

Monday, 31 January 2022



## Submission to Inquiry into the Protections within the Victorian Planning Framework

This submission covers a small number of matters on heritage planning and enforcement of heritage outcomes. It selects a number of issues that have gained some profile in our work as heritage professionals over the past 20 years.

It proposes some actions that may be available with a change of legislated processes within the Heritage Act 2017 and Planning and Environment Act 1987 although much of the focus here is the P&E Act.

### Issue Example 1: Loss of Leadership: Heritage Planning led by Heritage Victoria

During the 1990s Heritage Victoria had a very strong presence in leading on heritage matters via Council planning schemes and advice to the Minister for Planning. Heritage Victoria retained planners to assist municipal planners and the operation of heritage provisions in Planning Schemes and was constantly monitoring VCAT and legal decisions for their impact on heritage places.

Heritage Victoria also had an educative role both with Councils and the real estate industry to broaden and deepen the awareness of heritage and its effect on the stability and development of suburbs where the vast majority of heritage places are to be found.

Today and possibly since at least 2010, there is the appearance that there is no leadership on these matters and Heritage Victoria has become an administrative agency rather than one engaged in leadership, education and bringing issues to the public. The agency also gives no appearance of being outward looking to ascertain what is happening in the world of evolving heritage issues.

While heritage within Victoria is still very much on a forward foot compared with other states, there has been a real decline in its profile within Victoria to the point where the only times it makes an appearance is when some unusual aspect of the state's history pops up through archaeology. Indeed it is archaeology which is seen as the glamorous side of today's heritage.

Part of the problem appears to have occurred with the break up of a planning presence within Heritage Victoria and a lack of funding for heritage advisors in Municipal Councils which are required to determine the bulk of applications to alter heritage places.

The latter issue (devolvement of Heritage Victoria's role) has seen a real decline in tackling education within Councils with little or no programmes within outlying Councils or to planning staff.

In the Councils we have serviced over a number of years, some Council's only call on our services when there is a problematic application rather than running ongoing programmes which now only occur in more major municipalities. We have also noticed a total hesitancy by council planners to co-ordinate closely with Heritage Victoria where a state listed place is undergoing a development transition. This puts the applicant in the position of attempting to reconcile two planning agencies rather than receiving co-ordinated information. We have sometimes found ourselves attempting to find a reconciled position on behalf of the applicant although we are acting for the Municipal agency. *Contd p2.*

Heritage ALLIANCE Conservation Architects and Heritage Consultants  
41 Cobden Street, North Melbourne, Victoria 3051, Australia Tel: 03 9328 5133 Fax: 03 9328 5144 Email: contact@heritagealliance.com.au  
ABN 23 308 903 866

We have noticed a complete lack of understanding of preservation knowledge within Councils particularly related to post war period places which are anywhere between 75 years and 50 years old.

In 1995 I attended one of the first preservation conferences dealing with the late 20<sup>th</sup> Century and while recognition of post war places has grown, preservation itself continues to be a difficult issue. The position of Bayside Council is a case in point; our office undertook the first study which included the work of a large number of post war architects and still today the Council continues to be hesitant about their role in preserving such places.

We have also noticed a complete lack of understanding and empathy by planners who work in Councils which have to deal with Post War Heritage Places possibly because they are not equipped to deal with such issues and have little knowledge of the development and architecture of this period and often do not know how to respond to such applications.

### **Possible Solutions**

Better funding of Heritage Victoria to develop and lead in the education and preservation of Post War places and better support to Councils when undertaking heritage studies of such places particularly in the municipalities containing large areas of post war beachside architecture.

There should also be funding for Councils to publish material on the post war architecture of their areas to better promote an understanding of how these areas developed. Presently information collected by heritage consultants such as ourselves remains in large studies rather than being made available for public consumption.

### **Issue Example 2. Complicated site developments. (Heritage Act 2017 in conjunction with City of Moreland under Planning & Environment Act).**

A site owner has failed to maintain a site of state level importance (and one of the few industrial sites of this type in Australia).

Over a long period the site owner has moved away from an agreed (but not legally enforceable) site development plan and failed to maintain some structures and has not provided funds for the upkeep of some of the industrial elements on the land. More recently a listed building has been allowed to fall into such disrepair it has caused the municipal building surveyor has issued a demolition order.

While a development arrangement has long been on the table, the site owner has failed to carry out actions that would be to the betterment of the total site and has been pursuing more and more residential development on the land and continually has reduced the sites heritage assets through inaction and continually pursuing a greater residential development outcome.

What has been the cause? Possibly a lack of a formally agreed and publicly known development plan. The initial development proposal was subject to public discussion, City of Moreland planning input, economic analysis and a monetary input from a heritage fund to find an appropriate outcome for the site which would (hopefully) lead to a long term sustainable outcome that protected the sites heritage assets.

While it is possible to mandate an outcome via a Section 67 agreement in a P&E Act with the municipal council, it appears to be more meaningful if a joint agreement was made with the Heritage Council which controls physical development and City of Moreland which controls use.

The above is one saga of failure to maintain a heritage place in an agreed manner. One more obvious case relates to a large house on The Grove, Coburg where a substantive bungalow house is now a ruin after the owner decided not to develop and repair the house for continued use but upon being

disallowed to demolish and develop the site for a series of houses, determined to allow the site to become ruinous over the past 17 years.

In both cases there appears to be a need to determine a development plan and publish that plan by some means. In the case of the

**Possible solution:**

A minor legislated change would be required to the P&E Act and the Heritage Act which would allow a joint development plan to be approved and made legally binding with the plan being gazetted as a means of it being publicly acknowledged and showing up on titles. Council would have a clear direction for development and use on their files and this would also allow banks to loan money to a certified use.

It would publicly tie the owner to a set outcome and also create a possibility of State and Municipal Government Grants and loans to be given toward maintenance of heritage assets at set times. This would prevent constant re applications as to what may happen at the site depending on the owners' latest ideas for funding development of the site. Presently the community sees the owners allowing segments of the site to run down in order to propose further residential development over a commitment to repair heritage aspects of the site.

**Issue Example 3 Facadism of heritage streetscapes**

There is a growing propensity to allow facadism, particularly in areas of pressured development.

This is disappointing to practitioners who have long eschewed such outcomes (and indeed it goes against Burra Charter principals), only to see this form of development being allowed more and more and indeed even being forced onto some areas by Council policies where Design Development Overlays promote "design excellence" over the continuing contribution of heritage places. The idea that a new building is more important than retaining heritage fabric is a problem creeping into our urban fabric. Even where there is already a regime of permit consideration (created by a Heritage Overlay), councils have been introducing contra overlays creating a new expectation by landowners.

We have come to see some outstanding recent individual examples of facadism involving the overwhelming of small bijoux buildings by the construction of new buildings above and behind them. Following the much publicised 1980s example of an inappropriate outcome (Woolworth's site at 255 Smith Street, Fitzroy), the recent development of 599-605 Swanston Street (corner Queensberry Street), has become a new cause celebre as a low point in developments overwhelming historic places. We see such outcomes as completely undermining the meaning of heritage where heritage principles are reduced to façade aesthetics only.

Indeed some (perhaps junior) municipal planners believe that a heritage street is essentially one of old facades only.

Recent planning scheme changes in some municipalities have been cause for concern by near enforcing facadism outcomes through the application of "visibility geometries" over what should be basic planning practice. These visibility geometries have gained some populism as a means to simplify planning – this is an overthrowing of responsibility for proper planning.

**Possible Solutions:**

Promote the importance of continued proper planning and the advice of heritage practitioners as to what is significant fabric at heritage sites and how they might be managed rather than adoption of

one size fits all solutions. The one size fits all approach undermines public expectations on heritage. It certainly undermines professional (heritage) involvement in the planning process.

**Issue Example 4: Planning and Environment Act, The undermining of Municipal Councils actions.**

A site within a municipality containing a complex of buildings is subject to a heritage study which recommends controls under the Planning Act by adding the site to the Municipal Heritage Overlay Schedule. A planning panel confirms this inclusion. This decision is also supported by the community. However the Minister for Planning does not add the site to the Planning Scheme.

There follows general public disbelief after the Municipality has spent substantial monies on bringing the site to panel and then dealing with the Panel's recommendations and sending the matter to the Minister for sign off.

There also general annoyance within the local community at what seems to be personal representations made to the minister by a company or institution to overthrow the panel and Council's consideration of the matter.

In two cases we have been involved with (a major post war site with its own band of industry promoters) and a post war group of flats, considerable time was spent with Council including preparation for panel which endorsed the inclusion of the buildings as part of the spread of 20<sup>th</sup> C popular culture Australia wide but it would appear that this former Commonwealth site would not have any real controls over its development although no explanation was given as to its non -inclusion in the Municipal planning scheme.

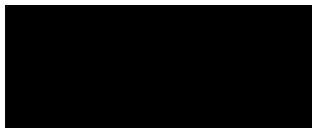
The site was sold approximately 1 year ago but no development has since been announced.

**Possible solution:**

The Minister should publish reasons behind a Ministerial intervention at the time of the decision. Information about the site ownership should also be published. This would allow better transparency in decision making and transparency as to action of government.

While such interventions may draw public criticism, that is the nature of political life and its should not be undermined.

Regards



David Wixted  
Principal Architect