

**Submission  
No 147**

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

**Organisation:** Beaumaris Modern

**Date Received:** 31 January 2022



<https://beamarismodern.com.au>

## VICTORIAN PARLIAMENTARY INQUIRY

### BEAUMARIS MODERN SUBMISSION | 31<sup>st</sup> January 2022

#### ABOUT US

Beamaris Modern is a not-for-profit organisation that celebrates, educates and promotes public awareness of the importance of preserving the mid-century architecture of Beamaris.

Our objectives are:

- (a) to educate and advocate for the preservation of mid-century architecture in Beamaris and surrounding neighbourhoods
- (b) to promote and encourage the benefits of preserving and adapting existing mid-century architecture, including homes and public buildings, over demolition
- (c) to promote and encourage appreciation of mid-century modernism design and aesthetic, and contemporary application of modernist design
- (d) to promote and encourage sustainable building practices
- (e) to educate and advocate for the retention of the existing typical streetscape character of Beamaris and the preservation of the unique character of Beamaris and surrounds:
- (f) to educate, advocate and promote the preservation of, and encourage the replanting of, indigenous and native vegetation in Beamaris and surrounds
- (g) to correspond, co-operate and co-join with other organisations, persons, companies and municipal and Victorian authorities

We became an incorporated society in 2017, have 250 current paid members, 13,000+ followers on Instagram and close to 5000 on facebook. Our patrons are Tim Ross, Prof Philip Goad and Peter Maddison. We hold OPEN house events, walking tours and educational panelist events. The book, *Beaumaris Modern*, was published in 2018 and is in its third print run. The second edition is currently in production.

In 2019, we appeared at Modernism Week, Palm Springs, CA, presenting the unique architectural history of our suburb to a global audience.

## **A SHORT HISTORY OF OUR SUBURB**

Beaumaris was once cited in the Royal Victorian Institute of Architects Guide to Victorian Architecture written in 1956 for the occasion of the Olympic games, as having 'the greatest concentration of interesting houses in the metropolitan area'.

Some of Australia's best known mid-century modern architects designed their earliest homes in Beaumaris, including: Grounds, Romberg & Boyd; Peter McIntyre; Neil Clerehan; Chancellor & Patrick; Yuncken Freeman; John Baird; Mockridge Stahle & Mitchell; McGlashan Everist; Anatol Kagan; Peter Burns; Doug Alexandra and David Godsell. In the 1950's, there were more than 50 architects living in Beaumaris.

Dozens of these significant, one-off, innovative and important homes have been demolished over the last 60+ years and each year, more fall prey to the wrecking ball without protection.

Our concerns and suggestions for consideration are outlined as follows:

## **1. HERITAGE PROTECTION**

From a community perspective, there is a great deal of room for improvement in the current system. We believe there's a lack of consistency in the application of laws to protect our heritage, and neither state nor local governments are adequately resourced to meet the objectives of the legislation, or the expectations of communities.

### *What our community seeks from State Government:*

- To identify where systemic change is required and to work with heritage stakeholders towards improvement.
- Transparency and consistency of decision making
- A commitment to improving the heritage system
- Increased funding for heritage awareness, education, & appreciation in the community
- Targeted incentives for owners of existing heritage properties and immediate incentives for owners of properties upon addition of heritage overlay
- Greater urgency and efficiency in dealing with heritage under threat.

## *What our community seeks from Local Government:*

- Be an advocate for local heritage, not the arbiter - by either progressing or delaying/neglecting heritage processes.
- Champion heritage as they do the attributes, achievements and uniqueness of their communities.

## *Lack of public awareness, education, leadership & FUNDING*

Unfortunately, through many years of underfunding and lack of leadership, most Victorians are oblivious to much of our heritage, apart from historic public buildings & National Trust properties. At a local level, residential heritage is mocked or viewed with suspicion by some. In our local community, we frequently hear comments in regard to protecting mid-century properties like:

“it’s not old enough to be heritage”

“why wouldn’t you want to live in a new house?”

“you shouldn’t impose heritage restrictions on private property”

“if you love them so much, why don’t you buy them all?!”

Hence we’ve sought to celebrate, educate & promote the benefits of heritage to our community. However, if heritage is to be embraced and valued, greater funding and leadership is required from all three tiers of government.

Our experience with Bayside Council (and perhaps typical of most metropolitan Councils), is a high turnover rate of planning staff and a lack of officers with significant experience spanning multiple (or any) heritage processes. And it’s rare if they have much understanding of local heritage contexts. This was even identified by Bayside Council via a planning staff survey, the results of which they published as part of their Heritage Action Plan review in 2020.

So, we’ve found Council planning officers are often underprepared in dealing with complex long-term heritage planning, as well as immediate threats to heritage.

Another issue for community advocates is the lack of clarity around thresholds for applying the criteria for significance. And Council Planners aren’t across this either. Council officers rely on the Heritage Council’s Victorian Heritage Register Criteria and Threshold Guidelines, which do not provide adequate guidance for the assessment of places of local significance.

## *Systemic gaps in heritage protection*

An obvious gap in current heritage protections, which was raised by the National Trust during the 2015 Heritage Act Review, is the inability for the Heritage Council to make a direct recommendation to the Minister for Planning for the application of interim controls

to places which have been nominated to the Victorian Heritage Register and are found to be of local significance.

If, following an assessment by Heritage Victoria (and a possible hearing) the Heritage Council determines that a place is not of state level significance, but should be referred to local government for consideration for an overlay, in many instances the referral is not taken up by local government, leading to the loss of that significant building.

Within the current heritage framework, Councils have a statutory obligation to undertake regular studies and reviews to identify and recommend places of local heritage. But there's no mandated timing. Hence, some Councils have been regular and timely, but many haven't.

In regard to Bayside Council, the last heritage study completed, and which led to additions to the local heritage overlay was over 20 years ago ([City of Bayside Heritage Review, March 1999](#)). Whilst this and other previous heritage studies and recommendations led to a great increase in heritage overlay additions, these were concentrated amongst pre-WWI buildings in Brighton, Hampton and Sandringham.

Bayside's heritage overlay lists 770 places, of which only 24 are located in the suburbs of Beaumaris and Black Rock (an area & population which is roughly 20% of the municipality). Amongst these, 14 are buildings, monuments and trees that no longer exist. Only 3 of these places are mid-century buildings, thus highlighting the under-representation of both the locale and significant era of architecture and social significance for which those suburbs are nationally and internationally recognised for. Beaumaris Modern has a database of over 400 mid-century properties within the 3193 postcode, of which we believe more than 100 would be worthy of identification and assessment for local significance. Several precincts could also be considered significant.

Bayside commissioned a municipality-wide heritage study in 2008. Two volumes were published but before a 3rd could be completed by their heritage consultant, Council abandoned the study and process after lobbying by a small number of vocal residents.

A new study was commissioned in 2017, and indeed the Councillors saw fit to seek interim protection for a list of properties cited in the 2008 study, until the new study was completed. However, just a year later, those same Councillors cancelled the new study prior to the appointment of a consultant. In its place, Bayside Council undertook a Voluntary Nomination process (which was based upon a submission to them by anti-heritage campaigners). However the scope for nominations was limited to mid-century properties in Beaumaris & Black Rock.

Whilst Council failed to promote the benefits of nomination and heritage more broadly during the nomination period, Beaumaris Modern ran events and promoted the nomination opportunity amongst members, supporters and community. This resulted in 15 home-owners nominating. Upon assessment by heritage consultants, 9 of these properties were recommended and citations produced and sent to the Planning Minister. Belatedly, Bayside Council also nominated 11 more buildings that it owned.

However, these recommendations were not acted upon by the Planning Minister for more than 12 months.

Finally, following an advocacy campaign led by Beaumaris Modern and National Trust (Vic), the Planning Minister wrote to Bayside Council in early 2020, critical of the voluntary nomination process and recommending that they revert to conventional heritage processes to identify and assess heritage places. Ref: [020-06-23-agenda-of-ordinary-council-meeting\\_r-wynne-letter.pdf](#)

Even though the voluntarily nominated properties have been assessed and cited, the Planning Minister still only granted interim protection to those properties and due to Covid we are still awaiting the publication of the first volume of heritage study (focussed on Beaumaris / Black Rock).

### *Significant places lost in the last 4 years*

Sadly, there are too many to mention here. Here's just four examples of significant properties demolished in Bayside due to a lack of heritage process. See our website for more:

The Breedon House, 34 Ware Street, Brighton - nominated to the Victorian Heritage Register, but demolished before it could be assessed by Heritage Victoria in 2020.

<https://www.realestate.com.au/news/brighton-midcentury-house-demolished-while-being-assessed-for-heritage-protection/>

27 Mariemont Avenue, Beaumaris - by Chancellor & Patrick. Demolished in August 2018 by foreign national owners, without any development application submitted. The property was moonscaped and remains a paddock of weeds and an example of 'land-banking'.

<https://www.domain.com.au/news/beaumaris-modernist-house-demolished-prompting-dismay-after-lstditch-bid-for-protection-20180813-h13whb-757883/>

The Dando Hexagonal House, 12 Oak Street, Beaumaris - The last of its kind, a significant architectural design. It was cited in the Bayside heritage study of 2008, but Council did not proceed with the recommendations. When under threat of demolition in 2019, we appealed to Heritage Victoria and the Planning Minister to add it to the Victorian Heritage Overlay. It failed to meet the State threshold but would have met the local threshold. However Bayside Council were only accepting voluntary nominations at that time, so it was allowed to be demolished.

<https://www.realestate.com.au/news/beaumaris-honeycomb-house-demolished-robin-boyd-original-under-threat-in-balwyn-north/>

17 Nautilus Street, Beaumaris - by Charles Bricknell. Both architecturally and socially important as Bricknell was a significant local architect who designed the Beaumaris Art Group building.

<https://www.realestate.com.au/news/beaumaris-midcentury-marvel-facing-demolition-after-council-vote/>

## *Under - representation of mid-century architecture*

The most recent completed Bayside heritage studies were undertaken in the 1990's, so mid-century architecture wasn't widely considered and identified, as it was not deemed old or significant enough to meet criteria and expectations. This was also the case across most other Victorian municipalities.

This issue is discussed in detail in the State of Heritage Review report, which identifies both geographical and type gaps. The review found that the most common place-type gaps are trees and gardens, post-war residential, and historic landscapes. It's been a long wait for these categories to be identified, but heritage identification must keep evolving and adapting.

## *Intactness & Facadism*

We're concerned that assessment of buildings for local protection weighs too heavily on the street facing façade as the determinate of intactness. Heritage assessment of built form is contextualised by the consistency of facade form and colour that was a feature of pre-WW1 architectural styles that predominated in Australia (Federation, Victorian, Edwardian).

To assess mid-century buildings by the same standards as those earlier styles, fails to acknowledge that mid-century residences and public buildings were often unique architectural expressions, designed on modest budgets with limited materiality (post WW2 to 1960s) and were often hoped to be extended or improved over time.

### **Our Suggestions:**

- If Councils are to continue to be the authority that identifies, recommends and manages local heritage, their staff need training and active guidance from Heritage Victoria.
- Councils to be given fixed & mandated heritage study / review periods
- OR take the onus off Councils and fund Heritage Victoria to conduct local significance studies and recommendations (with Councils being advocates / stakeholders in the review outcomes)
- Council to initiate incentives to heritage property home owners to assist with maintenance or sympathetic upgrade
- Enforce penalties for the destruction and decay of heritage buildings
- Update the assessment criteria to consider a more holistic assessment approach
- That heritage decision makers be expressly discouraged from focusing on "intactness" or accepting "facadism".
- Thematic studies could champion the under-represented, eg: contemporary architecture, women in architecture & design or migrant heritage.

## **2. BUILDING DEMOLITION**

Developers and owners are demolishing buildings ahead of consideration of their heritage significance because currently, demolition powers are in the hands of private building surveyors.

Another issue is the Federal Government Foreign Investment Review Board Rules contain an incentive for foreign nationals to demolish existing homes. Foreign nationals are therefore buying up quality homes, obtaining a permit to demolish through a private Building Surveyor, moonscaping the block of all vegetation, then building large McMansions, not in keeping with neighbourhood character. This results in the loss of heritage homes, as well as tree canopy cover, permeable land and open space.

This was sadly the case with 27 Mariemont Ave, Beaumaris - previously cited above.

### **Our Suggestions:**

- Regardless of whether a heritage overlay exists or not, demolition permits shouldn't be issued without a planning permit. And demolitions shouldn't occur until the planning process has decided what will replace it.
- Applications for demolition permits should be required to provide information concerning the greenhouse impact of demolishing an existing building, and replacing it with a new building.. Developers should need to prove their new development won't add to the site's carbon footprint.

## **3. ENVIRONMENTAL IMPACT**

All levels of government have acknowledged that it's more vital than ever to undertake society-wide measures to mitigate against climate change. This is well supported in principle by a majority of the community. But the state's current planning policy contradicts its climate change policy and exacerbates climate change, via the loss of period homes and established gardens, and the increase in hard surfaces.

Older homes and gardens are often much more environmentally friendly than what replaces them. New trees don't absorb as much greenhouse gas than older established ones. And new homes tend to eat up as much (or more) energy as older homes, because on average they're 30% larger. More square footage, more appliances, more of everything. And these factors are magnified when a single period home is replaced by a dual occupancy or multi-unit development.

## Our Suggestions:

- Educate owners and developers that it's much more energy efficient to fix up an old home than start from scratch. Make it clear that allowing the demolition of old trees and gardens leads to an increase in hard surfaces and the urban heat island effect.
- Provide incentives to encourage widespread retention and upgrade of existing buildings, over new dwellings.

## 4. SIGNIFICANT TREE, VEGETATION & LANDSCAPE PROTECTION

The State Government and Councils have enacted vegetation management policies with the aim of increasing tree canopy and reducing urban heat sink effects. [Ref - Bayside City Council Draft Urban Forest Strategy](#). And trees/ vegetation in the urban environment are deemed to have an amenity value.

However, the VicSmart approval process undermines the planning approval process and is a major impediment to Urban Canopy strategies achieving their targets.

Beaumaris alone was measured via a Bayside Urban Canopy site study to have had a nett reduction in tree canopy from 20.9% to 19.8% between 2014-18.

Almost all of Beaumaris residential land has a Vegetation Protection Overlay (VPO3), and a but unfortunately, our all-to-often experience objecting to planning applications to remove vegetation in a VPO or SLO, is that objections are often supported by Bayside Council, but overturned at VCAT. The heart of the problem seems to be that the VPO (or SLO) decision guidelines are easily over-ruled via VCAT as the wording is not definitive. Words like 'should' and 'recommended' provide an easy 'out' for the applicant.

The Planning guidelines for replanting are ambiguous and we often see new builds that despite supposedly being told to plant replacement canopy trees and indigenous species, they will plant a few token European plants that often die shortly afterward. And when this occurs, more often than not, a lack of Council enforcement means there is no recourse.

VCAT favours applicants because expert witnesses are easily paid for and factored into the cost of business for developers. Whereas community objectors or advocates don't have a financial stake and consequently are outgunned by the lack of time, money & network to be able to find or call upon expert witnesses. Developers are able to make continued applications until residents' resources are exhausted. Within a given appeal they can submit amended plans, which objectors are unable to assess in time, and/or cannot afford to do so.

VCAT attaches little weight to the number of objections or to community views. It's arguable that that is a proper approach, and community views should be considered at

local council level. But that principle only makes sense if the Tribunal then sustains the existing policies of councils, which it often doesn't.

### Our Suggestions:

- VPO wording should be reworked to avoid any grey areas. I.e. 'must' rather than 'should' or '
- Vegetation and Habitat studies should be carried out (funded by State Government and with input from Councils) for the benefit of community awareness and to be able to be cited by parties in Planning applications, objections and appeals. This will help balance the unfair advantage of applicants.
- VCAT should be the monitor of the planning system, not a responsible authority or a generator of planning policy.
- The VCAT system should respect the practices and principles evolved by councils at a local level, and, rather than undermine them, should encourage consistency in future decision making.
- Where ministerial discretion is exercised, costs and benefits should be explicit and publicly accessible..
- Political donations by property developers must be banned.

Thank you for taking the time to read our submission, we look forward to an Inquiry outcome that results in positive change for the better, not just for our unique suburb but for all of Victoria - Beaumaris Modern.

