few houses away. Council accepted it was Contributory grade but because it was not Individually Significant grade it was not protected and the complex nature of a heritage precinct extension process was a barrier to council putting the house in the nearby precinct. **In process of being demolished January 2022.**

Edwardian bottom right: Council requested permission from DELWP and the Planning Minister to protect this intact, Contributory grade 110 year old house, on the corner of a street that has several heritage grade places that it has also not been possible to protect, nor put in a precinct due to the current precinct regulations. DELWP and The Minister refused protection because the house was "only" Contributory grade and "not in a precinct". House was raised in Parliament and in the media as an example of heritage regulations problems. **Demolished 2021.**



DEMOLISHED

Above: 3 examples of **demolished Edwardian, Federation and Art Deco houses in Canterbury**. Many places in some of these heritage suburbs are replaced by just single dwellings. Others by luxury townhouses.



Hawthorn. **Demolition approved**

Hawthorn. Local people on Wattle Road in Hawthorn have fought for some to try to save this C1870's house on a historic street with over 60 unprotected heritage houses on it, but currently (January 2022), this house has a demolition permit. It is on one of the most historically significant streets in Hawthorn as considered by local history experts. It was considered likely to be of Significant Grade in one heritage review in the last few years and was then downgraded to Contributory grade by another. Since council have not to date created a local heritage precinct due to the barriers inherent in the inadequate precinct grading thresholds, this house and over 60 heritage grade houses in the same street and the adjoining street are completely unprotected and likely over time to mostly be demolished.

Below: Examples of typical lost heritage in Kew: **DEMOLISHED**



Kew: both houses demolished



Left: Intact, large, beautiful 1880's Victorian mansion of great local historical significance on large grounds. It was once graded "Significant". It was down-graded and regraded to "Contributory" a few years ago when the idea it might be at risk of being demolished was probably not even envisaged. It has recently been demolished and a huge single house is being currently being constructed **No one at DELWP, Heritage Victoria or at council's planning department is probably even aware of this great loss. Those who signed off the demolition permit probably didn't even look on Google Earth, or realestate.com to see what it looked like, before they authorized this destruction of our collective cultural heritage**

Deepdene: Below mud brick house designed by significant architect Alistair Knox. Recommended to be graded Individually Significant. But **demolished** in the interim.



DEMOLISHED

Glen Iris



Left: California Bungalow Glen iris. **Demolished**

Balwyn & Balwyn North **DEMOLISHED**



Left: This was one of the oldest standing homesteads in Balwyn. Historically important 1800's homestead. **Demolished in 2021** when it could not get an Individually Significant grading due to alterations made to the house. This is a great example of unsophisticated heritage protection framework and application. If unaltered houses were not protected, we would lose many beautiful entire heritage villages in England and France and many places built in the 1700's and 1800's still standing across Europe. As time passes the heritage system must become more diligent in protecting altered yet still important or heritage places. It's almost comical or rather a joke that alterations to buildings are becoming the reason to not protect an obviously heritage and rare historical place.



DEMOLISHED

Above and below **demolished Mid Century Modernist** homes in Balwyn and Balwyn North.



both likely to have been Contributory

grade



Balwyn.: Interwar house. **Demolished**



Left: **Demolished** Interwar Balwyn house. All above would have been of contributory grade but were unprotected at time of demolition

DEMOLISHED

Below **demolished** 1880/1890's house in Surrey Hills



Left: **demolished** inter war heritage grade house in Surrey hills



DEMOLISHED

Above: one of several Mid Century's now lost, Ashburton heritage grade homes. Intact with original interior fittings.
Demolished

Realistic community expectation that our urban planners will preserve most of our world class built heritage is not being met

The wider Melbourne community had not anticipated that we would ever see thousands of heritage houses and buildings demolished and the historic character of suburbs destroyed. It is not what local communities in heritage areas want, despite what developers claim, nor is it in the interests of future generations of all Melburnians. The peoples' wishes and the spirit of heritage related legislation are being ignored under the guise of the need for more housing and due to an urban growth strategy created with inadequate foresight and controls. Population and housing growth should be able to be managed alongside good heritage preservation strategies, but only if there is a will by planners and planning departments. There is little evidence of this desire.

The true driver of this tragic heritage demolition and loss is the desire by developers and investors for the most valuable inner suburban land. Our current systems are not recording our heritage loss, nor planning strategically to avoid it. There is no credible state "built-heritage" strategy, nor any 20-year heritage preservation plan as there should be to prevent heritage loss. Councils have been left on their own to solve the heritage issues driven by the state push for development.

Metropolitan Melbourne has many world class heritage suburbs and streets. The current planning and heritage framework does not acknowledge this widely accepted international level of architectural excellence and does not seek to protect and celebrate all heritage.

Heritage experts, historians, architects, municipal heritage studies all confirm the fact that the older suburbs of Melbourne in cities such as Yarra, Stonnington and Boroondara have world class heritage architecture in aesthetically significant heritage streets and include well-designed heritage suburbs that rank on an international level in terms of their architecture, aesthetics, historical importance and their contribution to the live ability and good social and urban design long associated with parts of Melbourne.

Yet this is not acknowledged in the way in which our heritage system works. Due to the way in which DELWP operates and the way the planning framework is interpreted by those with funds and planning power, the current system seeks only in practical implementation terms to protect examples of the "best-in-class" heritage in each suburb and sets a threshold for creating and including streets in a heritage precinct that is illogical and lacking insight into and understanding of Melbourne's heritage suburbs. Essentially it is creating a quota system and a distillation over time of the heritage in each suburb. This is not in the spirit of heritage legislation, nor the international heritage principles that Australia and Victoria have signed up to.

The heritage precinct creation threshold guidelines for example are simplistic, vague, open to subjective interpretation and not fit for purpose. Contributory grade heritage houses can only be protected if they are put into a heritage precinct grouping. However, the threshold for creating a precinct has over time become more and more strict and difficult.

Often if less than 75% of the houses in a street for example are not heritage grade, councils are told that the street does not meet the requirement and even if the street is a short one and holds 50 or more heritage houses out of for example 80-90 houses the street, Even a small part of the street where most of the heritage houses are grouped together, is not permitted to be protected.

Wattle Road in Hawthorn and Roseberry Street in Hawthorn East are good examples below of this inadequacy of the framework and guidelines given to councils and also the focus on only protecting some of the “very best heritage”. The reality is that in many countries and in other Melbourne municipalities Wattle Road and Roseberry Street would be considered beautiful, historic and architecturally significant streets and would be protected. 15-20 years ago, with the previous heritage regulations they would probably also have been protected had council tried to do so

Real examples of these issues playing out in heritage streets in Boroondara. Heritage places that will disappear forever if the Inquiry does nothing.

Below are examples of the more than 50 houses on historically and architecturally significant **Roseberry Street, Hawthorn East**. 3 heritage grade houses like these have been demolished in 2021. Despite the fact that nearly 70% of the houses on the street are of heritage grade, similar to the ones shown below, the street is unprotected. This is due to the inadequate precinct threshold criteria discussed above, the local comparative analysis rules and the problems with protecting stand-alone contributory houses. It also highlights the minimal use and inadequate recognition of the importance of applying historical protection criteria, rather than just architectural.



Fifty houses unprotected Examples of the 50 + similar heritage grade worker cottages on unprotected Roseberry Street

1000 local people signed a petition in 2021 asking for protection for this rare Hawthorn East worker cottage street, which has strong historical links to the famous Hawthorn Brickworks nearby. Council is considering whether new historical evidence provided by the community can save the street, but the planning minister has so far refused to help council to find a solution to save this obviously important heritage place.

These aspects of the way the system is working are a grave error and not delivering what communities expect. Communities are shocked by the extent of destruction of our heritage in the last 10 years.

Communities living in heritage suburbs have a very strong and real emotional “connection to place”. owners of heritage houses often see themselves as the custodians of heritage for future generations. The deep distress caused by this heritage loss is being ignored

Many communities in the heritage suburbs are very connected at an emotional level with the heritage character and heritage buildings in their local environment. The loss of these heritage buildings causes real distress and loss of sense of connection to place for many people. This aspect of cultural heritage, although recognized as a valid value and measure of significance in the HERCON criteria and articulated in Criterion G, is completely ignored currently when decisions are made to allow demolition of local heritage places. The tools and frameworks to measure Criterion G are not easily available, nor used by local councils and planning departments, despite the fact that councils in heritage rich suburbs know intuitively just how strongly local people feel connected to these places.

For example, local communities in a suburb such as Hawthorn, would expect a predominantly heritage street with over 60% of its housing stock being of accepted heritage Contributory grade, to be included in a heritage overlay. Yet they are not. Significant majorities in communities in older and a predominantly heritage suburb would expect their suburb to be treated as a place of some heritage significance in its own right and for planning controls to recognize this and provide some protection. **Yet the heritage precinct model focuses on carving heritage suburbs up into smaller precincts and protecting only the most intact and best in class streets, leaving thousands of heritage houses unprotectable. Why is this?** Where is the sense in this? It makes sense only if the urban planning intention is to make the preservation and enjoyment of heritage a quota-based activity.

Another good example: Wattle Road, Hawthorn. One of the most historically significant streets in Hawthorn. It has links to Hawthorn's early history, German migration and early grape growing. 4 Significant grade houses are protected on the street but 50+ Contributory and likely Significant grade houses are not protected, as a result of the same inadequacies in the heritage system that Roseberry Street faces.

Below: **Typical Unprotected houses on Wattle Road.** Most are 19th Century 1870's -1890's. Some 20th Century. Only 4 of the over 50 heritage houses on the street and on a street nearby, are protected. Despite council heritage studies recognizing these are heritage places



If, for example European cities and towns and villages had taken this same approach, then many of the most aesthetically beautiful or historically significant local heritage places would simply not exist today.

The need to protect much more than we already have done

The most significant heritage municipalities by their nature have the most heritage and therefore the planning minister logically will need to protect a more significant percentage of dwelling in those cities

Boroondara for example has only about 10,000 protected places. This may sound a lot, but if you consider the tremendous heritage significance of our historic and heritage suburbs such as Hawthorn, Canterbury, Camberwell, Surrey Hills, and Glen Iris etc., and how many dwellings there are in Boroondara, it is in fact a small figure.

Boroondara is a municipality which has over 75,000 dwellings and probably until very recently held more than perhaps 10-15% of Metropolitan Melbourne's heritage houses due to its early history, the way each suburb and city was developed and the fact that so many of the most significant Australian architects of the 19th and 20th Century have designed houses there. Not enough has been protected for future generations of Victoria.

More examples of heritage places that the current framework has made unprotectable

Below are further examples of obviously heritage grade houses in a street in a 19th Century area of Camberwell which is not protected for all of the same kinds of failings discussed above. This short, 19th Century developed street has over 25 heritage grade houses on it. Just a couple are protected. It's in an area where developers are targeting local streets and several heritage houses nearby that are unprotected



have been demolished.



Unprotected houses in Camberwell on a street with approximately 25 other heritage houses of similar heritage value. **Likely to be demolished and lost forever.**

Victoria's heritage will over time be distilled into less and less buildings and the suburbs that will see the most loss will be the most important heritage suburbs that should guard the heritage of the whole of Melbourne as they have for generations before us!

In heritage suburbs such as Hawthorn, Camberwell, Kew, Canterbury etc., many places that meet the tough heritage criteria threshold as Contributory grade are still left unprotected in part because the street just next door, or down the road is an even better heritage street, or because the municipality has lots of world class heritage and perhaps a council, or the state planning department does not wish to protect as much of it as possible



1880's Italianate intact house. Clearly irreplaceable.

Heritage precincts nearby, yet this house can't be protected easily within the current DELWP regulations

UNPROTECTED



Left: **Unprotected** heritage grade house, due to precinct threshold issues and the lack of ability to protect stand-alone houses unless they are Individually Significant. This house is located adjacent to Art Deco and interwar precincts but since it is not Art Deco, it is not protected.



This **unprotected** house is on a short street with about 60% heritage grade houses on it- all from the early part of the 20th Century. But because the street has a mix of development and also houses from the late 20th Century on it, the heritage houses cannot be protected. Even a small group of them cannot be protected.



Unprotected. This heritage house is just around the corner but cannot be protected because it is only Contributory grade. We need a grading system that allows protection of these stand alone houses and small groups of heritage houses in mixed development streets.



DEEMED UNWORTHY OF PROTECTION. DEVELOPERS DELIGHT. **INVESTMENT TOOL.**

Above: A Queen Anne Hawthorn house that has been **finally recognized as Individually Significant after years of community effort. This house was left unprotected** because it was considered Contributory grade in a street with too few heritage grade houses to create a precinct. It has been bought and sold twice in the last few years and has been mostly left vacant for much of that time. It is highly likely to be demolished if it is not protected. Note the over grown garden image on the right-hand side. Empty houses at risk of degrading have become a common sight in some heritage precincts.



Left. Another **empty, heritage protected house** in Camberwell. Note the garden growing into the verandah roof. It's at risk of decay and decline.



IGNORING HERITAGE EXPERTS

Above: The Federation era house of Bob Santamaria in Kew. **Recommended to be graded Individually Significant under Criterion H** and also is also Contributory level due its architecture. Not able to be placed in a precinct, even though several close by houses are graded Individually Significant. **DELWP and Planning Minister ignored the eminent historian's recommendations and refused protection as Significant.** DELWP used the rationale that there was no evidence of physical fabric relating to Santamaria's work, which is not correct. They also ignored the alternate way to apply Criterion H which considers whether the bulk of a person's significant endeavours took place in the building, which in this case they did. The **owners plan to demolish** and build luxury apartments. This house has been raised in parliament and media, but ignored. If council were able to create a small heritage precinct, it would be saved, or indeed if the historical heritage experts were to be listened to.



MINOR ALTERATIONS PREVENTING PROTECTION

Above: **Unprotected:** These houses are on a tiny, highly intact, garden setting 1920's street with only 10 houses on it, that look exactly like this. 5 of them are Contributory grade and 5 of them are considered too altered, like the one on the right (spot the difference!)+ and are graded Non-Contributory. As a consequence, none of these ten, 100-year-old houses is protected and since most older houses nearby are being demolished, these are all likely to disappear. We need regulations that accept more alterations at protection stage and that facilitate protection of small groups of heritage houses.

Communities want more of these highly culturally and socially significant places protected for future generations of Victoria

Local people living in these heritage areas see themselves as custodians of heritage, and the many who come to live there because of the heritage character of them, do want to preserve these streets and it is not about selfishness and resistance to change. **These streets and heritage places bring social wellbeing in the way they provide beauty and history that can be appreciated by all residents from the built environment around them. They help provide community cohesion and a sense of connectedness to place. These facts about the social benefits of living in heritage streets and towns are well documented in international literature and connectedness to place is a key concept underpinning some of our heritage criteria such as G and A.**

Local people should not have to keep justifying the legitimacy of protecting heritage grade places and of keeping them well protected in the long term. It has already been legitimized. It should not be our job to prove that the houses in these images are worthy of protection, it should be for those who wish to demolish them to prove that they are not. **Those who wish to demolish these places and make profit, should not be, as they are today, allowed to be the people who refine the heritage rules and set the precedents that are leading to it being harder and harder to protect what is our collective cultural heritage.**

No action NOW to change the heritage protection system will result in the distillation of our great and beautiful, most live-able heritage city. It will become a museum of just a few heritage streets.

So, if we look to the future and make no changes to solve these issues and only stop at protecting “the best” of the already recognized world class heritage, then in the long term we will create only a “museum” of what was once Melbourne’s huge and wonderful heritage assets.

This of course will suit those who wish to make profit from development of land and over time they will keep pressing for more and more distillation of heritage buildings using the same old arguments and accusing ordinary people of being anti progress, or selfish. Communities around the world since ancient times, have heard the same arguments from those who wish to profit from land value.

But is this protection of ONLY BEST IN CLASS the aim and spirit of the current legislation and planning framework? **Surely this is an unsophisticated heritage approach and surely the aim of the regulations was and should still be, to protect and preserve most of the heritage grade places in heritage suburbs and ensure they are places that today and tomorrow’s population can enjoy, afford to live in and be the guardians of for hundreds of years to come?**

This is what sophisticated and culturally aware countries and cities all around the world do. **They protect the majority of their heritage grade places; whole streets and villages and call them conservation areas. Ordinary people continue to live in them for hundreds of years and they remain as well-designed community hubs and often become attractions for visitors and tourists, bringing social and economic well-being.**

Melbourne is a beautiful heritage city, with marvelous heritage suburbs. It is a rare architectural place in the world of cities. **Where is the state heritage plan to recognize and preserve this cultural heritage, which makes these suburbs so live able and loved?**

Melbourne is no longer a young city. It is a mature city that is over 170 years old and we need to acknowledge the world class heritage suburban streets that we are the guardians of. **We need to retain them and then one day we too will have world class, live able, heritage places that are 300 and 500 years old.** Places that continue to give us and visitors joy, pride and a sense of our history and provide connection to place and to our culture, which is why all heritage is protected in the first place.

4. Some proposed solutions

How could some of the above issues be addressed?

Give heritage due consideration and priority at state and local level

1. A need for a Minister for Heritage with a culture and social value remit, as well as some strong planning powers over heritage protection
2. Need for 20 year and 50-year heritage plans at state and local level
3. Need for changes to Melbourne’s planning scheme to deliver much stronger protection to heritage including
 - a. Allowing councils some independence to set stronger local level planning controls over development in their heritage streets, precincts, parks, gardens and buildings to reflect the nature of local heritage and character. Give them ability to prevent degrading

development, prevent subdivision, to include 3rd party input to development on a heritage place. Also, allowing them to grade precincts in terms of significance and provide stronger controls to the most significant precincts or places

- b. More support for councils at Heritage Victoria
- c. All councils with any significant heritage to be required to have a heritage department of some kind with a senior person responsible who does not report into Planning. At least one heritage officer as a full-time employee. Heritage strategy and actions plans must be mandated, implemented and measured.
- d. Support in terms of resource and possibly funds/grants from Heritage Victoria to help councils effectively protect as much heritage as possible and to help them promote the education and appreciation of heritage. A need for more comprehensive heritage training for new architects and urban planners
- e. A need for support for the Heritage expert profession such that there are adequate numbers of experts coming through the training systems and opportunities for them to use their skills and have a career at local and state level in both private and public sectors

Precinct creation thresholds

1. Precinct creation thresholds must be altered to allow easier protection of more Contributory grade houses and of very small groups of heritage grade houses.
2. Precinct thresholds must be altered to make them easier to meet, for example when a street or group of streets has at least 60% heritage places. They should permit a greater and wider mix of housing era's within in the same heritage precinct
3. Conservation areas should be created for the most significant metropolitan precincts and groups of precincts in a suburb. Some precincts are more significant to our history, or to architecture or to the community than others and therefore need greater planning controls and long-term strategies to protect, preserve and promote them. This is common in Britain and France for example.

Protection of more Contributory grade places and the use of more than two heritage grades

1. This has to be achieved, or most of the unprotected contributory grade houses will be demolished. **One solution is to have a greater number of heritage grades** as we did in the past and as overseas. For example, in the past some councils used an A-D grading system allowing them to reflect the degree of local versus metropolitan significance of the building and also its degree of intactness, or importance.
2. **Another solution is to have an extra grade for those houses that are between Contributory and Individually Significant and to allow those places to be protected in their own right** outside a precinct. For example, there could be grades of: "Contributory to a precinct"; "Contributory to the cultural heritage of a local municipality"; "Significant at a local level"; "Individually Significant at a Metropolitan level". These were factors that were used to grade in past Conservation work in the old cities that came to make up Boroondara pre-2000. Gradings also reflected more clearly in the past, the rarity and aesthetic value of a place's architecture, or its historical association across the whole of Metropolitan Melbourne, rather than just locally.
3. **Review international grading approaches and model our system on learnings** from the best frameworks, not just aiming for simplicity as we do now. Simplistic approaches may suit planning departments and developers. but they are useless in terms of providing a society with long term strategic heritage protection planning and frameworks that can actually reflect the complexity of cultural heritage.

VCAT

1. Need for much stronger heritage expertise by members at VCAT for all heritage matters and for each heritage place being considered
2. Consider creating a heritage specific tribunal, with sitting heritage experts

3. Curbing of VCAT's growing behaviour to make decisions that override valid council decisions made by heritage experts. VCAT should be checking that proper process has been delivered, and should not be the arbiter of heritage opinion nor set new heritage interpretation precedents.
4. A need for heritage experts attending VCAT to declare conflicts of interest. E.g., when they will benefit personally from a particular decision in their client's favour, such as via a financial gain or bonus, or via an architectural commission.
5. Curbing of VCAT's growing and frequent behaviour, whereby it makes decisions that allow degrading partial demolition and "facadism" of heritage places.

Greater involvement of local people in local heritage protection and long-term preservation

1. Involve local communities and the public in determining what else should be protected
2. Ensure effective local community nomination processes exist at each council
3. Provide adequate budgets for heritage promotion and appreciation at state and local level

Changes to FIRB regulations & to State regulations relating to Vacant house tax and Land tax

1. **These must be changed to address the issues relating to empty houses and the upward house pricing pressure, raised earlier e.g., via**
 - a. Introducing **penalties and taxes for leaving houses empty** (not voluntary taxes, but collected taxes)
 - b. Changes to FIRB regulations to **prevent all heritage protected properties from being purchased by any Nonresident of Australia. This is our cultural heritage** and needs to be in the hands of Australians who live here and are therefore much more likely to behave as guardians of the place
 - c. Proper policing of the rules to **ensure that foreign ownership is not happening illegally by stealth** via overseas funds being provided to local residents to purchase properties that are in reality investment tools being purchased for non-residents and **likely to become empty homes which are pushing up local property prices**
 - d. Allow overseas purchasers to **put property on the rental market**, in order to increase rental stock
 - e. Proper policing of **temporary residents who purchase more than one property**, which is not permitted or those who are not really living in the property as the regulations stipulate
 - f. **Removal of the benefit that overseas buyers do not pay land tax.** This and other measures the government has initiated is unfairly impacting the ability of ordinary and local people in areas that developers and investors target, We are unable purchase homes at a fair and natural market price

END OF SUBMISSION THANK YOU