

**Submission
No 286**

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

Organisation: Walk in St Kilda Road and Environs

Date Received: 22 March 2022

The Secretary
Legislative Council Environment and Planning Committee
Parliament House, Spring Street
EAST MELBOURNE VIC 3002
By email: planninginquiry@parliament.vic.gov.au

Re: Parliamentary Inquiry into Protections within the Victorian Planning Framework

Submission to:

**PARLIAMENT OF VICTORIA – COMMITTEES, LEGISLATIVE COUNCIL,
59th Parliament, ENVIRONMENT AND PLANNING COMMITTEE, Terms of Reference:
Inquiry into Protections within the Victorian Planning Framework**

- (2) environmental sustainability and vegetation protection
- (3) delivering certainty and fairness in planning decisions for communities
- (4) protecting heritage in Victoria
- (6) any other matter the Committee considers relevant.

March 2022

Dear Parliamentary committee,

Thank you for the opportunity to make this submission to the inquiry. The Inquiry encompasses highly significant matters for our present and future. It is hard to overestimate its importance and the need for urgent concrete change.

This submission particularly addresses items 2, 3 and 4 in the *Terms of Reference* requested by the Legislative Council under the Planning and Environment Act 1987 and the Victorian planning framework in relation to planning and heritage protection – around environmental sustainability and vegetation protection, including open space, greenspace and canopy trees (item 2), the adequacy or otherwise of the present planning system in delivering certainty and fairness in planning decisions for communities (item 3) and protecting heritage in Victoria (item 4). They are blended together.

All of the above areas are in crisis and are of paramount importance for communities and critical for health, welfare and well-being as well as healthy economies, so it is recommended and beseeched that action of an urgent and dedicated manner ensues.

Walk in St Kilda Rd & Environs joins many groups and individuals writing submissions on their views on what we continue to experience as the inadequacy of the current Planning and Environment Act in Victoria, the Vic. Planning framework and the failures in enacting heritage

protection in Victoria, which we see and experience as not providing adequate protection for heritage listed places, including parks and the environment, and we earnestly seek change and improvements.

The frustrations and inadequacies noted and experienced in relation to much community and resident work and efforts over the past years, whilst valuable learning exercises, clearly demonstrate that heritage and environmental protection is falling short, failing, subject to being over-ridden or over-looked, mis-managed and is at serious risk. They are under-valued. Protections provided and listed are impeded or overcome in practice.

For example, these places, all iconic, city-defining places in Melbourne have been degraded and not adequately protected: Queen Victoria Market, Melbourne Observatory, the Royal Exhibition Building & Carlton Gardens, St Kilda Road, the once grand entrance to Melbourne city, with its world-renowned formal structure and trees running from Princes Bridge to St Kilda junction; Fawkner Park, Wattle Park (imminent, in process!) ... etc This represents a huge loss of character, of history, of aesthetics and environment, of liveability, and economic sustainable cultural heritage tourism, a massive growth area internationally but dependent critically on authenticity and integrity of the heritage place or park and its appropriate management and conservation.

Addressing climate change, enacting the promise of our local/council, State, Commonwealth/National and World Heritage listed places is increasingly failing, missing the mark, being hijacked, being over-looked, over-ridden, over-come, ignored and neglected. What has gone wrong? How to get it back on track? How to ensure stated, implied and/or intended protections and conservation of heritage listed places and parks are actually implemented, for the benefit of all?

Places and parks are heritage listed following extensive examination, considerations and analysis. Once listed or Heritage registered, they are thus raised above other places, land and parks, they are formally declared of high or outstanding cultural heritage significance to the people of the State, Australia and/or the World and legally required to be conserved and protected into posterity. Yet these established layers (local/council-State-National-World) and levels of Heritage listing and purported protections increasingly fall short and let us down.

What has gone wrong? Why does it not happen in practice?

What changes in law, regulations, Acts, policy, practice, management, attitude and value are needed to ensure the Heritage listed places and parks are *actually* (not just nominally) conserved and protected as intended?

Where has leadership failed?

How to turn this around? Following are some considerations, suggestions and recommendations.

(Note there is repetition of recommendations which apply under the different headings)

(4) Heritage

Encompassing (2) and (3)

The State of Heritage in Victoria: Better Protection and Management and Increased Funding and Resources are urgently needed

Impediments to Implementation – need to be removed

Plan Melbourne is not meeting the needs and wishes of the community and is failing the environment.

We have in Victoria and Australia what looks like a mature, extensive, layered system of Heritage protection and conservation. In practice, however, it is another story. We increasingly find heritage listed places and parks degraded as a result of failures of the system and impediments to implementation, such as gaps in the system, exemptions, government interventions and ‘call-ins’ and bi-lateral agreements as well as by poor planning and management practices of Managers of Heritage places and conflicts of interest. These *Impediments to Implementation* of heritage protections derail the established systems for Heritage Protection, tearing them apart and over-riding them and this has devastating impacts on our valuable heritage places and parks.

The failures are in implementation, in practice. The solutions lie partly in removing the gaps, government interventions (Ministerial call-ins, bi-lateral agreements, exemptions), and also in regulating Management and Managers of Heritage-listed places. Hovering like a dark cloud over these are a failure of valuing of heritage, a lack of leadership and championship in politics and government, the State Government ‘*letting the team down*’ by neglecting Heritage, by failure to enact the protections in place whereby Heritage listed places and parks are acknowledged as being put apart and above other places and lands and as legally needing protection and conservation into posterity. This is reflected in funding and resources and applies to the environment as well.

There is great dissatisfaction with loss of canopy and greenspace, with paving and green infrastructure removal in heritage listing parks such as almost ‘routine’ or thoughtless generic construction of ‘playscapes’ replacing greenspace, cycle, skate and scoot court and paved tracks inappropriately replacing greenspace in Heritage parks and unnecessary, damaging lighting in heritage listed parks and nature environments etc... This is proposed and done almost *de rigueur* often in heritage listed parks, instead of valuing the nature, greenspace, trees, landscape and heritage values and attributes. Part of this lies in **Managers and Councils failing to distinguish between general open space and heritage listed parks and this distinction, with protection of heritage parks and places prioritised and strengthened, needs to be reinforced and regulated.**

Lack of Adequate Heritage Protection - it needs to be Strengthened (in value, regulation, Implementation) and embedded as a Priority at all levels

Implementation needs to be secured, gaps and encumbrances to enactment removed

There is an increasing reduction of green open space and failure to adequately protect irreplaceable neighbourhood, State, National and World Heritage places, resulting in diminishment of these places. They were added to the State, National and World Heritage lists after extensive consultations and considerations, put aside and above other places and property as

needing conservation and preservation into posterity, but this is not being done in many, many cases.

A failure of leadership – at all levels

Issues include:

- A perfunctory response at planning level re protecting and conserving the heritage listed places and parks, their listed values and attributes, as a priority.
- Issues with conflicts of interest with Managers, which are not being addressed, removed, disallowed
- Managers of Heritage listed places failure to do best practice strategic management, planning and conservation of the place
- Need for legislating to remove barriers for Heritage protection and for HV: to *even the playing field*: legislation change to allow HV to engage legal/QC(s) representation, to accept and use pro bono legal assistance and QC(s), to engage independent, external experts; to refuse an Application when best practice strategic planning documents are missing or not up-to-date prior (they should inform works plans and should be done in effective consultation with the community/public).

Some Managers have a conflict of interest, for example, they are managers of a Heritage listed place as well as developers of properties around its borders (and the later can take priority or cause contradictory views and actions) or a Manager of one Heritage listed place is also manager of a neighbouring heritage listed place, such as with the Board of the Royal Botanic Gardens of Victoria, manager of RBGV and of its neighbour Melbourne Observatory (MO). In this case MO, a place of highly significant heritage values state, National and world (potentially, reportedly with outstanding universal value), is left without a name on its own site (but with the name of other companies prominently listed, including caterers), without an independent website, without a separate, dedicated Master Plan, with increasing encroachments on its landscape, integrity and identity by its manager and their other priorities. It is impossible to adequately manage MO optimally in these circumstances, as the values and auxiliary activities of RBGV override for them best strategic planning and actions for MO itself, colour decisions made and this leads to encroachments of the integrity, identity, use and accessibility of MO. It is also a barrier to the potential nomination of Melbourne Observatory as a UNESCO World Heritage place, something for which MO has been assessed as fulfilling the criteria, the outstanding universal values.

Ref. '*Melbourne Observatory – Outstanding Universal Value*', expert panel presentation organised by Walk in St Kilda Rd & Environs, held at the Royal Historical Society of Victoria, 6 December 2020. See attached and:

<https://www.historyvictoria.org.au/event/melbourne-observatory-outstanding-universalsignificance/>

Managers, councils, local, State (government) and Commonwealth level managers of Heritage places seem not able, reluctant or unwilling to be consistently, reliably protecting our heritage listed places and parks.

There are several ways to achieve or seek to achieve these desired better outcomes for Heritage and Environment. For example, with a separate Minister for Heritage in Victoria or with strengthened, prioritised policies and legislation plus mechanisms to manage and monitor Managers of Heritage-listed places and parks; with strengthened protections and *prioritising* for Heritage listed values and attributes embedded in legislation and priority for Heritage conservation at VCAT and/or with separate VCAT/tribunals to hear Heritage matters; with dedicated heritage experts at VCAT or incorporation of VCAT members with Heritage expertise at VCAT; with changes to legislation, regulations/policies, the Heritage Act to require best practice strategic management and planning processes and their documents – Conservation Management Plan, up-dated, with extensive public consultation every 10 years, followed by development of a Master Plan, done with extensive, effective community engagement and updated every 10 years – to be in place prior to acceptance of or lodging of an Application for works/development/‘up-grades’/‘maintenance’; introduction of new mechanisms for management and monitoring the conduct and appropriateness of Managers of Heritage listed places and parks, including a **Code of Conduct for Managers** of Heritage listed places, a process for removal of a Manager, for avoiding Conflicts of Interest with/by a Manager and the Heritage listed place/park, for the centralised accessibility of the documentation of best practice strategic Management (CMPs and MPs), along with its Statement of Significance and other Heritage listing documentation. It is further recommended in this submission that the practice of establishing an Environs Area or ‘buffer zone’ be expanded to be available for all Heritage listed places and parks and that community engagement at all levels of pre-planning be made compulsory, including establishing a Community Reference Group or Community Advisory Committee for pre-plan consideration and development of proposals.

I have come to think that that would be useful for implementing, strengthening and enacting Heritage protections - to have a Victorian Heritage Minister for a period of time in order to re-prioritise, re-value and re-position Heritage protections, to demonstrate its VALUE and to provide additional RESOURCES (money), also to regulate and monitor Managers and Management of heritage listed places.

Recommendations: The significance and importance of heritage assets and the current state of decline and poor management and outcomes is such that it currently warrants a dedicated Ministerial portfolio and separation for heritage and prioritising over general planning and development. The responsible, dedicated new Minister should be adequately resourced and funded and tasked with and empowered to pay due **attention to cases of ‘heritage at risk’ raised by the community**. The responsible Minister should monitor and oversee Manager and Council decisions which are likely to impact on heritage listed places and parks, keep lists of Managers of Heritage listed places and their strategic planning documentation (CMP and MP), developing and having Managers sign a **Code of Conduct for Managers of Heritage listed places** and parks, including penalties and reasons for requiring a change of Manager, conditions of a Conflict of Interest and requirements for an effective, embedded on-going Community Reference Group or Community Consultation Group within the pre-plan consideration processes for all Heritage listed places and parks.

Recommendation: that Heritage Victoria be separated from the department of planning and placed as a separate, independent, prioritised entity to DELWP, operating within its own government department under the proposed Minister for Heritage. It is noted that this is required currently in this crisis, needed to institute changes in priorities, planning, management and accountability as well as community inclusion in the pre-plan considerations. It is envisaged, when Heritage management, managers, processes, priorities and protections are not just in place but also secured, operating reliably and effectively, resourced and funded, a return to a shared Planning/DELWP portfolio could be resumed perhaps.

How do you ensure local councils and Managers must prioritise the listed heritage values and their attributes, the identity and integrity of the Heritage listed place, a highly significant asset, and not be compromised by commercial or other considerations?

Recommendation:

A Code of Conduct for Managers of Heritage listed places

A mechanism for avoiding Conflicts of Interest with Managers of Heritage places and the Heritage place, including conditions and mechanism for removal of the Manager and their replacement by a new, more appropriate, non-conflicted Manager.

Removal of gaps and loopholes to best practice, effective Management of a Heritage listed place and its conservation. For example, 'commercial in confidence' strategies, Bi-lateral agreements between State and Federal bodies re Heritage listed places,

Heritage protection should be given to individual places regardless of fitting in with a predominant 'precinct' or area 'theme'.

Managers to be required to manage the Heritage place for conservation of its listed values and attributes and to complete separate dedicated CMPs and MPs for the place. (not as part of a 'Precinct' and not immersing it into a neighbouring place). i.e. Heritage protection is the Priority- it is not to be subsumed under a 'Precinct' or other development.

More funding (staff/resources/money) for Heritage.

Embed Effective Community Engagement

How to ensure Councils/Managers must engage with and genuinely consult in an effective way with the wider community in forming plans, deciding to propose works, 'up-grades', maintenance, development of Heritage listed places and in considerations when matters arise which will impact on heritage assets?

Legislating for **resilience** and requirement to halt and go back and do **community engagement** when it has been inadequate or missing, and **re-think and re-plan**; requiring effective, embedded community engagement in forming plans; and preventing the 'tick the box' management processes and meetings that are sometimes conducted under requirement but have no effect on forming or altering plans. Eg St Kilda Road, the Metro, Green Wedges, Wattle Park.

Recommendation

Effective, independent Community Reference Groups should be embedded into Manager/Council and state government department/Authority at the pre-plan stage, with community contributing effectively to forming plans and making decisions on plans, works, development.

- Transparency and embedding effective Community Reference Groups into Council and State Government at the pre-plan finalisation stage, as a formative and continuing part of plan development.
- Re-consideration of Managers of Heritage listed places with an aim to avoid Conflicts of Interest
- Avoiding Conflicts of Interest: Reviewing managers of heritage listed places with the aim to ensure developers are separated and removed from a conflicting role as both Manager of a Heritage listed place and developer of its surrounds eg City of Melbourne and Queen Victoria Market – and **that external commercial ventures do not dictate management of Heritage places** (eg Carlton Gardens and *the Melbourne International Flower & Garden Show*; Melbourne Observatory and RBGV's external event program).
- **Extension of a 'buffer zone', environs or protected surrounding area provision for state and National Heritage listed places** eg *Queen Victoria Market*. Note: currently the buffer zone is only for World Heritage listed places, such as Royal Exhibition Building & Carlton Gardens.
 - o Mandating no exemptions and no *area of lesser sensitivity* in buffer zones (WH and proposed other)

Closing the gap on Ministerial 'call-ins'. This should be an extremely rare occurrence and then for the protection of the Heritage place as a priority, not routine and not for general projects and development.

Recommendation:

Statutory heritage protection (the Heritage Act) should be expanded to further include intangible cultural heritage values as well as built heritage, for example social significance

Changes to the Heritage Act so that Heritage Victoria is able/required to dismiss or not accept an Application when the Strategic Planning documents, CMP and MP, completed sequentially and with extensive public engagement (separate MP specifically for the Heritage listed place) for the Heritage place itself (separately) are not completed or up-to-date (up-dated every 10 years).

Heritage generally, at all levels, Heritage Victoria and the NTAV as well as a proposed new Heritage Minister should be priority funded accordingly with additional resources and money.

Lottery funding – National Heritage Lottery Funding (and, given existing/appropriate structures a State Heritage Lottery Funding?)

World Heritage places in Victoria: Better Governance and Authority/Trust establishment

A streamlined, multi-layered responsibility for World Heritage sites. A dedicated Authority or Trust is suggested, for example for the *Royal Exhibition Building & Carlton Gardens*, to avoid

confusions, inconsistencies, and conflicts of interest. An independent active role, without 'bi-lateral agreements' is recommended at the National/Commonwealth level. This is needed to enable the checks and balances to function for the benefit and protection of the World Heritage listed place.

Recommendation: the entire buffer zone to be incorporated into World Heritage protections/management, without distinction of areas of lesser and greater sensitivity in the buffer zone.

"Communities advocating for protections of heritage, are competing in a system that has become expensive, complex, litigious, dominated by professionals in law, planning and heritage, and administratively institutionalised. This environment is unfair and inequitable and denies the public their rights to participative democracy. This is also contrary to the local Government Act 2020, and to the WH Charter, that lauds community contributions and consultation."

FREB&CG 2022

This issue of funding and the 'David and Goliath' aspects of heritage and community groups versus major developers is relevant to State, National and World heritage matters, and it needs to be precluded and removed from the equation through changes to legislation and policy, a focussed, effective, deliberate prioritising of Heritage across the board and that needs to be reflected and supported in funding, also through establishment of a National Lottery Heritage Fund (see UK National Lottery Heritage Fund).

To assist even the playing field and remove inherent disadvantage:

Heritage Victoria to be additionally funded and resourced to enable them and legislatively allow them:

- to defend their decisions at Heritage Council with QCs and legal teams, as well as hired external experts, when the Applicant appeals a decision to refuse a Heritage Permit (or uses legal teams themselves), at VCAT and Planning Panels
- to accept pro bono legal, QC and other expert assistance
- to attend and present at VCAT and PP Vic and other Tribunals to advocate for Heritage places

Regulation of Managers and Requirements for Strategic Planning & Management process and Documents for Heritage listed places

An absence of Strategic Management processes & effective embedded inclusion in forming plans and key documents is a recipe for disaster for Heritage places and parks and leads to and degradation of their character and heritage values. It is an alarmingly common occurrence.

POOR PLANNING & MANAGEMENT PRACTICES = POOR OUTCOMES FOR THE HERITAGE PLACE/PARK & INADEQUATE INCLUSION OF COMMUNITY IN DECISION-MAKING

Proceeding in a fragmented way without an up-dated CMP and delaying or doing over-due Master Plans AFTER extensive, place-changing works plans are submitted to HV are inadequate management processes, lead to poor plans and decisions, are generally not adequately inclusive of community engagement.

A failure of best practice, holistic strategic planning and management processes by Managers of Heritage listed places and Parks

Residents, the community, Victorians, Australians, visitors and the Heritage-listed Parks/Places suffer and are disadvantaged when this poor management/works plans process occurs. For example, it occurred with Fawkner Park (Manager = City of Melbourne) and has been extremely costly; also with decisions being made to change Queen Victoria Market, a highly significant heritage place on the State and National Heritage lists but suffering harm without having a dedicated Master Plan for the place, leading to confusions and blending with the differing priorities and interests in the greater area or 'Precinct' and their developers, and this impacts negatively on the integrity and identity of Queen Victoria Market itself and is an impediment to its appropriate, strategically-focussed conservation and prevents its significant heritage-appropriate economic opportunities. Melbourne Observatory is left without its own dedicated Master Plan, leading to risks with its identity, incursions on its land, character and functioning, diminishment of its integrity and failures with its conservation and management, as well as public access. This includes loss of its very significant, potentially economically enriching opportunities with focussed/targeted, appropriate conservation and management such as with Cultural Heritage Tourism, which critically requires authenticity and integrity of the Heritage place and public access. (Note: This is Cultural Heritage tourism and other opportunities for Melbourne Observatory, in Melbourne Observatory's site and complex. It is not for RBGV activities and non- MO relevant activities being scheduled and held by the Manager in MO site eg circuses, theatre, RBGV lighting events, botanical events)

See/Join The Friends of Queen Victoria Market: <https://www.facebook.com/FriendsofQueenVictoriaMarket/>

See/Join The Friends of Melbourne Observatory:

<https://www.facebook.com/friendsofmelbourneobservatory/>

See: <https://asv.org.au/mo>

Planning and Strategic Management of Heritage places and Parks is inadequate and warrants regulation and mandatory requirements. Poor management and wrong process need to be addressed and it is hoped should result in refusal of the Application (disallowing of Heritage Permits).

Poor management and planning processes result in inappropriate and ill-advised works proposals and this regularly occurs with our valued, precious Heritage listed places and parks.

Recommendations: A neglect of proper process or best practice strategic planning and management processes and a failure to implement inclusion policies in forming their key documents (CMP and MP) and works proposals and Applications to HV should result in ineligibility of the Application at Heritage Victoria. Changes are needed to the Heritage Act (and P&E Act and with Council policy to regulate managers and management) for this. It is badly needed and highly recommended.

Absence, lack of or out-dated planning and Strategic Management prior to a HV application has regularly resulted in disconnected, damaging works proposals and Applications to HV for a Permit. It is *putting the cart before the horse* and puts our highly significant heritage places and parks at risk. It is disrespectful of the heritage place, which is listed on the Victoria Heritage register as of highly significant heritage value to the people of Victoria and warranting preservation and conservation into posterity and impacts on the listed values, authenticity and integrity of our cherished heritage places are sometimes, if not frequently, devastating.

Recommendation:

Formal, binding requirement for holistic, inclusive management processes to be completed, with effective, embedded community (residents, community, public, community groups) consultation and engagement in forming documents and plans, works and 'up-grades, PRIOR to an Application being made to Heritage Victoria or works (development, major, 'maintenance, 'up-grade') being done.

Changes to the Heritage Act, P&E Act, Council Policy to regulate Managers/management so that Applications or Exemption(s) will be refused (and certainly not issued a Permit) if a Manager has not completed current (up-dated every 10 years) CMP and separate Master Plan for the Heritage listed place or park before forming the works plans and prior to making the Application. That a specific, separate, dedicated Master Plan be a requirement for a heritage place. That re-application to HV be required without the above.

That is, **the Manager to complete the prescribed, best practice, proper, holistic, inclusive management processes first**, including, critically, with effective, embedded community (residents, community, public, community groups) consultation and engagement in forming documents and plans, works, 'maintenance' and 'up-grades'. Plans, 'up-grades' and works should be developed following this process and the orderly, sequential (not concurrent or following works/plan determination) completion of an up-dated Conservation Management Plan (CMP) and a Master Plan (MP) with effective inclusion of community, groups and the public. Informed by that and following that, plans should be made and applications submitted to Heritage Victoria for a Permit.

The risks and poor outcomes that can and do emerge in proposed plans for a Heritage Place or Park when best practice, holistic, inclusive Strategic Management process are not followed impact our heritage assets and parks severely. *A comprehensive, integrated planning process* is central to proper management of Heritage listed places and parks but this is often missing out-dated or perfunctory, leading to poor decisions and plans and works that cause degradation and diminishment of the Heritage place.

Recommendation:

Requirement for **standard, best practice strategic management processes and documents (CMP – MP, specific for the Heritage listed place, and inclusion of community in developing these, must be completed prior to forming works/development/'up grade'/'maintenance' plans or doing work or making an Application to Heritage Victoria.**

A current poor practice by Heritage place Managers that needs to be addressed and stopped is that the Managers of a Heritage listed park or place, not having followed well-known, critical planning processes, **attempt, wrongly, to use Heritage Victoria as a mechanism** for either overcoming or back-filling (in an ineffective, perfunctory manner) these missing planning processes and their formative documents (CMP and MP), that should already have occurred and be in place to inform or determine works and 'up-grade' plans. Instead, they seek to back-do them while the Application for a Permit is being processed at Heritage Victoria to enable pre-determined works plans to proceed.

Of course, that is *skewwhiff* as a planning process and ineffective as best practice management of a heritage place. **HV assesses Applications under the Heritage Act - it is not a replacement for management and inclusive, strategic, holistic planning for the heritage place being done by the manager with the residents, community, groups, public, stakeholders, a process involving development of a Conservation Management Plan (up-dated every 10 years), then a Master Plan (MP) (following CMP, every 10 years), with embedded, effective community consultation, informing draft plans, 'up-grades' and maintenance plans, which then should result in an appropriate, holistically planned Application to HV. This is a gap, loophole, distortion or corruption that needs to be blocked and prevented through legislative changes to the Heritage Act, the P&E Act, Council policy/regulations.**

This fractured approach to management of heritage places is sub-standard and local residents, Victorians, visitors, the public and community groups and Heritage places and parks deserve more, deserve proper strategic management and dedicated, comprehensive conservation.

Excluding the well-established process for managing a heritage place: a Conservation Management Plan (usually updated every ten years), done with the community and public; followed by a Master Plan (usually up-dated every ten years following the CMP), done with embedded consultation and engagement with residents, the public, stakeholders and community groups, leading to/informing plans and actions, considering the whole place. Then detailed 'upgrades' or works plans should emerge and an application to Heritage Victoria for a permit. That should be the standard, required, best practice process. **This should be made mandatory prior to acceptance of an Application at Heritage Victoria.**

Disjointed, fragmented, not integrated, unilateral approaches that are imposed on a heritage place or park and on the community, done without proper, inclusive, holistic planning processes first, without considering the whole place or park and its listed heritage values and attributes first and centrally - which should occur before any works or 'up-grades' are decided or proceed and before any Application is made to Heritage Victoria for a Permit, put the Heritage place at risk and exclude community.

To end this:

Recommendations:

- Changes to the Heritage Act to enable non-acceptance or refusal of an Application at Heritage Victoria on those grounds eg if missing a current, separate CMP and MP for the Heritage place/park
- Council Policies and Regulations requiring heritage planning processes and current documents required to be completed before works/'up-grade'/'maintenance' Applications are lodged with HV
- An enforceable Code of Conduct to be agreed by Managers of Heritage listed places
- A mechanism to **avoid conflicts of interest with a Manager and Heritage Listed Place** eg to avoid conflicts of interest and lack of focussed, dedicated priority for the protection and conservation of a Heritage listed place/park: enabling a change of Manager, requiring a Manager not be a developer in the environs, preventing a Manager of one Heritage listed place from managing a neighbouring Heritage listed place/park etc ...
- Requirements for establishing (permanent, on-going) embedded, effective Community Reference/Consultation Groups which work with the Manager/Council in the pre-plan stages, assisting to form proposals and draft plans, prior to Applications being made to Heritage Victoria for development/works/'up-grades'/'maintenance'.
- changes to the Heritage Act to prevent government programs from by-passing Heritage management and Strategic Planning processes as described above, or to develop outside of them. That is, a program such as the Victorian Government *Suburban Parks program* should not be super-imposed over, outside of or instead of established best practice, inclusive, holistic strategic management and planning for the Heritage place or park. e.g. Wattle Park. Such funding and prior or subsequent works plans should be required to be considered within the best practice strategic planning processes for the place, ie following an up-dated CMP, then a MP (done between the Manager, the public and stakeholders, outside of HV), then development of park appropriate, targeted plans from that.
- a clear management structure, with accountability for the Heritage place be published and readily available to the public. (see issues with QVM, Wattle Park)
- legislation and checks on CMP and MPs for heritage listed places and requirements to complete them, prior to plans and works being done.

Obtrusive Outdoor Lighting – regulate and practice compliance with the new Standards and establishing Urban Dark Sky Places

See attached presentation by Dr Barry Clark, 2021.

Melbourne Observatory (MO), 1862-

Is a complex of heritage buildings and lawns with extraordinary highly significant heritage value to Australia and outstanding universal values which are considered would enable its listing as a UNESCO World Heritage place if nominated.

Melbourne Observatory was decommissioned as a working government observatory in 1945, but it is still a registered, working Observatory and astronomers use its operational heritage

telescopes there and conduct public events, including on the lawns. It has operational telescopes in two of the Observatory buildings currently and a fourth heritage telescope - the Great Melbourne Telescope – is being reconstructed to be reinstalled in a refurbished GMT (Great Melbourne Telescope) House.

Recommendations:

- up-date of lighting and lighting policies in parks and heritage places with a view to compliance with Standards for Obtrusive Outdoor Lighting: AS/NZS 4282: 2019. That is diminishing, focussing lighting, using environmentally-sensitive lighting.
- requirement for any registered Observatory, and here, specifically, heritage listed Melbourne Observatory, to be nominated as an International Dark Night Sky place or Urban Dark Sky site.
- we need in place a means for more consideration and assessment of Managers of heritage listed places, so that Managers should NOT have a conflict of interest, such as being a developer in the environs, including self-interest or colonising intentions over a neighbouring heritage place. There should be a mechanism to address and change these manager situations.

Resident, community, public, groups – introduce formal requirements for embedded inclusion in the pre-plan or plan formation stages

Inadequate or lack of effective, embedded community/public consultation; genuine engagement is rare; despite rhetoric and inclusion strategies, implementation is inadequate or missing.

Gaps and failures:

Managers and Conflicts of Interest - see above

Bi-lateral Agreements – should be dis-continued

Ministerial/State government interventions such as Vic. Government Priority Projects and fast-tracking these projects and development applications – these can imperil Heritage conservation, climate change mitigation and parks and green infrastructure protections. They negate the Heritage listings, protections and processes put in place and should be rescinded.

Recommendation: Heritage listed places and parks to be removed from the auspices of Ministerial ‘call-ins’/intervention, Priority Projects jurisdiction, fast-track development applications. Fast track development applications impacting Heritage parks and places to be removed and assessed prioritising the protection and conservation of the Heritage place..

Gaps – Heritage and nature, green infrastructure benefits do not end at the fence

Part of the community benefit, for health and well-being, in mood and mental health is the visual, the viewing of our heritage parks and greenspaces. This does not end at the fence or roadway, heritage park land border. Being able to view the park and its green infrastructure, trees, green lawns and landscapes is known to be a community benefit, mood enhancer and climate change mitigator. See pages 26-27 and references.

For example, this has been diminished and partly removed or disrupted all along the north border of Fawkner Park, unnecessarily and without community consultation, during Covid lockdown.

This is a significant loss of amenity for the community and mechanisms to 'undo' these damaging works is needed.

Such green infrastructure and community mood enhancing benefits are removed from or diminished in Carlton Gardens (CG) when an external event, the *Melbourne International Flower & Garden Show*, and its infrastructure occupies CG, dissipating the heritage values of World Heritage listed REB&CG and diminishing the health and mood, impacting positive benefits of the park and its trees and nature for the public.

How to protect against this?

Recommendations:

Embedding Community Reference Groups Consultation Committees within management bodies (e.g. in CoM/council, such as with Fawkner Park; Parks Victoria with Wattle Park ...).

Manager Management and Planning requirements: Requiring best practice Strategic Management and Planning processes with embedded community/public consultation in the pre-plan stages and displayed in their up-to-date documentation (CMP and Master Plan).

Legislative Change: a duty of care and requirement in relation to green infrastructure, trees, lighting and heritage parks to be introduced to apply to State and Federal governments and Councils to protect, conserve, mitigate and increase green infrastructure loss and diminishment as a duty of care and community health and well-being service.

With the increasing value on environmental sensitivity with climate change, with the need for a more holistic approach to planning and heritage management and with landscapes, views, vistas and even glimpses being considered more important for liveability and health, mood and well-being it is recommended: Legislative changes to extend an Environs Area or 'buffer zone' to heritage listed parks (to protect views and sightlines and enable embedded. in context, extensive community benefits, mood and health and well-being effects of the heritage park)

- expanding legislation/protection for an environs area or heritage places generally (not just World Heritage listed places).

(b) Federal involvement in heritage protection

Supported - strengthening of Federal involvement in Heritage protection is recommended, removal of Bi-Lateral agreements so that the Federal level of Heritage protection is part of an independent, layered approach to protect heritage listed values and attributes and nature benefits of green heritage parks as mitigators of climate change effects on the public, particularly crucial in urban environments i.e. Federal heritage protection processes to act as checks and balances needed to strengthen the currently failing system; stress on '*independent*'.

A dedicated Federal Ministry for Heritage.

I have long advocated for **a National Lottery Heritage Fund**. E.g. as with the UK. This has saved, enabled, revolutionised heritage protection and conservation in the UK. It just takes political will,

no? Australians are renowned as gamblers, let's use it for worthwhile purposes, to fund, conserve, resource Heritage.

(c) separating heritage protection from the planning administration

Currently supported due to the crisis situation with failures to adequately value and enact Heritage protection and implementation.

In the long term, in the future, with Heritage structures, mechanism and places re-positioned in a strengthened state of protection and with better, best practice strategic heritage management established as a priority, more integration with planning administration could become appropriate again. Currently development, fast-tracking and the *big build*, in combination with conflicts of interests with Managers and gaps in protection such as Ministerial 'call-ins', bi-lateral agreements, missing or inadequate, separate, holistic Master Plans are virtually annihilating best practice heritage management and conservation, dominating and over-powering the heritage protection system theoretically in place.

A Minister for Heritage could advance the changes, strengthening and re-prioritising needed.

The separation of Heritage and Planning management in Victoria

- A separate Minister for Heritage
- Separation of Heritage Victoria from Planning/DELWP (Department of Environment, Land, Water and Planning) – so Heritage is managed independently to planning and development, and prioritised, and funded accordingly.

(d) establishing a heritage tribunal to hear heritage appeals

As above.

“The issue of ensuring that heritage is holistically integrated into planning is relevant at all levels of the planning system, including appeals process. A common issue raised by respondents to the National Trust and Australia ICOMOS Survey was poor heritage outcomes arising from VCAT decisions, with 60% of respondents stating that VCAT appeals are either ineffective or not very effective at achieving positive heritage outcomes. While adverse heritage outcomes arising from VCAT decisions can partially be attributed to weak policies related to heritage in local planning schemes, another key issue is a lack of heritage expertise within the pool of Tribunal members. The adversarial system strongly favours developers with the resources to engage the best advocates and expert witnesses.”
NTAV, 31 January 2022, page 24

These issues need to be removed and the system rectified so that Heritage is actually prioritised.

(e) the appointment of independent local and state heritage advisers. Yes

(f) the role of Councils in heritage protection

The Heritage Act, 1 November 2017 and its Regulations 2017 are regulated by Heritage Victoria with the purpose “to provide for the protection and conservation of the cultural heritage of Victoria.”

Local councils are responsible for locally significant heritage places, which are listed in the **heritage overlay of the planning scheme and protected under the Planning and Environment Act 1987**. This needs over-hauling.

Gaps in local heritage protections, heritage overlays – need review, up-dating, a more holistic approach, consideration of greenspace infrastructure and holistic views, vistas and glimpses as important and warranting protection.

Recommendations:

- a Code of Conduct and monitoring of Managers and their management of heritage places, as above, including avoidance of conflicts of interest and changes of Manager when they occur, and mandatory strategic management processes and its documentation (CMP-MP for the heritage listed place, up-dated every ten years; on-going Community Consultation Committees for effective input in the pre-plan stages).
- Regulation/legislation requiring Managers and Councils to distinguish between Heritage listed parks and general open space and non-heritage listed parks.
- mandate/regulate that Councils have discrete, prioritised heritage management (area/staff) to separate it from general ‘open space’ and non-heritage-listed parks and prioritise its management as a heritage place over development and other interests
- Support recommendation for increased recognition and protection for heritage listed places and their social significance

This would help solve the damage to heritage listed parks for instance, when councils, such as CoM, draw up strategies and plans treating heritage listed green infrastructure parks as general open space and proposing or planning paved and constructed environments such as courts and skate ‘parks’/areas and paved cycle tracks instead of conserving, increasing, maintaining the green landscape. These belong elsewhere – in general open space (non-heritage listed parks) or in new, acquired open space.

The following two recommendations apply to councils and to other Managers of heritage places and parks:

Stronger mandates and regulations on Community Engagement and Inclusion in all levels of planning and heritage management, including, importantly, in the plan development stages, and including strong directives on rectification requirements and processes for when Councils omit proper planning processes (including up-to-date Conservation Management Plans and Master Plans) and when community engagement has not been adequate. For example: the current and last few years of works in Fawkner Park, Queen Victoria Market, Melbourne Observatory ...

Legislating for resilience and requirement to halt and go back and do community engagement when it has been inadequate, and re-think and re-plan; requiring effective, embedded community engagement in forming plans; and preventing the ‘*tick the box*’ management processes and meetings that are sometimes conducted under requirement but have no effect on forming or altering plans. Eg St Kilda Road, the Metro, Green Wedges.

- Transparency and embedding effective Community Reference Groups into Council and State Government at the pre-plan finalisation stage, as a formative and continuing part of plan development.
- Re-consideration of Managers of Heritage listed places with an aim to avoid conflicts of interest
 - Avoiding Conflicts of Interest: Reviewing managers of heritage listed places with the aim to ensure developers are separated and removed from a conflicting role as both Manager of a Heritage listed place and developer of its surrounds eg City of Melbourne and Queen Victoria Market – and that external commercial ventures do not dictate management of Heritage places (eg Carlton Gardens and the Melbourne International Flower & Garden Show; Melbourne Observatory and RBGV’s external event program).
- Extension of a ‘buffer zone’ or protected surrounding area provision for state and National Heritage listed places eg Queen Victoria Market. Note: currently the buffer zone is only for World Heritage listed places, such as Royal Exhibition Building & Carlton Gardens.
- legislative change, including in the Heritage Act so that short-term and ‘temporary’ changes and ‘events are assessed the same as other Applications for a Permit in a Heritage listed place.
 - Currently ‘temporary’ can be days, months, even 3 years to 8 years, which by any reasonable, objective measure should not be considered ‘temporary’.
 - Damage is frequently, often regularly done to heritage places by an external event held there, as decided by the Manager. For example, RBGV holding circuses on the lawns of Melbourne Observatory, resulting in the entire circus tent areas of the lawn dying, and subsequently being fenced off and unavailable for public use while new grass is planted and grown. With Melbourne Observatory and the Observatory West Lawn, this process can take up to half of the year. It also occurs at Carlton Gardens with the now annually held Melbourne International Flower and Garden Show, depriving the public, tourists and locals of access, use and enjoyment, including visually, of the wonderful Gardens, when they are increasingly needed for health and well-being and impacting the World Heritage site. It is not that MIFGS is not a ‘good’ event, it is just in the wrong place, and its Manager shows disrespect for Heritage and World Heritage in imposing it within REB&CG.
 - Short-term and ‘temporary’ events to be strictly monitored and controlled in Heritage listed parks, so that they are compatible with the Heritage listed place and do not remove greenspace and parks from public access. This control is needed to prevent Managers using Heritage parks as general open space for general events – they should be scheduled and held elsewhere.

For Local Identity and Character: community views on maintaining the character of their local area, streets, High Street shopping areas, parks, and how that can be effectively incorporated into planning and works decisions.

The use of heritage overlays appears insufficient and is often given less weight than other competing considerations – strengthen heritage overlays and remove the gaps and inconsistencies.

That is, they should not end at the fence or street, and impacts on streets and places in a heritage overlay need to have stronger protections, including applying them to the property as a whole, not just to parts visible from the front/street, but applying an holistic approach. Extending the application of heritage overlay protection to trees, rows of trees, and gardens that are connected with the history and character of the place, the street, the area.

Developing stronger directives regarding **air conditioning units in apartment blocks**. With increasing demand due to global warming, working at home due to Covid, and more concern about air quality, change is urgently needed in these regulations. During lockdown some people installed large clunky air conditioning/compressor units outside other people's homes, even other people's bedroom windows. This presents visual, noise and health issues. Some installed them at the front of buildings with the highest level of heritage protection/overlay, impacting the aesthetics and character of the building and street. (CoM) There are also health and air quality considerations.

(g) penalties for illegal demolitions and tree removals. Yes

Remove the Gaps, Exemptions, Bi-lateral Agreements, Overlay limitations

Changes to remove exemptions: enforcing legal need to comply with planning scheme/heritage overlay requirements, heritage requirements and independent Commonwealth (National Department) assessments under the EPBC Act.

Exemptions should be a rarity and only given following extensive rigorous consultation and considerations, including public consultations

- **Bi-lateral agreements**

between State (Vic) and Commonwealth /National, effectively remove the checks and balances of having a State and Federal Heritage listing and protection systems, diminishing the possible effectiveness of the EPBC Act, and offering less security in protection and conservation for the Heritage place/park.

Recommendation: these be removed and the EPBC Act be strengthened and used effectively as a National tier of heritage and environment protection, and function as an **independent** oversight, as intended, as is much needed.

- **Managers** (of Heritage-listed places and parks)

Regulation and oversight are needed for Managers of Heritage-listed places and parks, to ensure Strategic heritage management processes, inclusion etc

Recommendation: a mechanism (body and structure) for monitoring, assessing and removing Managers of Heritage listed places when needed. For example:

- avoiding conflicts of interest between the Manager and the Heritage place is imperative, removing and replacing the Manager may be required.

- Additional funding/resources to be made available to enable competent, independent heritage managers such as the National Trust of Australia (Vic) to manage additional heritage places.
- Additional funding/resources to be made available for staff and set-up of an independent heritage managers mechanism, device, instrument/ oversight body. This could be part of the role of the new Heritage Minister and additional funding could be provided for Heritage Victoria, the National Trust of Australia (Vic) and Community Reference Group(s).

Recommendation: Environs or 'Buffer Zone' expansion: to apply to all places in the State Heritage register and the National heritage list.

i.e. Environs or 'buffer one' protection to be extended to Heritage places and parks generally (not just for World Heritage listed places as currently is the case).

Recommendation

Heritage protection needs be extended to include appropriate restrictions in the immediate environment and sight lines of heritage sites.

Borders, environs, views, vistas, landscape glimpses need to be afforded protection. A holistic approach. A sensitive sustainable environment approach.

Currently there is a gap to be addressed, as heritage protections end at the fence, while heritage park appreciation and enjoyment is holistic, immersive and looks into as well as from the park, that is our 360 degree visual lines (of our eyes and viewing patterns). For example, works done without community consultation in Fawkner Park during Covid lockdown removed considerable landscape views and vistas all along the north border with Toorak Road by removing swathes of grassed parkland and paving massive splayed bitumen entrance areas (not needed, very ugly, and causing an issue with cyclists now using the widened bitumen footpath and speeding up to race around the large splayed bitumen entrances, then speed downhill through Fawkner Park from Toorak Road) and also constructing visually disruptive fencing all along the north border. Additionally large numbers were painted onto the widened bitumen footpaths. They are highly visible bold numbered car parking letters in white all along the footpath. They are for parking meter payment registration and it is unnecessary as the same numbers are painted on each parking spot on the road. This diminishes the heritage place, disrupts views and enjoyment of the park, its trees, lawns and landscapes from the homes, cars, trams, tram stops, footpath and roadway, which previously had given much joy and delight. Recommendation: provision to be made to 'undo' the works and restore the park landscape views.

Another example: Queen Victoria Market, unique in Australia, much beloved and suffering conflicts of interest with its Manager, a developer in its buffer zone or environs, is diminished, shadowed and suffers loss of integrity and identity, access, market delivery function, character and 'theatre' of the traditional market, dominance in the environment or cityscape as its environs, directly at its borders, and now in its sheds (shed stall traders told to cease work for this month to allow City of Melbourne to hold other, external events there) and lands (its Manager plans to

move an Arts Centre from the Arts Precinct to the Old Melbourne Cemetery area of Queen Victoria Market).

Adding environs protections, such as are included in World Heritage place protections, will improve protection of the character, aesthetics, visual and landscape/greenscape characteristics, values and attributes of Heritage listed places and, importantly, parks. Cultural heritage values and their attributes do not end at the physical border of a place but encompass visual and holistic qualities and viewlines from and with the surrounding areas or environs. We in Victoria could show leadership in proposing and implementing this additional, holistic approach to protecting our heritage places, parks and landscapes, enriching their presentation, appearance and appreciation, increasing the neighbouring and approach benefits in sharing and protecting their character and leading other states and countries to follow suit. It would add mood-enhancing amenity, beautify neighbourhoods, our cities, increase liveability standards and restore pride and civic appreciation.

Recommendations:

Heritage park protections not to end at the road or fence. Park views and vistas to be provided more protection, acknowledging they are holistic (360 degrees) and include views, vistas and glimpses to and from the surrounding roads, footpaths and residences as well as holistically, all around view approach to protections within the park.

Gaps in local/council, State Government protection of heritage places includes the outdated, inflexible "Precinct" system and under-valuing heritage places within a 'Precinct' dominated by a differing category or era of history or heritage. This needs to be discontinued.

There is also the issue of a gap between the preparation of heritage studies by Councils and their implementation through Planning Scheme Amendments, and also with Councils/Managers not having completed their current CMP then MP but proposing and doing massive works in the interim. Both need to have controls and mandates applied to prevent these avenues for potential damage to heritage listed places/parks. For example, interim planning and heritage control protections.

For example, City of Melbourne are over six months over the due date for a Review of its Heritage listed places/parks, a unanimous Resolution of FMC (1 September 2020) allowing 12 months for the Review, with detailed suggestions and requirements for standardising heritage management at Council, regulating the recommended best practice strategic management processes and documents (CMP-MP), embedding effective public engagement, making documentation, plans, applications easily accessible for the community. Meanwhile, in the lengthy 'gap' period major re-development works were done and are continuing to be done in Fawkner Park, works not detailed in a Master Plan, whilst its documents are out-dated and due for up-date. This exempts, excludes, omits supposedly 'established', best practice processes for managing Heritage listed places and for the effective embedded input of community and the public in works decisions and for a 're-development' of its urban park.

Massive re-development works have been done or proposed in Heritage listed parks and places whilst these key processes and documents are out-dated or missing, and this effectively omits community consultation. For example, Fawkner Park during lockdown, Wattle Park, currently (HV Application in progress). (Major re-development, paving, greenspace removal, fencing and construction works were done in Fawkner Park, including during lockdown, without public engagement in the planning stage, including extensive works claimed as *maintenance*.)

To close this 'gap':

Accountability of Managers of Heritage listed places and councils:

Obligation for Managers to use proper and responsible planning principles, processes, documents, practices, inclusion, before developing works plans and doing Applications to HV.

recourse for community members to effectively challenge council heritage decisions.

Embedding Community Reference Groups within Councils so they are part of the planning process for heritage listed places and parks in the consideration stages.

Alterations to the Heritage Act and practice at HV so that Applications to HV for such extensive, place-changing works, whether entitled works, re-development, 'up-grades' and 'maintenance' to be managed the same and go to public submissions.

Ensuring that Councils and others distinguish between 'open space' and heritage listed parks and do not plan and consider them the same. Separate management staff and area at Councils for Heritage places/Parks.

need for state leadership and direction on local heritage protection, as well as systems to both support Councils, and hold them to account if they fail to act.

Requirement for Managers of a Heritage listed place not to change the names of the Heritage listed place but to use the heritage names as listed with Heritage Victoria and the Heritage Council; to label and sign the place; to list its name on maps, publicity, websites, including google maps.

For example, RBGV does not have a sign at the front of Melbourne Observatory prominently stating: "**Melbourne Observatory**"; they publish directions for events they hold in Melbourne Observatory using different, made-up names. For example: "Southern Cross Lawn" instead of "**Observatory West Lawn**"; "Gate Lodge" instead of '**Caretaker's House**' or "**Caretaker's Lodge**" as in the HV Registration and Map; 'Observatory Gate Lodge' or "Observatory House" for the Astronomer's Residence or '**Astronomer's House**'; 'Melbourne Gardens' or 'Observatory Gate' instead of **Melbourne Observatory**.

Maps have been regularly published by the Manager with no Melbourne Observatory name; including maps for events being held in its site, but with Royal Botanic Gardens of Victoria written over MO although MO has never been part of RBGV and the land borders of Melbourne Observatory are defined in the map on its National Heritage listing in *Melbourne's Domain Parkland and Memorial Precinct*.

Recommendation: regulate (eg in the new Code of Conduct) that managers of heritage listed places are to use names and signage as per the heritage listing of the place, to respect the land borders, integrity and identity of the place; to correctly name and label the heritage place in maps, signage and documents, as well as in its own site.

See: <https://openhousemelbourne.org/wp-content/uploads/2020/07/Melbourne-Observatory-History-Page-2.pdf>

The *Melbourne Observatory History* pdf for Open Day has no Melbourne Observatory heading but it incorrectly states *Royal Botanic Gardens Victoria, Melbourne Gardens* as the place heading, then lists various “Astronomical Buildings”, implying or stating they are in RBGV, which is not right.

See: RBGV facebook 2022: <https://www.facebook.com/pg/BotanicGardensVictoria/events/>

FEB
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The Comedy of Errors - Shakespeare Under ...

18 Dec 2021–19 Feb 2022 · 217 guests

Royal Botanic Gardens Victoria
Melbourne, VIC

<https://www.ticketmaster.com.au/royal-botanic-gardens-melbourne-tickets-south-yarra/venue/155709>

But Ticketmaster shows The Comedy of Errors was scheduled and held in Melbourne Observatory, not in the RBGV. They state: “Venue Information: Directions: The Royal Botanic Gardens Melbourne

As You Like It: **Southern Cross Lawn, Observatory Gate, Birdwood Avenue, Royal Botanic Gardens, Melbourne** (opposite the Shrine of Remembrance) “.

It was actually: Observatory West Lawn, Melbourne Observatory, Birdwood Avenue, Melbourne.

RBGV is situated next to Melbourne Observatory. They are two different, separate, heritage listed places.

Recommendations: compulsorily requiring under a new Manager Code of Conduct and other (the Heritage Act/P&E Act, Council regulations) that Managers of a Heritage listed place or park:

- use its name as on the Heritage lists, including for parts and buildings within the site/place/complex and that there be severe penalties for a Manager breaching or threatening the identity or integrity, including physical borders, of a Heritage listed place.

- Reinstate state government funding for local heritage studies and heritage advisors, to be coordinated by a dedicated heritage unit within DELWP or, better for now, in a new Ministry for Heritage.
- require the Minister for Planning/the new Heritage Minister to apply Interim Heritage Overlays to places identified in independent heritage studies
- hold Councils accountable for the protection of heritage places as required under the Planning & Environment Act 1987 to ensure significant places are protected and provide certainty to communities and property owners.

“Under current arrangements, property owners who wish to develop places of state significance are required to apply for permits under both the Heritage Act 2017, and the Planning & Environment Act 1987. This is both inefficient and can result in issues that “fall through the cracks”.

‘In assessing a permit application, Heritage Victoria is limited to considering the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or object, and is not able to take local heritage issues into account. Similarly, Under Clause 43.01-2, places on the Victorian Heritage Register are subject to the requirements of the Heritage Act and not the planning provisions of the Heritage Overlay.

This means that heritage issues which fall outside the scope of the Registration under the Heritage Act, such as **streetscape impacts and local heritage values**, are not considered alongside the heritage permit in a holistic way.’ (NTAV, 31 January 2022)

- add additional protections for streetscapes and local heritage values, characteristics, social heritage.

(2) environmental sustainability and vegetation protection

And (4)

Environment and parks

Some Managers of our Heritage listed Parks seem to be unilaterally using out-dated, pre-Covid plans and undisclosed visions, not determined through the best practice Strategic Management process recommended. eg City of Melbourne with extensive re-development, paving, removal of trees and grassed parkland done during Covid Lockdown in Fawkner Park. Or they are missing Strategic management of the place and externally imposing fragmented works plans that remove trees, park, grass, bush, without having considered the park as a whole, holistically. eg Parks Victoria in the current Application to HV for Wattle Park.

For liveability in the post-Covid, global warming world, for health, safety and well-being, we need politicians and Managers of heritage listed parks to show resilience and to re-think. We are yet to see it in action to protect our increasingly important and needed Heritage parks and green spaces.

We need politicians and Managers to come forward and implement a revised vision, with holistic, environmentally-sensitive, heritage-prioritising and conserving, planning and projects for our parks, their environs and other green spaces and infrastructure, plans that do not remove or pave grass and trees but protect and increase them.

Support the promotion of *sustainable preservation* and NTAV’s comments on the need to explore the nexus between heritage conservation and sustainability in the Australian context, and to put into practice the broad environmental benefits of conserving historic buildings. We need the knock down and re-build attitude to change and suggest controls and regulation on that.

- Require property developers to have a planning permit prior to the issue of a building permit for the demolition of an existing building.

- Require a developer to obtain a Heritage Permit prior to seeking a Planning Permit
- Establish a **National Lottery for Heritage Funding** (cf. UK Lottery)
- Adopting the 28 February 2022 UN Report and its recommendations (more details to be published in April 2022) – making them a premium consideration or requirement.
- A change or refusal to accept the ‘offset’ or replacement of removed established trees and greenspace with some new plantings. This does not compensate for the loss of protection and nature trees, reduction in temperatures, increase in heat island effect, not to mention the human restorative response of seeing and being in nature and green environments.
- mandate protection from over-development and environmental and green space loss: ensuring mandatory height controls, greenspace, tree and other green infrastructure retention, conservation and increase in green infrastructure requirements.

Support NTAV recommendations to:

- fund the development and implementation of gap studies targeting types of heritage at risk: eg post-war heritage places, gardens, and places of social significance, with a view to securing more protection and funding for them
- provide more documentation and protection of state and local heritage **places of social significance**.
- Explore introduction of a system to regulate the sale and development of “**assets of community value**” such as the system under the **UK Localism Act 2011**.”

Heritage, Sustainability and Climate Change: recommendation for tangible and meaningful action to address the climate and biodiversity crisis.

Support the NTAV statement that:

“the climate crisis is the single biggest and fastest growing threat to people and cultural heritage worldwide. We recognise that if new strategies to mitigate and adapt to these changes are not initiated and actioned immediately, these impacts will have an unprecedented and irreversible effect on our cultural heritage, our connection to place, and our way of life. We also know that utilisation, care and protection of cultural heritage places will play an important role in building climate change resilience.”

NTAV submission 31 January 2022

Urban Heat Island Effect and loss of trees, greenspace, nature, landscape

The role of heritage places such as heritage listed parks, in mitigating the impacts of climate change has not been adequately acknowledged and implemented.

Research and information on climate change, its effects on us, on nature, green infrastructure and the imperative to take urgent action to protect trees, canopy, parks, greenspace and green infrastructure, is provided in an excellent, impassioned **presentation by Dr Greg Moore, attached**. This was his presentation “**It’s the public greenspace that matters: trees, covid, and the value of parks**” by Dr Greg Moore 27 June 2021 at Lighting and Green Spaces - an Expert Panel Presentation on new research and challenges”, Walk in St Kilda Rd & Environs, Planet Ark National Tree Day Nature Care Event 2021, Prahran Mechanics Institute, Melbourne, Vic.

“It's the public greenspace that matters: trees, covid, and the value of parks”

Dr Moore discussed the vital role of trees and canopy in coping with climate change, including social and medical benefits, arguing strongly against the removal of trees. Urging increasing or preserving open green space and trees/canopy in light of the increasing extreme pressures and demands of climate change. He asserts that *‘anything which leads to a reduction in canopy cover may come at a price’* and says that it is possible for trees to be affected by light pollution, and particularly for urban trees to be harmed by excessive light from streetlights.

See attached: [REDACTED] submission re Wattle Park, [REDACTED] Riversdale Road Burwood (VHR H0904), March 2022. This illustrates planning and management issues, **the need for environmentally-sensitive planning and** presents information on **Urban Dark Night Sky places**.

The National Trust of Australia (Vic) states in their submission, 31 January 2022: **“No urban tree should be removed unnecessarily as we face the climate crisis.** The environmental services that urban trees provide are essential to sustainable, viable and liveable cities, especially in cities that face warmer temperatures and lower rainfall.”

These views are strongly supported.

Recommendation:

- Rigorous protection, maintenance, conservation of ‘green infrastructure’ (trees, canopy, grass, bush, nature). This includes minimal and absence of paving, maintenance of nature and bush, lighting restrictions, minimalization and focus on establishing Dark Night Sky Parks and Urban Dark Sky Places.
- More focus and protections for natural and cultural landscapes of the state, including increased protection for green spaces and natural environments in city heritage parks.

UN Report on Climate change, 28 February 2022

Information on the **IPCC UN Report on Climate change**, 28 February 2022 advises the critical role of managers of green spaces and parks, urgently recommends decision-makers and managers to act on the responsibility to conserve and restore green spaces and to show leadership on this for climate change impacts mitigation.

This UN report on world research on climate change, involved 270 climate experts from 67 countries. Their major IPCC report warns “Billions to suffer impacts of climate crisis as window for action rapidly closes”; “the authors say we need much faster “transformational” action” and they declare that “Adverse impacts are “cascading” along coasts and cities, and in mountainous regions. These hazards trigger tipping points in sensitive ecosystems”. They assess Mental Health impacts for the first time, and “link them to rising heat, trauma from extreme events” and stress that *‘the world faces ‘brief and rapidly closing window of opportunity to secure a liveable and sustainable future’*.

Australia is specifically listed as suffering some of the worst effects such as fire, smoke pollution, extreme heat, floods, storms, animal and insect extinction events etc...

The Report expresses how reliant humans are on nature and healthy ecosystems. It calls for conserving up to 50 per cent of land, fresh water and ocean habitats, along with restoring degraded ecosystems. It states that “Cities, home to more than half the global population, are hotspots of impacts and risks, but are also a crucial part of the solution”. We have a responsibility, an imperative and duty of care to incorporate considerations of making adaptations for climate change to maintain and protect nature, greenspaces or ‘green infrastructure’, trees, parkland and bush, including dirt trails and walking tracks and not to remove, light and pave them.

Some of the recent and current heritage parks works and proposals, such as Wattle Park and Fawkner Park, would be classified as what the UN Report terms “*Maladaptations*”, which have especially negative impacts, and the UN calls on councils and governments to rectify and cease such actions, to focus on protection and restoration of natural environments and on mitigation – what needs to be done to limit planet-heating, greenhouse gas emission, loss of greenspace and nature, and to provide solace for us and for our health.

Dr Helen Adams, a senior lecturer in disaster risk reduction and climate change adaptation and IPCC author, said **the path or progression of climate change would be determined by the choices that societies and decision makers take...** “Yes, things are bad,” she said. “But the future depends on us.”

“Hoesung Lee, chair of the IPCC, called the report “a dire warning about the consequences of inaction. Our actions today will shape how people adapt and nature responds to increasing climate risks,” he said.”

Yet, without the best practice, holistic Strategic Management process being required for our Heritage Parks, these critically important issues of climate change and global warning have not been addressed and they are not included in Wattle Park and Fawkner Park proposals and development works. The works would have the opposite effect to that recommended - they would increase heat island effect, remove greenspace and trees, diminish beneficial, relieving and mood enhancing effects of nature, of seeing and walking in a natural bush environment. This is a major shortcoming and we need regulation to require such inclusions as adaptations and coping mechanism to strengthen greenspaces, particularly in cities and urban environments and places. This is key to liveability.

Ref.: <https://www.independent.co.uk/climate-change/news/ipcc-climate-report-global-warmingfloods-b2024490.html> 1 March 2022

<https://www.independent.co.uk/climate-change/news/climate-crisis-mental-health-ipccb2024446.html> Mental health and psychosocial effects of climate change and extreme weather are cascading. - UN Report 2

This UN report said the research showed the climate crisis had “adversely affected” mental health in regions looked at, as well as physical health around the world with documented psychosocial effects.

Ref: <https://www.independent.co.uk/climate-change/news/ipcc-un-report-ten-findingsb2024549.html> By Louise Boyle and Harry Cockburn, Tuesday 1 March 2022

This article considers the report’s findings that, with cities and urban environments suffering the

most and are causing most damage to the environment, 'fragmented responsibility for planning' was identified as a key hindrance delaying urgent adaptation for disaster management, and mitigation and adaptation actions including the development of policies, in combination with rapid urbanization and 'lack of climate sensitive planning'.

The current Wattle Park application/proposals are an example of that *fragmented responsibility for planning* hindering best practice management and that and the still on-going re-development works in Fawkner Park exemplify the culpable *lack of climate sensitive planning* the IPCC Report analyses, as many of the proposals/works (paving, hard surfaces replacing natural dirt and grass trails and paths, tree removals, adding artificial lighting, constructing built environment playgrounds, courts/skate/scoot areas...) are contrary to the Report advice. Urgent efforts need to be made to redress this, to halt and/or reverse these plans/works.

The IPCC expressed high confidence in the economic and ecological feasibility of so-called "green infrastructure", yet these proposals seek to damage, diminish or remove it.

The UN's IPCC report: presents 10 key findings from major global climate assessment. "*The world's leading authority on the climate crisis, the Intergovernmental Panel on Climate Change (IPCC), has published the second chapter of its most sweeping assessment in seven years. The report describes how the climate crisis is a threat to human wellbeing and the health of the planet, and calls for urgent, transformative action to secure our future.*" It documents harm to nature and humans already. With comments by the Secretary-General of the United Nations such as: "*It is an atlas of human suffering. ... It is code red for humanity*", ACTION and protection is imperative, NOW.

Recommendations: legislative requirement; undoing paving and construction works, restoring grass and trees.

- minimal paving, lighting and new constructed environments in our Heritage listed parks; the focus should be on protecting and conserving the natural bush, trees, green landscape/greenspaces and environments of our heritage parks and places; increase in trees, nature and greenspace should be the aim and considering plans for making Heritage Parks Urban Dark Night Sky Places/Parks (- Melbourne Observatory and Wattle Park).

See ABC article 21/1/2022 re research on the positive effects of nature environments.

'*Time in Nature is Good for Our Mental Health ...*', Navjot Bullar for Ockham's Razor 21 January 2022 www.abc.net.au/health

"What is it about greenery that lifts our mood?" The article considers research and the *restorativeness of nature* as a key benefit for humans, particularly those in an urban environment. Psychological benefits include exposure to stimuli we find pleasing such as green spaces tend to make us feel relaxed and reduce stress levels. Research reported found that the effect of nature exposure on our well-being varied depending on the type of nature (wild versus urban).

Recommendations: Removing trees, nature or greenspace should not be done and particularly in urban Heritage Parks including through paving, construction, cycle/skate/scoot tracks etc ...

Re housing and Covid issues: - is it a time to trial Universal Basic Income (UBI)?

Conclusion and Into the Future ... Stand Up and Be Counted!

This is a critical juncture for climate-sensitive policies, for heritage protection and for regulation protection, preserving and increasing *green infrastructure*, trees, canopy, greenspace, nature and natural environments; to cease the excessive, knee-jerk paving of paths and tracks and removing grass and trees and nature in our heritage parks. This is critical for liveability, health and well-being, and particularly key in urban environments, but increasingly, is paid lip service and currently largely ignored in practice.

We have a mature, extensive, layered system of heritage protection (local/Council-State-National – World) yet increasingly Heritage places and parks are being degraded and their cultural heritage values and attributes are not being protected and conserved as listed. **What goes wrong? It is in practice, in the implementation. The implementation and valuing and resourcing for Heritage, and the failure of political championship and resourcing.**

Climate change and heritage places and parks loss and degradation are urgent critical challenges and need to be formally addressed now. By all objective measures these are in distress. The cost is enormous.

Genuine, lasting, reliable changes should be the goal and outcome. **Strengthening and Prioritising Heritage listed places and Greens Infrastructure Protection** is the means.

We need policies and legislative changes to embed environment, green infrastructure, and heritage protection into planning applications, development proposals and heritage park management in order to meet obligations assumed and intended under Heritage registration and listing ‘protections’ and to cater for ‘green infrastructure’ protection and increase and mitigation of climate change effects such as those proposed in the IPCC (UN) Report, 28 February 2022 (more details on recommended actions for implementation to be published in April 2022).

The attitude needed, the approach we seek dear Parliamentarians regarding strengthening Heritage places and parks and environmental and *green infrastructure* protections is **‘failure is not an option’!!**

This needs your political energy and action plus resources and funding. Political will needs to be urgently expressed in action. This is a significant turning point. Currently there are too many loopholes, gaps, exemptions, interventions, Ministerial ‘call-ins’ and ‘bi-lateral agreements’ – these require closing and ending. There are flawed processes, planning and management at a chronic and very damaging level, as well as conflicted Managers with other contradictory or opposing interests and there has been a lack of determined effective multi-partisan or pan-partisan and leadership and championship politically.

The vision presented here for improvement and change from the current fragmented flawed systems to effective heritage and environmental protections requires determined

political/Parliamentary action and resources local, Federal and State. Whilst a layered (local/council – State- National/Commonwealth – World) management process can work for Heritage and Environment that can only happen when it is **prioritised** formally and consistently and enacted - reliably, as a priority, in practice.

We're teetering on the edge. We need to get it right. Now. It is no time to say *told you so* or to elicit blame, it is time for a strong united approach. We face severe threat and loss and Parliament must prevail to put this forward and pass laws for securing change to enable strong and consistent enactment of protections for Heritage and the Environment.

Strengthen and Prioritise: Heritage & Environment

There has been a dangerous, exponential growth in failures and losses in Heritage and Environment protection under our watch. We need your work, your energy, your actions together to *strengthen and prioritise* the environmental greenspace infrastructures protections and Heritage conservation. This intensification, acceleration, escalation and proliferation of increases in green infrastructure loss and degradation of Heritage and Environment has been occurring just at the time we need it the most and it needs to cease and be transformed to an increase and strengthening of greenspace and Heritage protections and conservation.

This is a critical juncture for climate-sensitive policies, for heritage protection and for preserving and increasing *green infrastructure*.

The people who are supposed to protect us seem to have stopped talking and acting, frozen in inaction or in a post Covid lockdown haze of trauma and approaching elections and we find ourselves in the community left flailing and trying to fix things that are wrong. This Parliamentary Inquiry is of paramount importance. We ask you all to work together cross-party, for the need and benefit of us all and for posterity – please make the changes needed.

regards,

sincerely,


Director, Walk in St Kilda Rd & Environs

Heritage and Strategic Management

Convenor of Planet Ark National Tree Day Nature Care Events, including Lighting and Greenspaces Panel Presentations

Attached:

- the programs for *Walk in Sr Kilda Rd & Environs* Planet Ark National Tree Day Nature Care events: Lighting Expert Panel Presentations, 2019 and 2021
- the Presentation by Dr Greg Moore "*It's the public greenspace that matters: trees, covid, and the value of parks*", 27/6/2021 at *Walk in Sr Kilda Rd & Environs* Planet Ark National Tree Day Nature Care events: Lighting Expert Panel on Lighting and Greenspaces: New Research & Challenges, *Walk in Sr Kilda Rd & Environs* Planet Ark National Tree Day Nature Care event.
- Dr Barry Clark presentation "*Outdoor lighting practice needs to be based on facts, not myths*", 27/6/2021 at *Walk in Sr Kilda Rd & Environs* Planet Ark National Tree Day Nature Care events: Lighting Expert Panel on Lighting and Greenspaces: New Research & Challenges, *Walk in Sr Kilda Rd & Environs* Planet Ark National Tree Day Nature Care event.
- Sean W Cain, Associate Professor of Psychology, Monash University, Light and Human Health. He is an internationally recognised expert in circadian rhythms. his latest research findings outline the damaging effects of artificial light to health and why we may be drawn to overuse light.
"Evening home lighting adversely impacts the circadian system and sleep",
<https://www.nature.com/articles/s41598-020-75622-4>
"Afraid of the dark: Light acutely suppresses activity in the human amygdala"
<https://doi.org/10.1371/journal.pone.0252350>
- '*Melbourne Observatory – Outstanding Universal Value*', expert panel presentation organised by *Walk in St Kilda Rd & Environs*, held at the Royal Historical Society of Victoria, 6 December 2020. See attached program. (transcripts/presentations available on request)
<https://www.historyvictoria.org.au/event/melbourne-observatory-outstanding-universalsignificance/>
- [REDACTED] submission to HV re Wattle Park, [REDACTED] Riversdale Road Burwood (VHR H0904), March 2022. This illustrates planning and management issues and presents information on Urban Dark Night Sky places.

Some References:

- "*Street lighting has detrimental impacts on local insect populations*", SCIENCE ADVANCES, published 25 Aug 2021, Vol 7, Issue 35, DOI: 10.1126/sciadv.abi8322
<https://www.science.org/doi/10.1126/sciadv.abi8322>
- <https://www.independent.co.uk/climate-change/news/ipcc-climate-report-global-warming-floodsb2024490.html> : 1 March 2022; How reliant humans are on nature and healthy ecosystems
- <https://www.independent.co.uk/climate-change/news/climate-crisis-mental-health-ipccb2024446.html> Mental health and psychosocial effects of climate change and extreme weather are cascading. - UN Report 2
- <https://www.independent.co.uk/climate-change/news/ipcc-un-report-ten-findingsb2024549.html>
By Louise Boyle and Harry Cockburn, Tuesday 1 March 2022
- ABC 21/1/2022: research on the positive effects of nature environments: '*Time in Nature is Good for Our Mental Health ...*', Navjot Bullar for Ockham's Razor 21 January 2022 www.abc.net.au, health