

**Submission  
No 155**

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

**Organisation:** Balance Architecture

**Date Received:** 31 January 2022

To Whom it may Concern

Dear Sir/Madam

I am writing to you in support of the Boroondara Heritage Group and offering the following submission to the Environment and Planning Committee in terms of its examination of the protection heritage in Victoria and its subsets.

- **The adequacy of correct criteria and processes for Heritage.**

Currently decisions on buildings, structures and properties to be granted Heritage Listing, or be part of an area Heritage overlay are initiated by Local Government Councils.

The criteria for Heritage protection is often used against the proposition of protecting the building or structure in that alterations are seen to be sufficient reason in many cases to deny heritage status e.g. the addition of a verandah or the changing of a window surround. The appropriate response rather than a denial of heritage status would be a list of what items require rectification to original status.

Councils determining which buildings, structures or properties are submitted for Heritage Listings or Heritage Overlays to the Heritage Council of Victoria is a standard that differs hugely with Local Government from area to area. (i.e. Port Phillip Council is considerably more sympathetic to Heritage status than Bayside Council as an example) It is not a uniform application of Heritage standards and as such many properties of significance Victoria-wide are currently put at risk of demolition.

Councils will often nominate a property for Heritage Status after a demolition permit has been issued. In recent times in Boroondara this anomaly required the intervention of the Planning Minister Mr Richard Wynne on at least one occasion – May 2019 with Currajong House to prevent the demolition of the building.

The interpretation of Heritage status and protection at Council level is left to singular consultants or advising retained Heritage Architects. The result is a widely differing application of Heritage standards.

Heritage Listings and Heritage Overlays are often quite dated in that the approved properties, buildings and structures were nominated up to 3 decades ago, meaning many worthy structures and buildings of well over 100 years old do not have heritage recognition. Heritage at a Local Government level is underfunded for the tasks that must be undertaken, the inspections required and the maintenance of an accurate Heritage register for each municipality. A Heritage inspection from the Heritage Council of Victoria can take up to 6 months to be completed. This is manifestly inadequate.

The various bodies involved in the application of and the interpretation of Heritage status are often at loggerheads with many cases ending up before VCAT as disputes. VCAT is an inappropriate body to be determining Heritage status. It is too broad based. The time has arrived for a separate tribunal that is specifically focused on Heritage matters.

- **Federal Government involvement in Heritage Protection**

Currently the Federal Government does confer Heritage status on a range of structures, buildings and locations that are integral to the history and advancement of the Nation.

But like the State Government regulations it is often only the external appearance that is protected with internal fittings, structure and features often removed.

There simply needs to be a higher standard applied and the Federal Government is quite capable of applying such standards if required.

Achieving Federal, State and local Heritage status will protect many of our most precious Heritage sites. The element missing is the preparedness of all three jurisdictions to act upon transgressions. Any Heritage listed building or precinct that is being targeted for changes must be subject to a proper inspection and thorough briefing to developers or agents of change as to what is sacrosanct and what may be permitted.

- **Separating Heritage Protection from the planning administration.**

This is an absolute priority. Currently the dilemma is that Heritage protection is often at odds with development. The major function of Planning administration at both levels of Government – Local Government (Councils) and State Government (Planning Department) is to approve new buildings, renovations and developments. Heritage is in fact seen as a nuisance, a delay. As mentioned previously the Heritage Council of Victoria is both underfunded and inadequately staffed.

It should be that any Heritage decision – on status, orders for restriction or rectification etc. should have been determined and applied prior to projects reaching the Planning Departments. This is often not the case and without an independent and properly funded Heritage body, the current rather confused response will remain.

Heritage bodies must be independent and have adequate legislative protection with binding determinations, accepted by all involved parties.

- **Establishing Heritage Tribunal**

This is an absolute priority. There needs to be clear vision and determination based on a uniform standards. The determinations of the Tribunal must carry sufficient weight and punitive measures that will ensure compliance with orders made.

It must be stand alone and deal with only Heritage issues. It must be the accepted body that determines Heritage matters and disputes.

- **The Appointment of Local and State Heritage Advisors.**

There is a crying need for this to occur. Essentially the appointed advisors must be qualified in Heritage matters, have a solid understanding of the costings involved and preferably be experienced in Heritage Architecture.

Heritage Advisors should be available to Architects, builders, developers, real estate agents and Community heritage groups to arbitrate and advise on Heritage properties and what can and can't be done.

- **The Role of Councils in Heritage Protection.**

I have addressed what we consider to be inadequacies of current Local Government (Council) Heritage activity.

Currently Councils determine which properties, buildings and structures are nominated for Heritage Listing or to be included in Heritage overlays. This has been proven to be manifestly inadequate and in fact often a conflict of interest for Councils in terms of revenue. (Large multi storey blocks of units provide significant rates increases on a single block.)

The interpretation of Heritage values differs largely from Council to Council.

This is an area where it would be an imperative to involve qualified Heritage Advisors in the determination of Heritage status of particular buildings, of ensuring that the local council register of Heritage buildings and locations is in fact accurate and up to date and to maintain a timely process that prevents planned neglect that renders many such properties difficult to restore.

If a property has been nominated to the Heritage Council of Victoria for Heritage status, it must be that this automatically suspends any other council planning permits – demolition, renovation etc.

It should be that Councils first step in determining Heritage status is to require an independent report from the state appointed Heritage advisors. The Heritage advisors report must then be made available to all involved parties – the Heritage Council of Victoria's Inspectors, the property owners and relevant Community groups.

- **Penalties for illegal demolitions and tree removals.**

For illegal demolitions penalties need to be substantially increased. Essentially the penalty should equate to either the land value or the value of the proposed development. This can be scaled to suit the particular protagonists.

Tree Removals.

Again the penalties need to be increased. Quite often the current penalties are costed into the proposed project. Penalties must be scaled against potential worth of a proposed development.

In 2022, Trees must be recognised as a community and social asset.

- **Summary**

Currently there are too many layers of bureaucracy and varying responsibilities involved in the application of Heritage standards in Victoria. It is far too easy for cashed up parties to simply ignore heritage considerations.

In a recent instance, a developer in South Melbourne managed to ease a seven storey building into a minimal space adjacent to the Heritage listed Bank building corner of Clarendon Street and Bank Street. One planning officer was involved and a somewhat dubious Heritage report from a consultant ignored the reality that this new building – taller than any surrounding structures was smack in the middle of one of Melbourne’s most sensitive Heritage areas. The developers of the adjacent Butter Factory building in Bank Street were incredulous.

There is simply too much destruction occurring. Rampant facadism and massive delays in Heritage inspections and hundreds of century old buildings lost forever.

Quite frankly, it is now time to arrest this slide into rampant development which is at the expense of our State’s Heritage. Once it’s gone – it’s gone forever.

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