

**Submission
No 46**

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

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Date Received: 27 January 2022

From: [REDACTED]

To: [planninginquiry](#)

Subject: Submission to the Inquiry into the protections within the Victorian Planning Framework.

Date: Thursday, 27 January 2022 1:19:12 PM

I welcome this opportunity to write my concerns about the current Victorian Planning Framework, failing to protect a listed Victorian Industrial Heritage site. It is the Ballarat Railway site which is listed in the Victorian Heritage Register as place number H0902.

'...is of historical, architectural, social and technological significance to the State of Victoria.'

From the western boundary of the site where I live, if looking east, the view of this landscape remains unchanged since the 1850s, until now.

This rare site has a rich history of 19th Century industrial activity and was the stimulus for the construction of the heritage buildings in Lydiard Street. Looking south down Lydiard Street towards the Old Ballarat Courthouse and Goal, was one of the last remaining significant historical streetscapes in Australia that remained unchanged for over 150 years. Sadly, the redevelopment of the Ballarat Railway site illustrates the urgent need for this Parliamentary inquiry.

THE BURRA CHARTER

'Do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its cultural significance is retained.' The Burra Charter, advocates a cautious approach to adaptive reuse on heritage sites.

Ref: Heritage Council, Victoria July, 2013 https://aus01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.dpcd.vic.gov.au%2Fheritage%2Fprojects_and_programs&data=04%7C01%7Cplanninginquiry%40parliament.vic.gov.au%7C1c87e27e328e4163edf808d9e13b669c%7C821af0ec31404137af0e6690286fb673%7C0%7C0%7C637788467518799621%7CUnknown%7CTWFpbGZsb3d8eyJWljoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iik1haWwiLCJXVCi6Mn0%3D%7C3000&sdata=gvpncyJWWUkaCGV

MILDKP5Cm3t7u96Ytb%2F4ygd7CVQg%3D&reserved=0. When attending the Community consultations as part of the preparatory planning process for the Ballarat Station Precinct Master Plan. The subject of Heritage seemed to be focused on the restoration of the Goods Shed. A myopic view I thought, considering the historical significance of the site. Nor, were there any references to the Burra Charter in this early phase of the planning process.

The Ballarat Station Master Plan (2014) was referred to by MP Jaala Pulford in a letter, 'The Master Plan identified a minimum 4 star rating Hotel co located with an exhibition/conference facility offering as the most viable urban renewal and economic development option for the Ballarat Station Precinct.' Ref: CMIN 169312R 13/12/16

Here, in the planning process, economic development is favoured over cultural heritage, and soon

the Ballarat community will lose their rights to appeal decisions made by the Ballarat City Council and the State Government.

THE BALLARAT STATION PRECINCT PLANNING STRATEGY REPORT

The Ballarat Station Precinct Planning Strategy Report (Nov, 2015), sealed the fate of failing to protect the cultural heritage of the Ballarat Railway site.

‘The current plan and process will destroy much of its heritage and has not properly considered its future and has unduly focussed on commercial outcomes.’ Ref: Gerald Jensen

Website:<https://aus01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fballaratheritagewatch.wordpress.com%2F&data=04%7C01%7Cplanninginquiry%40parliament.vic.gov.au%7C1c87e27e328e4163edf808d9e13b669c%7C821af0ec31404137af0e6690286fb673%7C0%7C0%7C637788467518799621%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iik1haWwiLCJXVCi6Mn0%3D%7C3000&odata=T93ZBUaxstGs2FBXLA YjtQfW7VSRDFjKfTKiHTW0RdA%3D&reserved=0>

url=http%3A%2F%2Fballaratheritagewatch.wordpress.com%2F&data=04%7C01%7Cplanninginquiry%40parliament.vic.gov.au%7C1c87e27e328e4163edf808d9e13b669c%7C821af0ec31404137af0e6690286fb673%7C0%7C0%7C637788467518799621%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iik1haWwiLCJXVCi6Mn0%3D%7C3000&odata=T93ZBUaxstGs2FBXLA YjtQfW7VSRDFjKfTKiHTW0RdA%3D&reserved=0

The Ballarat Station Precinct Planning Strategy Report Recommendations: (p.24)

‘Focus on all Stage 1 elements (holistic approach).

Embed strategic support and tailored planning provisions for Stage 1 in the Ballarat Planning Scheme to provide certainty in the short term, and remove notice and appeal provisions from the Planning Permit process. Amendment Process with Minister for Planning Authority and Responsible Authority and targeted consultation (potentially supported Advisory Committee)’

NB: 28/10/2015, Regional Development Victoria (RDV) requested for the Ballarat City Council to cede its Responsible Authority Status to the Minister for Planning, so that the planning approval process for the project could be accelerated. This project involved a grant of then \$25million and now \$43+million. Ref: Agendas and Minutes of Council meetings, 28/10/2015.

The following resolution from the Minutes of this meeting confirms the claimed origin of the request (to cede Responsible Authority status) by RDV.

‘3. As the State (RDV) has indicated to Council that it desires to provide an accelerated Planning approvals process that will enable rapid delivery of ..., and the Ballarat Railway station projects Council resolves to...’ Ref: SOS Ballarat Inc. Copy of FOI response.

This decision by the Ballarat City Council limited the community to express their concerns raised from the redevelopment of the Ballarat Railway site.

PLANNING SCHEME AMENDMENT

Ballarat Planning Scheme - Amendment C198 (24th Aug, 2016)

The decisions made in this Amendment raise the following concerns -

- Protecting 3rd party appeal rights,
- The role of Ministerial call-ins,
- The adequacy of current criteria and processes for heritage protection, and
- The role of Local Councils in failing to protect cultural heritage.

Some of these decisions included in the Amendment C198, 69. ‘... redevelopment proposal and request for Amendment C198 has resulted from investigations of Ballarat City Council and State Government over (2010 - 2016) and 2 previous strategies (Making Ballarat Central - The CBD Strategy, 2010 and the BSP Master Plan, 2014) prepared with extensive community consultation and input.’ NB: There is limited focus on heritage protection in these reports, even though, Ballarat has a strong history of heritage.

The Ballarat City Council requests an ‘Intervention’ to apply planning controls to facilitate the

redevelopment of the BSP and exempt from all the requirements of Sections 17,18 and 19 of the Planning and Environment Act 1987 - Under Section 20(4). This effectively, reduces 3rd parties appeal rights. Only option available was to the BSP Advisory Committee, during the consultation and hearing process on the proposed planning controls from 21/12/2015 to 5/2/2016. There were 47 submissions received with Heritage a key planning issue.

21. '...BSP Advisory Committee process, and the fact further consultation would be unlikely to alter the outcome, I consider..., the benefits arising from the timely delivery of the project outweigh the effects on 3rd parties of not complying with residents/community the usual statutory notice and consultation requirement.'

20. '..., will enable prompt finalisation of contractual managements with the successful developer/operator and commencement of construction 2017.'

HERITAGE COUNCIL APPEALS

Heritage Permit Application July, 2017

When the Pellicano Group was announced as the developer for the BSP in November, 2016. The community was told that when the developer submits a Heritage Permit application, the community will have an opportunity to make comments on the heritage impacts of the site during its 2 week exhibition period. It is unclear how and when Heritage Victoria was engaged in the decision making process, given the significant heritage attributes of the precinct and the land sale.

The Minister for Planning approved the development plans on 31/07/2017, 2 months before the Heritage Permit was issued on 28/09/2017. This permit process was the only formal avenue for the community to "have a say" on the future of the site.

(Interesting to note, heritage items were removed from the site before this application.

'... pulling out the heritage railway line...' began without permission, permit or agreement from the Heritage Council, Australia - in reference to VicTrack. Private letter, 09/02/2016)

CONCLUSION

The barriers to achieving the protection of heritage -

- The planning processes have minimal standards of heritage protection,
- Developers are favoured over local communities, Amendment C198,
- Local and State Governments favour development over cultural heritage. Development is conditioned by concerns that have nothing to do with heritage protection,
- State bodies officially charged with heritage protection (Heritage Council, Heritage Victoria) appear to focus on facilitating the Planning process in favour of developers,
- 3rd parties appeal rights are limited.

Recommendations for improving heritage protection -

- Establish an independent Heritage Tribunal to hear heritage appeals,
- Separate heritage protection from the Planning administration,
- Translate the Burra Charter guidelines in a robust and active form in Planning and Strategy Policies. And introduce Regulations which encourage the retaining of heritage sites and items,
- Give Heritage Specialists an active role on Planning Committees instead of as an advisory capacity,
- Increase the Planning Guidance Time Framework to avoid Short-termism. Plan 50 years or more ahead.

For me, it is a tragedy that the redevelopment of the Ballarat Railway site has lost out to homogeneity and 21st Century blandness. A three storey hotel apartment dominates the streetscape and the Goods Shed. This historic part of Lydiard Street has gone. Inside the Goods Shed, the exposed blue stone walls and the spatial dimensions is interrupted by internal walls, and where tokenism pays homage to a rich

industrial rail heritage.

Shamefully, our cultural heritage has been lost, a part of us has been lost.

Hellen Fersch
