

**Submission  
No 23**

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

**Organisation:** Bayside Community Action Group

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## Bayside Community Action Group submission to the Parliament of Victoria's inquiry into the **Protections within the Victorian planning framework**. 21/01/2020

### About the Bayside Community Action Group

We are a group of Bayside homeowners who have decades of experience interacting with the heritage system. We are not professional advocates, Architects, heritage specialists or lobbyist on behalf of a heritage group. We formed out of the need to seek and provide support to homeowners who are / have been directly impacted by the threat of compulsory heritage listing.

### Effectiveness of heritage protections in Victoria

#### Private costs and unjustifiable hardship

The current system of state and local heritage protections fails to take into consideration the private costs and unjustifiable hardship of compulsory heritage listing of private homes. The Productivity Commission's report into the *Conservation of Historic Heritage Places* states that there is a prima facie case to claim that Heritage listing imposes unreasonable costs as the costs required to continue a property's heritage significance impose an unjustifiable hardship on the owner. In their response to the report, the Federal government agreed that homeowners should not have unreasonable costs imposed upon them because of heritage listing and reinforced its policy principle that there needs to be fairness in balancing community interests with the private costs of listing.

#### Overwhelming process

Homeowners facing the possibility of their home being Heritage listed find the entire process bureaucratic, bewildering and tipped heavily in favour of proponents advocating for compulsory heritage listing. Heritage Victoria, semi-professional advocates with vested interests (e.g., heritage architects and interior designers) and Heritage consultants are a very formidable force. They understand the system and are experienced at navigating the detail whereas private individuals have no idea and often lack the resources, capacity, and time to combat this force. For example, it is beyond most individual homeowners to engage a Heritage consultant or Planning lawyer to advise and advocate on their behalf. Fees can be eye-watering plus these professionals are often hesitant to take on a brief from a client who wants to argue against Heritage listing, as (1) they invariably have a personal and career commitment to Heritage, and (2) they see more fees and opportunity in working as a Heritage advocate. Bayside Community Action Group (BCAG) knows this to be a fact, as members have repeatedly tried to engage Heritage consultants only to find the cost prohibitive, or the Consultant unwilling to take on the job once they understand the brief.

#### Dealing with State & Local Government

BCAG finds the entire process unsatisfactory, both at a local and state govt level. Council officers try to adhere to policy and procedure however ultimately take direction from Councillors who are often too busy to get across the issues or susceptible to personal agendas and lobbying. In practice, the Department of Environment, Land, Water and Planning (DELWP) are unwilling to engage with individuals beyond a proforma response and the Minister will not take a meeting. State Govt websites provide little or no guidance for individuals to want to argue against heritage listing and

phone calls to Officers produce a blank. Put simply, it is a complex system that rewards those who are experienced. For those who are not, there is little support or advice.

All levels of Government are either unable or unwilling to engage with beyond the minimum and finding advice and support on how to object to your home being compulsory heritage listed is lacking.

### Supporting individual homeowners

Both the Productivity Commission and the Federal Government accept Heritage listing imposes unreasonable costs to effected homeowners and that is it unreasonable to impose these costs upon them. The Federal Govt also reinforced its policy principle that there needs to be fairness in balancing community interests with the private costs of listing.

BCAG believes policies, funding, resources and support need to be made available to address (1) fairness & equity in the current approach, (2) the unreasonable costs imposed on homeowners of Heritage listing, and (3) to advise & support homeowners who wish to object to compulsory heritage listing of their home.

**Voluntary or negotiated conservation agreements:** BCAG supports fairness in balancing community interests with the private costs of listing. We support the Productivity Commission's report into Heritage matters where they specifically recommended voluntary or negotiated conservation agreements. We agree with Australia ICOMOS's response to the Productivity Commission's recommendation when they argued for, "the use of voluntary conservation agreements with additional grant funding or some sort of assistance to achieve better conservation [outcomes]".

**Supporting homeowners:** BCAG believes funding, resources and support need to be made available to address (1) the unreasonable costs imposed on homeowners of Heritage listing, and (2) to advise & support homeowners who wish to object to compulsory heritage listing of their home.

**Incentives and penalties:** BCAG believe a voluntary heritage listing scheme combined with mechanisms to support owners of heritage listed properties is the most effective way to prevent the neglect and/or destruction of heritage places. We also note examples of where inadequate token measures are put in place to provide incentives

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In FY22 Bayside City Council allocated >\$450,000 to complete a Heritage Study. However, proposed initiatives to compensate impacted homeowners subject to any Heritage Overlay is 7th on the Councils Heritage Action Plans priorities with no staff time allocated, an unrealistically small budget of <\$1,000 and a due date of sometime within the next 5-10 years.

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### Barriers to achieving Heritage Protecting

- **Compulsory Heritage listing** that results in an adversarial approach pitching homeowners against Government, lobbyist, interest groups and the heritage sector. BCAG supports the Productivity Commission in their recommendation for voluntary or negotiated conservation agreements.

- **A bureaucratic and bewildering process** that is tipped heavily in favour of proponents advocating for compulsory heritage listing. BCAG recommends a voluntary scheme or failing that, resources and funding be made available to support homeowners to object to the compulsory heritage listing of their homes.
- **The lack of support and compensation for impacted homeowners** for the unreasonable costs imposed by Heritage listing. BCAG recommends a voluntary scheme or failing that the implementation of recommendations from the Heritage Council of Victoria's 2020 report 'State of Heritage Review' where they identify the following five points as critical to Local Government Councils having a best-in-class approach to Heritage matters
  1. establishing a Heritage Advisory Committee.
  2. providing Heritage advisory services
  3. appointing a consultant Heritage advisor
  4. employing internal Heritage staff
  5. establishing measures to provide financial incentives to support Heritage listing / preservation.

### A better way

BCAG does not support the current approach, which results in private homes being heritage listed against the wishes of the owner. The impact of which is Owners losing some control over their family home, plus increased cost of ownership due to restrictive maintenance requirements and a negative effect on my properties value when compared to other homes that are not listed.

BCAG members are distressed at the thought of losing the right to do what they want with their family homes and hate the idea of being told what we can and cannot do. Most importantly we oppose the current approach because due to a sense of fair play and social equity. We believe we should all be allowed the same property rights and obligations as ours neighbours.

Not more. Not less. The same.

We also believe if homeowners want to preserve their homes, we should support them in doing so.

We encourage you to adopt the Productivity Commission's recommendations as the current approach results in winners and losers and that is not how we Advance Australia Fair.