

**Submission  
No 133**

**INQUIRY INTO VICTORIA PLANNING PROVISIONS AMENDMENTS  
VC257, VC267 AND VC274**

**Organisation:** Heritage Council of Victoria

**Date Received:** 24 April 2025

Select Committee  
Victorian Legislative Council  
Parliament of Victoria

Via email to: [vppamendments@parliament.vic.gov.au](mailto:vppamendments@parliament.vic.gov.au)  
[REDACTED]

24 April 2025

Dear Select Committee,

**RE: INQUIRY INTO VICTORIA PLANNING PROVISIONS AMENDMENTS VC257, VC267 AND VC274 – INVITATION TO MAKE A SUBMISSION**

The Heritage Council of Victoria thanks the Select Committee for the opportunity to make a written submission to the above Inquiry and respond to the specific matters identified by the Committee.

The Heritage Council's written submission is appended to this letter.

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## Introduction

The Heritage Council of Victoria ('Council') is an independent statutory authority established under the *Heritage Act 2017* (Vic). The Council is the Victorian Government's primary decision-making body for the identification of places and objects of State-level cultural heritage significance.

Functions include advising the Minister for Planning, government departments and agencies, municipal councils and other bodies on the protection and conservation of Victoria's cultural heritage. The Council also has functions with respect to Victoria's World Heritage places.

Aboriginal cultural heritage is protected under the *Aboriginal Heritage Act 2006* (Vic) through which the Victorian Aboriginal Heritage Council is formed and operates.

The Council acknowledges the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

## Context for this submission to the Select Committee Inquiry

The Council has not yet fully reconciled how the three Victoria Planning Provision ('VPP') amendments, and the additional VPP amendments and housing reforms that have recently been announced, all work together in practice.

It is understood that the amendments do not and would not change nor override the *Heritage Act 2017* in any way.

The gazettal of multiple, significant VPP amendments since February 2025, without an overall overarching accompanying explanation and detailed description as to how they precisely operate, creates uncertainties and challenges for stakeholders, practitioners, and the community. Clarity has been sought by the Council. A Government briefing is scheduled for the Council on 1 May 2025.

## Inquiry's terms of reference

The Select Committee is inquiring into, considering and reporting on whether the three amendments, being Amendments VC257, VC267 and VC274, give proper effect to the objectives of planning in Victoria and the objectives of the planning framework under section 4 of the *Planning and Environment Act 1987* (Vic) ('PEAct').

The objectives of planning are replicated in Appendix A to this submission.

The Council notes the following objectives as particularly relevant to the matters referred to in this submission:<sup>1</sup>

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<sup>1</sup> Council's emphasis added. It is noted that objective 4(f) does not refer to objectives 4(fa) or 4(g).

- (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (fa) *to facilitate the **provision of affordable housing** in Victoria;*
- (g) *to **balance** the present and future interests of all Victorians.*

## The ‘three amendments’

Broadly, the three amendments seek to do the following, as the Select Committee has described:

- Amendment VC257 introduces the Housing Choice and Transport Zone (‘HCT’) and the Built Form Overlay (‘BFO’) into the Victoria Planning Provisions to support housing growth in areas with good public transport, infrastructure, and community facilities, particularly around activity centres.<sup>2</sup>
- Amendment VC267 aims to streamline the planning assessment process for residential developments, particularly for multi-residential dwellings up to three storeys.<sup>3</sup>
- Amendment VC274 introduces a new Precinct Zone to the Victoria Planning Provisions and all planning schemes in Victoria. This zone intends to support housing and economic growth in priority areas, particularly Suburban Rail Loop precincts.

## Further amendments since the three amendments were gazetted

Since the gazettal of Amendments VC257, VC267 and VC274, more amendments have been gazetted in the suite of housing reforms, and also with respect to World Heritage values. These include:

- Amendment VC276 which was gazetted on 31 March 2025, advances Amendment VC267, and makes corrections and clarifications;
- ‘Great Design Fast Track’ provisions in Amendment VC280 that were gazetted on 7 April 2025;
- Amendment CG252 that was gazetted on 11 April 2025 and facilitates the development of new homes within 10 activity centres and their catchments; and
- revised provisions for the World Heritage Environs Area (‘WHEA’) of the UNESCO Royal Exhibition Building and Carlton Gardens, gazetted on 17 April 2025.<sup>4</sup>

The Council briefly refers to some of these as well.

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<sup>2</sup> Detail will be introduced through schedules, to be developed.

<sup>3</sup> Clause 57 applies to all four-storey residential developments but does not include ‘deemed-to-comply’ standards.

<sup>4</sup> [https://www.heritage.vic.gov.au/\\_\\_data/assets/pdf\\_file/0030/746481/REB-and-CG-Strategy-Plan\\_2025.pdf](https://www.heritage.vic.gov.au/__data/assets/pdf_file/0030/746481/REB-and-CG-Strategy-Plan_2025.pdf) - link to the adopted 2025 Strategy Plan.

## Comments on the matters relating to Amendments VC257, VC267 and VC274 invited by the Select Committee

### 1. Appropriately balancing the objectives of planning in Victoria

The Council understands:

- pressures on housing affordability, choice and stability across communities;
- announced Government reforms in relation to housing supply that are underpinned by *Victoria's Housing Statement 2023*;
- the principles of supporting housing growth in areas with good public transport, infrastructure, and community facilities, particularly around activity centres, and supporting housing and economic growth in priority areas, particularly Suburban Rail Loop precincts; and
- that facilitating the provision of affordable housing is an important objective of planning.

There are other objectives which must, and can, work together.

Implementation of Victorian Government policy, through planning scheme amendments, is expected by the objectives of planning to maintain protections and management processes to sustain and enhance our shared cultural heritage. The Council emphasises that:

- cultural heritage protection, conservation and adaptation can contribute to change rather than be viewed as a constraint to override;
- the amenity of our cities and towns, which is highly valued by communities, can be enhanced by the retention and adaptation of cultural heritage places;
- heritage is a key economic and tourism driver in many communities (and is hoped to be for many Victorian goldfields locations) and provides connections to place;
- conservation of cultural heritage can contribute positively to Victoria's growth and planning strategies, climate mitigation response and housing initiatives;
- balanced and considered growth, respectfully, should weigh both heritage values and development outcomes that will work together to serve the community and future generations who will inherit the legacy.

The Council observes that:

- none of the three amendments have been explained or advanced as supporting objective 4(d) of the PE Act;<sup>5</sup>
- none of the three amendments have been explained or advanced with reference to benefits with respect to objective 4(d) of the PE Act;<sup>6</sup>
- the Department of Transport and Planning's presentation to the Select Committee also does not refer to objective 4(d).<sup>7</sup>

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<sup>5</sup> Referring to the explanatory statements for the three Amendments. There is mention of (f) in the explanatory statement for Amendment VC267 and VC276 but (d) is not cited individually.

<sup>6</sup> Referring to the explanatory statements for the three amendments.

<sup>7</sup> [https://www.parliament.vic.gov.au/497958/globalassets/sections-shared/get-involved/inquiries/victoria-planning-provisions/slide-pack\\_dtp-presentation-to-select-committee.pdf](https://www.parliament.vic.gov.au/497958/globalassets/sections-shared/get-involved/inquiries/victoria-planning-provisions/slide-pack_dtp-presentation-to-select-committee.pdf)

Cultural heritage is an integral component in creating thriving, liveable and sustainable communities and cities for all Victorians. This is not only with respect to State-level heritage places and objects that are the Council's remit. It is also important with respect to buildings, areas or other places that are identified as of significance at regional and local levels, and strongly valued by Victorian communities, being considerations which are relevant to the Council's exercise of function under s.11(1) of the *Heritage Act 2017* (Vic). Many State-registered places sit within larger heritage precincts and activity centres.

Heritage conservation and adaptation are part of orderly planning, good community outcomes and best-practice heritage management.

The State's cultural heritage can contribute positively to the Victoria's growth strategies, sustainability, and housing initiatives. Conserving and enhancing those buildings, areas or other places of special cultural value should not be seen, or assumed, as an impediment to housing supply ambitions. The Council's published evidence-based research on the value of cultural heritage to Victorians dispels many myths about heritage as an impediment to growth, amenity and/or housing value.<sup>8</sup>

Without reference to enhancing buildings, areas or other places that are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value, both now and into the future, may imply that there is not value and risks a regrettable legacy.

The Council is deeply concerned that revised provisions for the WHEA (buffer) of the UNESCO Royal Exhibition Building and Carlton Gardens could be, or would be, overridden by provisions in the housing reform amendments.<sup>9</sup> The revised buffer area provisions were gazetted one week ago, after many years of work and extensive community consultation and public hearings. The adopted 2025 Strategy Plan and Amendment VC251 protect the 'outstanding universal values' of the Royal Exhibition Building and Carlton Gardens. The Council has emphasised through its review and adoption of the Strategy Plan for the environs of the Royal Exhibition Building and Carlton Gardens, that Victoria must avoid the unfortunate situation associated with the potential parallels of Liverpool and Vienna. There, development in buffer areas undermined the world status and values of those places.<sup>10</sup>

Having just secured better protection and control for the WHEA, the Council draws attention to this as an important matter to not only consider, but also one where consequences of the multiple amendments must be collectively and holistically understood to ensure all objectives of planning are appropriately addressed. In the case of this World Heritage asset, Amendment VC251 expressly gives **priority** to protection of universal heritage values, rather than greater weight to growth ambitions and outcomes.<sup>11</sup>

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<sup>8</sup> <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage>

<sup>9</sup> For example, the Built Form Overlay and Great Design Fast Track provisions.

<sup>10</sup> In 2021 the UNESCO World Heritage Committee deleted the property 'Liverpool – Maritime Mercantile City' from the World Heritage List, due to the irreversible loss of attributes conveying the outstanding universal value of the property. In 2017, the same Committee inscribed the 'Historic Centre of Vienna' on the List of World Heritage in Danger. The Committee expressed its regret that developments had impacted adversely on the outstanding universal value of the site.

<sup>11</sup> A new regional policy at clause 15.03-1R has been implemented to address the heritage conservation, protection and management of the World Heritage Listed Royal Exhibition Building and Carlton Gardens and the associated WHEA, giving certainty and priority to conserving and

## 2. Likely significant unintended outcomes

The broad concept of what is sought to be achieved by the planning scheme reforms is known through the high-level documents such as *Plan for Victoria* and *Victoria's Housing Statement 2023*.

The detail through the three amendments is, however, complex for many to understand. There appear to be gaps, that the Council would encourage be resolved. Specifically, the Council questions if heritage fabric and the heritage setting of places of State significance and local significance will be assessed.

Inadequate or an absent focus on the context for new development may compromise the setting and context of State-registered places, and places and precincts of regional and/or local significance.

Examples from the three amendments as to how this could arise are:

- the provisions for activity centres which include locations with significant heritage values and State-registered heritage places but where the new provisions do not provide the requirement and framework for these to be acknowledged or considered;
- the lack of any reference to places that have identified special cultural values in the purpose of the BFO (clause 43.06) and the purpose of the HCT (clause 32.10);
- the ability of schedules to the BFO to specify that if there is any inconsistency between the outcomes and standards in the Overlay or a schedule to the Overlay and any other provision in this planning scheme, the outcomes and standards in the Overlay or a schedule to the Overlay prevail;
- the removal of neighbourhood character provisions and policy considerations in residential areas in situations where heritage and broader preferred design outcomes are entwined.

The Council has not yet clarified what the suite of amendments applying to residential land, activity centres and priority areas mean for:

- State-registered places whose context includes heritage places in Heritage Overlays;
- for State-registered places that are not sited in a context of heritage places in a Heritage Overlay/s;
- demolition and development in Heritage Overlays;<sup>12</sup>
- for land that is contained in the WHEA and is now the subject of new policy and a new Design and Development Overlay DDO4.

The importance of context is demonstrated in the situation of the outstanding universal values of the Royal Exhibition Building and Carlton Gardens, which has been referred to above. An unintended consequence resulting in compromise to Victoria's existing and proposed World Heritage assets would be a serious failing, including to Melbourne's and Victoria's national and international reputation.

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<sup>12</sup>

protecting the Outstanding Universal Values of the REB & Carlton Gardens in decision making for land within the WHEA.

For example, through the three amendments and via the 'Great Design Fast Track' provisions of Amendment VC280.



### 3. Adequacy of consultation

Unfortunately, the Council was not contacted or consulted at any stage in the preparation of the three amendments. The Council understands that there was some consultation and 'testing' of the content.<sup>13</sup>

As background, it is relevant to record that the Council sought a meeting with the Department of Transport and Planning in the consultation phase of *Plan for Victoria*. The Council had not been contacted or consulted to that time. The draft *Plan for Victoria* did not mention the value or conservation of heritage, nor recognise how heritage can positively contribute and add value to the Plan's outcomes. The final version of *Plan for Victoria* expressly records an outcome of the engagement process as:<sup>14</sup>

While it's clear that Victoria needs more homes, you told us it's vital that local areas maintain their local characters, including the heritage and environmental features you value.

In the final version of *Plan for Victoria*, in Pillar 3 'Great Places, Suburbs and Towns', heritage protection is one of eight 'enabling' statements:

Heritage protection: We'll preserve Victoria's rich and diverse cultural heritage by protecting significant sites and precincts.

The three amendments do not, however, appear to balance planning for more homes with other reasons to plan including that 'We plan to protect and preserve the things Victorians love and value'.

### 4. Appropriateness of clause 55 exemptions (VC267)

The VPP is a performance-based approach to managing land use and development change.

A one-size-fits-all approach, using extensive 'deemed to comply' measures will give certainty (subject to ensuring the legal drafting is clear and unambiguous), but brings with it the limited ability to respond to specific circumstances of land and locations. The removal of more restrictive location variations in individual planning schemes is related to this.

All sites and locations are not the same. Variations exist across metropolitan Melbourne, regional centres and smaller townships. Heritage areas have different values and reasons for their cultural heritage significance.

The Council queries whether and to what extent heritage assessments under clause 43.01 (Heritage Overlay) would be 'switched off' and how/whether relationships with heritage areas and places will be taken into account because the HCT and BFO do not have a purpose or outcomes that refer to heritage places or considerations.

Unintended and/or inappropriate outcomes may arise, for example:

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<sup>13</sup> It is also aware of the consultation cited on the Department of Transport and Planning's website and summarised in the presentation to the Select Committee (footnote 6).

<sup>14</sup> Plan for Victoria, [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0033/739473/Final-Plan-for-Victoria-For-Web.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0033/739473/Final-Plan-for-Victoria-For-Web.pdf), at page 15.



- if demolition controls are ‘switched off’ or are not a permit trigger;
- where multi-storey development occurs in or adjacent to heritage places within the HCT Zone or activity centres/catchment areas, such that the heritage context and values of a place or area are significantly and adversely affected.

## 5. Suggested changes to the three amendments

At a high level, the Council suggests changes to the three amendments that:

- provide clarity and certainty, where that might not currently be the case as described in this submission;
- ensure that assessments with respect to heritage places are not ‘switched off’, including permission for demolition;
- ensure the deemed to comply provisions do not override the assessments required under other controls for locations and places with already-identified special cultural values;
- related to the above point, retain discretion to allow for heritage values and contexts to be considered alongside the deemed to comply standards;
- exclude override provisions operating for heritage places and settings relevant to State-registered places.
- provide incentives and provisions to encourage the use, retention and adaptation of heritage places, such as a ‘public benefit’ provision in the BFO.

At more detailed level, examples are to ensure the HCT, Precinct Zone and the BFO include a purpose/outcomes, and (as relevant) requirements for schedules and masterplans, that expressly address heritage contexts and relationships with identified heritage places. For example:

- in the BFO, amend the third purpose to read — *To ensure development contributes positively to the functionality, amenity, heritage and character the of the area.*
- in the BFO development framework, add reference to identifying heritage places that are specified in the schedule to clause 43.01 (Heritage Overlay);
- in masterplan requirements in clause 43.06-2, require the analysis of the existing context to include the identified places in the Heritage Overlay.

## 6. Are the VPP that existed prior to these amendments, these amendments, or alternative proposals appropriate to meet the housing needs of the State and local communities?

This topic extends beyond the Council’s functions. Many factors are involved in the housing market and, it follows, meeting housing needs. Housing supply is one part of this.

## Further influential amendments in the suite of housing reforms

Amendment VC280 'Great Design Fast Track' is a new planning assessment pathway for high-quality housing and apartment developments. This includes a new clause 53.25 and making the Minister for Planning is the responsible authority for applications under the Great Design Fast Track. It is understood from the website relating to this amendment that the Office of the Victorian Government Architect ('OVGA') will lead the assessment process. The Minister may vary requirements of other clauses in schemes that would usually apply.

The Council questions what this means for:

- for State-registered places whose context includes heritage places in Heritage Overlays;
- for the physical context of State-registered places that are not within a Heritage Overlay/s where development is to occur potentially up to eight storeys;
- demolition and development in Heritage Overlays;
- for land in the WHEA, and key goldfields towns and cities that are prospective World Heritage locations through the Victorian Goldfields World Heritage Bid.

The 'State Design Book' and 'Great Fast Track Design Principles' ('design principles') are effectively silent on heritage, heritage context and heritage fabric. There is inadequate recognition that heritage can be part of design excellence and housing solutions. Climate change is also in crisis, with potential irreversible effects on our cultural heritage, to which building adaptation can contribute.

It remains uncertain:

- how or whether heritage considerations under Heritage Overlays are 'switched off' when the new clause 52.23 is relied upon;
- how adaptive reuse of heritage buildings will form part of the design principles and guidelines — adapting existing structures often requires fewer resources than building new ones and there is known value and acknowledgement by the Victorian Government of the embodied energy contained in existing and heritage buildings;<sup>15</sup>
- how Great Design Fast Track provisions sit with mandatory and other controls in the WHEA;
- how the OVGA will consider the scheme's heritage provisions as the design principles do not address this, and other guidelines being developed between Heritage Victoria and OVGA and which are not yet finalised.

Moreover, how will information usually obtained via internal referrals in local government when assessing permits (eg. a heritage advisor and arborist) be sourced to inform the assessment process? How will the OVGA be resourced to ensure the good design does not overlook other important heritage, strategic or practical matters? How will the obligations of net community benefit under clause 71 of the Victoria Planning Provisions be assessed and weighed?

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<sup>15</sup> <https://heritagecouncil.vic.gov.au/research-guidance/heritage-and-climate-change>; and [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0034/635965/Built-Environment-Climate-Change-Adaptation-Action-Plan-2022-2026.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0034/635965/Built-Environment-Climate-Change-Adaptation-Action-Plan-2022-2026.pdf)

## **Conclusion**

As mentioned, the Council's briefing on 1 May 2025 will provide an opportunity for Council Members to clarify and explain their concerns further with representatives of the Department of Transport and Planning.

Cultural heritage considerations can assist in complementing the expansion of housing supply and management of urban growth; they can be a constructive part of the solution so as to:

- ensure irreplaceable assets are encouraged to be protected and enhanced;
- enable strategically important locations and precincts to evolve to respond to housing imperatives while respecting identified heritage and environmental features that the community values; and
- for the above reasons, represent a balanced outcome.

**APPENDIX A –**

**PEAct 4(1) The objectives of planning in Victoria are—**

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (fa) to facilitate the provision of affordable housing in Victoria;
- (g) to balance the present and future interests of all Victorians.

**PEAct 4(2) The objectives of the planning framework established by this Act are—**

- (a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;
- (b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;
- (c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;
- (d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;
- (da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;
- (e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;
- (f) to provide for a single authority to issue permits for land use or development and related matters, and to co-ordinate the issue of permits with related approvals;
- (g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities;
- (h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision making;
- (i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;
- (j) to provide an accessible process for just and timely review of decisions without unnecessary formality;
- (k) to provide for effective enforcement procedures to achieve compliance with planning schemes, permits and agreements;
- (l) to provide for compensation when land is set aside for public purposes and in other circumstances.