

**Submission
No 233**

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

Organisation: National Trust of Australia (Victoria)

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Victorian Parliamentary Inquiry into Victoria Planning Provisions amendments VC257, VC267 and VC274

National Trust of Australia (Victoria) Submission



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Executive Summary

The National Trust of Australia (Victoria) believes that heritage, when properly considered and integrated into planning processes, provides an opportunity for thoughtful and innovative design solutions that protect community and cultural values and Victoria's distinctiveness, provide great places to live, work and play.

In August 2024 the [National Trust submitted](#) to consultation on the Plan for Victoria, and called upon the State Government to invest in the heritage protections system and cultural heritage as a wider industry to address challenges the Plan seeks to address. We encouraged incentives for the incorporation of heritage building stock, landscapes and trees into development design for liveability, and assurances that Local Councils and communities are supported to be part of decision-making about change to their places.

The National Trust supports densification in heritage areas when it is managed in ways that strengthen and enhance the cultural heritage values of our places. Furthermore, we support the government's intention to build a contemporary and fit-for-purpose planning scheme. However, we find the omission of any reference to heritage places and heritage planning policies in Activity Centres in Amendments VC257, VC267 and VC274 results in a failure to fully consider the environmental, social, economic and sustainability objectives of the Planning and Environment Act.

While the Plan for Victoria has maintained a strong focus on improving housing supply, heritage considerations within this Plan should not be limited solely to the value heritage places add to neighbourhood character. Properly considering the benefits of valuing and retaining our heritage provides, will in turn provide solutions to many of the identified issues the new Plan seeks to solve, including sustainable housing supply. Although the Plan for Victoria commits to 'preserve Victoria's rich and diverse cultural heritage by protecting significant sites and precincts,' this does not address the need to incentivise the ongoing use and respectful adaptations for heritage places. The aims of preserving Victoria's rich and diverse cultural heritage cannot be achieved through planning protections alone, such as Heritage Overlays. Incentives to activate and use existing heritage buildings are crucial to the ongoing survival of heritage places. To ensure heritage is understood to be a valued community asset rather than a barrier to development and increased housing supply, clearer guidance must be provided on how Heritage Overlays will be incorporated into planning reforms such as Activity Centres.

1.0 About Us

1.1 The National Trust of Australia (Victoria)

The National Trust of Australia (Victoria) is a not-for-profit membership organisation formed in 1956. As Victoria's premier heritage advocacy organisation, the National Trust has an interest in ensuring that a wide range of natural, cultural, social and First Peoples heritage values are protected, respected and celebrated, contributing to strong, vibrant and prosperous communities.

Whilst we are an independent and non-government organisation, we work collaboratively with government, local councils, businesses, local community groups and individuals, to strengthen heritage

protection, increase community involvement in heritage conservation, and provide tourism and engagement experiences for diverse audiences.

The National Trust is also Victoria's leading operator of historic properties and heritage attractions, managing over 35 heritage sites across the state, with 25 open to the public. Our property portfolio is diverse, including historic mansions, a remnant forest, and residential apartments. We manage more than 1,700 hectares of land, including urban and rural gardens, farms, and natural reserves.

We are the state's largest community-based heritage advocacy organisation actively working towards conserving and protecting our heritage for future generations to enjoy, with over 60,000 members and supporters across Victoria.

2.0 Response to Terms of Reference

2.1 Whether the VPP amendments appropriately balance the objectives of planning in Victoria

Under the Planning and Environment Act 1987 and the Heritage Act 2017, Victoria has a relatively mature system of heritage protections which, in theory, allows for the appropriate identification, protection, and management of heritage places within the context of strategic and statutory planning.

The objectives of the Planning and Environment Act 1987 include promoting sound strategic planning, establishing planning schemes that set out objectives and controls for the use, development, and protection of land, and ensuring that land use decisions take into account environmental, social, and economic impacts. These decisions must also consider climate change policies, including emissions reduction targets and measures to enhance climate resilience.

In our assessment, Amendments VC257, VC267 and VC274 fail to appropriately balance these objectives, particularly in relation to heritage protections. While we recognise the urgent need to address housing supply, this should be undertaken in conjunction with other vital planning objectives, particularly those related to environmental, social, and heritage considerations.

We find that the amendments place disproportionate emphasis on streamlining development in Activity Centres and facilitating increased housing density without incorporating safeguards for heritage places and precincts alongside these changes. The lack of explicit reference to heritage values and policies in the amendments creates uncertainty about how Heritage Overlay protections will be maintained and implemented alongside the new provisions.

While the state has a strong, multi-tiered system of protections, for years there has been a lack of consistency in the application of laws to protect our heritage, and neither state nor local government have been adequately resourced to meet the objectives of the legislation or the expectations of communities. The amendments provide a great opportunity to remedy this but currently fail to address these existing shortcomings while introducing new mechanisms that may further undermine heritage protections.

Since the introduction of the Activity Centre concept in 2024, the National Trust has received a surge of enquiries from community members and heritage groups concerned about what the proposed planning system changes will mean for local heritage protections. Despite State Government

assurances that Heritage Overlay protections will be maintained, the lack of explicit mention of the protections has exacerbated fears that heritage may be overlooked in the implementation of Activity Centres.

2.2 Whether the VPP amendments are likely to create any significant unintended outcomes

We believe the VPP amendments are likely to create several significant unintended outcomes:

- **Loss of Unassessed Heritage Places:** By exempting certain developments from notice and review requirements, sites with potential heritage value but no formal Heritage Overlay protection may be lost before they can be properly assessed. This is particularly concerning in areas where heritage gap studies have been initiated but not yet implemented.
- **Degradation of Heritage Streetscapes:** The "deemed to comply" provisions for development standards risk undermining the integrity of heritage streetscapes and precincts, as they prioritise quantitative standards over qualitative considerations essential for heritage conservation. We believe both essential quantitative standards over qualitative considerations can be achieved concurrently and urge greater consideration of this opportunity.
- **Reduced Tree Canopy and Green Space:** The amended landscaping provisions in Clause 55 focus on planting new trees rather than retaining existing mature canopy trees. This could potentially leading to a net loss in established tree canopy and green space, which contradicts climate resilience objectives.
- **Unsustainable Development:** The absence of clear guidance supporting adaptive reuse and infill within existing and heritage buildings risks increasing demolition rates in favour of new construction—releasing embodied carbon instead of promoting sustainable reuse.
- **Inconsistent Implementation:** Without clear guidance on how heritage considerations will be integrated with the new provisions, there is high risk of inconsistent implementation across different municipalities, creating uncertainty for property owners and developers.

2.3 Whether consultation on the VPP amendments was adequate

The National Trust has the following concerns about the adequacy of consultation on these VPP amendments:

- **Pre-emptive Consultation:** The Activity Centre concept was introduced before the consultation period for the Plan for Victoria had concluded, effectively disabling meaningful public, industry, and local government input on these planning reforms.
- **Lack of Heritage Focus:** Heritage considerations were notably absent from the consultation materials and discussions, resulting in heritage impacts not being adequately considered in the development of the amendments.
- **Absence of Heritage Impact Assessment:** No comprehensive heritage impact assessment was undertaken to support identification of how these amendments might impact on heritage places and precincts across Victoria.

- **Lack of Clear Implementation Guidance:** The consultation materials did not provide clear guidance on how heritage considerations would be integrated with the new provisions, leading to significant uncertainty and concern among heritage advocates and local communities.

More extensive consultation, particularly with heritage stakeholders and local government could have resulted in amendments that better balance and integrate housing supply objectives with local conditions and heritage protection.

2.4 Whether the exemptions provided for in Clause 55 of the VPP, as amended by VC267, are appropriate

The National Trust has the following concerns about the exemptions provided for in Clause 55 of the VPP, as amended by VC267:

- **Exemptions from Notice and Review:** VC267 introduces exemptions from notice and review (i.e., third-party appeal rights) for certain residential developments. If applied to sites without a Heritage Overlay, this means community input or heritage concerns may never be raised, even if a site or precinct has unassessed heritage value (e.g., areas awaiting Heritage Gap Study implementation).
- **Undermining of Heritage Assessments:** Even if a Heritage Overlay exists, streamlined pathways may undermine thorough heritage assessments if planning decisions focus on meeting fast-track objectives without Heritage Overlays and assessments being integrated into these objectives.
- **"Deemed to Comply" Standards:** Clause 55 standards are now "deemed to be met" if the proposal meets new measurable criteria (e.g., height, setbacks, and landscaping area). This shifts emphasis from qualitative judgments (such as sympathetic design in heritage contexts) toward quantitative outcomes that will ultimately decrease community benefit and distinctiveness.
- **Weakening of Qualitative Assessments:** Heritage policies that rely on subjective architectural integration or contextual sensitivity may lose out in decision-making processes under the new provisions.
- **Landscaping Provisions:** The Clause 55 landscaping provisions have been amended to now allow developments to meet canopy planting via compliance checklists, potentially overlooking the value of existing mature trees. There is no clear mandate to retain existing canopy trees—only a requirement to plant new ones.

The "deemed to comply" standard for the Town House Code is particularly concerning, as it is likely to have unintended consequences and may compromise heritage places and streetscapes.

2.5 What specific changes would you seek to the amendments?

The National Trust recommends the following specific improvements to the amendments:

- **Explicit Heritage Exemptions:** Amend the provisions to explicitly state that existing heritage overlays and local or state planning policies related to heritage should take precedence over Activity Centre planning provisions where conflicts arise.

- **Heritage Impact Assessment Requirement:** Introduce a requirement for heritage impact assessments for all developments in Activity Centres that affect heritage places or precincts, as part of streamlined approval pathways.
- **Enhanced Tree Protection Provisions:** Strengthen tree protection measures by requiring the retention of existing mature trees unless demonstrated to be impossible, and increasing canopy cover requirements for new developments.
- **Revised "Deemed to Comply" Standards:** Revise the "deemed to comply" provisions to ensure they do not override and integrate qualitative considerations essential for heritage conservation, such as sympathetic design and contextual sensitivity.
- **Restoration of Notice and Review Rights:** Restore notice and review rights for developments in or adjacent to Heritage Overlay areas, to ensure community input on heritage matters.

We believe these changes will better protect Victoria's cultural heritage and generate improved outcomes by ensuring that Victoria's character, distinctiveness and sense of community identity is valued and enhanced through Victoria's Planning Provisions and Amendments.

2.6 Whether the VPP that existed prior to these amendments, these amendments, or alternative proposals are appropriate to meet the housing needs of the state and local communities

The National Trust acknowledges that neither the previous VPP nor the current amendments provide an optimal framework for meeting Victoria's housing needs while protecting its cultural heritage. However, we believe that inclusion of the following will assist achievement of Victoria's critical housing needs with protection of cultural heritage as part of this objective:

- **Integrating Heritage and Housing Objectives:** Heritage protection, rather than positioned as an obstacle to housing supply, should be recognised for the potential it provides for adaptive reuse of heritage buildings that will contribute to housing supply, preserve cultural heritage, retain Victoria's character, and provide great places to live and work.
- **Incentives for Heritage-Sensitive Development:** The planning system can incentivise developments that sensitively incorporate heritage elements, through actions such as expedited approvals and encouragement of adaptive reuse projects.
- **Local Consultation and Decision-Making:** Consult with and involve Local councils in planning decision-making processes that affect them, to ensure that planning outcomes respond to local conditions and distinctiveness rather than being a standard state-wide response.
- **Heritage Clarity:** Ensure heritage values, protections and considerations are explicitly included in all planning provisions and guidelines to provide certainty for property owners, developers, and local councils when developing in heritage contexts.
- **Heritage Overlay Reviews and Gap Studies:** Approve existing heritage gap study and Heritage Overlay review amendments so they can be integrated into planning schemes and provide funding to local councils to continue to review existing heritage overlays and undertake gap studies to ensure robust heritage protections are in place at local government level.

- **Heritage Planning Unit Within DTP:** Establish a dedicated heritage planning unit within the Department of Transport and Planning to provide expertise on heritage matters which fall outside Heritage Victoria's remit, ensuring heritage considerations are integrated into all planning reforms.

We believe inclusion of these actions will generate an integrated and cohesive planning system that accommodates increased housing supply while protecting Victoria's cultural heritage for our community today and for future generations.

Conclusion

The National Trust calls upon the State Government to meaningfully include and integrate heritage considerations in the Plan for Victoria and associated planning provisions such as Activity Centres. We encourage incentives for meaningful incorporation of heritage building stock, significant trees into development design, and ensuring that Local Councils and communities are supported to be part of efficacious decision-making about changes to their places.

Response to 'place' should be central to and not forgotten when streamlining planning processes for housing development. Incorporating heritage values into urban design is what makes our towns and cities liveable and distinctively Victorian and is best achieved when planning decisions are grounded in meaningful local consultation. The consideration of holistic values of place and community will assist in addressing the current housing crisis and enrich our state with places that meet the liveability needs of Victorians today and tomorrow.

Appendix A: Summary of Recommendations

- Provide clear guidance on how Heritage Overlays should be interpreted alongside Activity Centre planning provisions
- Restore notice and review rights for developments in or adjacent to Heritage Overlay areas
- Revise "deemed to comply" provisions to ensure they do not override heritage considerations
- Strengthen tree protection measures in planning provisions
- Consult with and involve Local councils in planning decision-making processes that affect them
- Create incentives and guidelines for sensitive heritage developments and adaptive reuse of heritage buildings
- Ensure heritage values, protections and considerations are explicitly included in all planning provisions and guidelines
- Approve Heritage Overlay review and heritage gap study amendments and resource Local councils to continue to undertake these reviews and amendments
- Establish a dedicated heritage planning unit within the Department of Transport and Planning to provide expertise on heritage matters
- Require heritage impact assessments for developments affecting heritage places
- Develop updated guidance on vegetation protection in urban areas
- Increase penalties for illegal tree removal