

30 September 2026

Attn: Danielle Wood and Alison Roberts
Commissioners
Housing Supply Regulation Inquiry
Productivity Commission
Lodged via: www.pc.gov.au/inquiries-and-research/housing-supply

Dear Commissioners,

RE: Interim Report on housing supply regulation

The Heritage Council of Victoria (the Heritage Council) has reviewed the Productivity Commission's Interim Report (Interim Report) for the Inquiry on Housing supply regulation (the Inquiry) and welcomes the opportunity to provide feedback.

The attached document contains the Heritage Council's comments to assist the Inquiry's consideration and final report. These have been developed after consultation with Heritage Council members and the Heritage Council's Local Government Specialist Committee.

We accept there is a housing problem. However, the Interim Report:

- misrepresents heritage impacts on housing supply and has not properly considered or assessed the benefits of heritage protection
- wrongly asserts that heritage controls are a primary cause of housing shortages
- wrongly asserts that heritage overlays prevent change
- adopts the untested and unsubstantiated proposition that the broad reduction of heritage overlay coverage would produce the suggested increase in completed housing – this proposition is the result of a narrow and incomplete review of available evidence and erroneous assumptions
- targets heritage areas based on limited material as well as an insufficient understanding about what heritage controls actually do, and what they do not prevent
- does not recognise that heritage areas can and do accommodate change and increase housing numbers and densities
- confuses what is a land-use control and what is a development control in proposed reforms.

We respectfully request the final report include revised nuanced and evidence-based reforms that acknowledge that heritage conservation and housing supply are compatible objectives and a 'build mindset' can support both housing growth and heritage conservation goals.

If you require any further information, or would like to discuss the feedback provided, please contact the Heritage Council Secretariat at heritage.council@transport.vic.gov.au or by phone on (03) 8572 7949.

Yours sincerely,



Prof Philip Goad
Chair, Heritage Council of Victoria

1.0 Introduction

The Heritage Council of Victoria (the Heritage Council) is an independent statutory body established under the *Heritage Act 2017* (the Heritage Act). It is the Victorian Government's primary decision-making body for the identification of places and objects of state-level cultural heritage significance. Under section 11 of the Heritage Act, the Heritage Council is charged with a wide range of functions. These include:

- advising the Minister [for Planning] on the status of the state's cultural heritage resources and on any steps necessary to protect and conserve them, under section 11(a)
- advising government departments and agencies, municipal councils and other responsible authorities on matters relating to the protection and conservation of cultural heritage, under section 11(d).

The Heritage Council also has functions with respect to Victoria's World Heritage places.

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

The Heritage 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 across the state. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

2.0 Scope of the Inquiry and context for this submission

The Inquiry is to 'evaluate housing regulatory systems across jurisdictions against established best practice, with reference to existing reform efforts underway.'¹ The goal for the Inquiry is to propose reforms that will reshape Australia's planning systems to build enough housing, more quickly, and where people need it most.

The Heritage Council supports the need to increase housing supply and improve housing affordability. We recognise and support governments seeking to deliver more housing in locations that are well connected to jobs, services and public transport.

The narrow framing of the Inquiry limits the ability to consider related issues in the delivery of more housing in appropriate locations, while also making great places for people to live, work and recreate. For example, there are tens of thousands of houses, apartments and other dwelling types that have planning permits but are not built – across Victoria and other states. The Interim Report does not address how this situation can be unlocked or unblocked in the short term.

Due to the role and remit of the Heritage Council, the following comments are made primarily in reference to the housing regulations, planning and heritage protection legislation and policies as they exist in the State of Victoria, and as they relate to the scope of this Inquiry.

It would be desirable for the final report to take account of and acknowledge recent reforms to the Victorian *Planning and Environment Act 1987* that are, among other things, speeding up pathways for planning scheme amendments.

3.0 General comments

As Victoria's Minister for Planning notes in her introduction to the Heritage Council's *Strategic Plan 2026–30*, 'Heritage protection and adaptation ... play a vital role in shaping vibrant and liveable cities, suburbs and towns'. Australian and overseas research over the past 20 years acknowledges the broader social, cultural and economic value of heritage to the community.²

¹ Australian Government Productivity Commission, *Housing supply regulation interim report* (2026) p. iv.

² For example: Clark, K, Martin, L & Lu, V (2023) *Why heritage? A synthesis of evidence for the social, economic and environmental impacts of cultural heritage*, <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage>. SGS Economics and Planning (2017) *Valuing Victoria's Heritage*, <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage>. Irons, J and Armitage, L (2011) *The value*

The Interim Report does not properly assess the benefits of heritage protection.

Many generalised and simplified findings that underpin proposed reform directions in the Interim Report appear to be based on limited selected material without 1) assessing published commentary of that work; 2) understanding that work in its own context; or 3) accessing other relevant analyses.³ Consequently, it is considered that the Interim Report:

- overstates the role of heritage management in housing supply, affordability and construction productivity.
- analyses the impact of heritage controls on housing prices and the ability to build more houses without interrogating what could be expected to happen if the controls were changed. We cannot assume that the perceived barrier, if removed, will deliver the suggested increases in housing given so many variables at play, including market conditions.

With respect to other aspects of the Interim Report, we comment that:

- information requests contained in the Interim Report seek to better inform the Inquiry, although this is not material that submitters will have the opportunity to consider and comment on; the material relied in the Interim Report is confined to limited resources without interrogation and without consideration of available critiques.
- consultation and engagement with government or peak heritage regulators or expert heritage bodies in the development of the Interim Report would have assisted to dispel some of the myths around heritage regulation, what heritage regulation seeks to achieve, how it is underpinned by legislation and, importantly, what is possible to achieve in housing outcomes while also retaining heritage values.
- while referencing the management of density, the reforms are not based on objective measures or targets so as to build enough housing more quickly and where people want it.
- reliable assessment of heritage overlay reform requires outcome data that the Interim Report does not provide – how many developments are approved in heritage areas, their height and dwelling yield, assessment times, refusals and review outcomes, and how many approved dwellings are constructed.
- the value and role of heritage controls should not be conflated with attributes of liveability, identity and aesthetics that are valued by communities.

The Interim Report refers to a key reason for the affordability challenge being we have not built enough homes in places where people want to live. We believe that the narrow framing of the Inquiry and the lack of consultation with government heritage regulators and heritage experts has led to:

- overstating the role of heritage protection as a constraint or major barrier, in circumstances where many larger factors are known to affect housing supply and affordability.
- a misunderstanding about how heritage controls are applied and function in Victoria, leading to incorrect assumptions about the impacts of, or benefits arising from, their removal.
- the misconception that heritage areas are ‘no build’ locations or are preserving suburbs without the ability to change. **Heritage controls are about managing change not preventing change.**

With respect to proposed reforms, we comment that:

- there is not a robust or articulated model for cost-benefit analyses to inform some reforms such as those suggested to heritage overlay areas. Such processes (if they are to be required) must be assessed quantitatively and qualitatively, take account of tangible and intangible values, and be undertaken and then assessed independently and robustly through a transparent framework. The concept of cost-benefit analyses for heritage listings is also inherently impractical and would create delays.

of built heritage: Community, economy and environment, Pacific Rim Property Research Journal, Vol 17, No 4, pp.614–633. Allen Consulting Group (2005) *Valuing the priceless: The value of heritage protection in Australia*, Research report 2, Prepared for the Heritage Chairs and Officials of Australia and New Zealand, Sydney, <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage>.

³ For example: Spiller, Dr M & Lesh, Dr J (2026) *The economics of heritage laws and housing supply* at <https://www.heritageworkshop.au/post/the-economics-of-heritage-laws-and-housing-supply>; Rajapaksa, D & Comerford E (2026) ‘Preserving the past and shaping the future: Impacts of heritage protections on the South-East Queensland property market’, *Urban Transitions* 2026, <https://www.sciencedirect.com/science/article/pii/S3050697226000114>. Willis, Dr I (2026) *Balancing Heritage and Development in Australia – Camden History Notes*.

- they have not been framed with a sound and balanced foundation of ‘best practice’. For example, a blanket approach allowing 3-storey development on most residential land could mean under-development of valuable land where higher forms in appropriate locations could have achieved greater efficiencies, benefits and savings.
- they have not had regard to contexts that are very different between state jurisdictions, including relevant legislation and physical circumstances, that challenge the ability and suitability of a one-sized reform package for all cities, regional centres and towns in Australia.⁴
- they focus on major cities, with little acknowledgement of the potential, capacity and circumstances of regional cities and towns to make meaningful contributions while respecting what those communities value.
- they do not give weight to acknowledged research that consistently shows that built heritage is valued.⁵
- calculating proposed ‘offsets’ for values-based attributes, such as heritage impacts, can be questioned in terms of equity/fairness or veracity. Learnings from recently passed reforms to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* may be helpful.
- any reform process in the Inquiry’s final report is encouraged to knit together proposed reforms so as to understand how they are intended to be implemented – from strategic planning, review of controls, revision to approvals processes, to delivery of infrastructure and housing – and the time that this may take to achieve market take-up.

The Interim Report acknowledges that ‘housing regulation should not only consider economic benefits’, and lists social benefits, ... cultural factors ... and environmental and climate change adaptation outcomes’⁶ as other important factors. It also notes that ‘Planning regulations should also recognise that social benefits may come in the form of protecting culturally significant places or land.’⁷ **We agree. Heritage protection and housing growth are complementary – not competing – objectives.**

Management of significant heritage places and precincts plays an important role in enabling governments to meet their climate commitments, especially in the areas of embodied energy, waste reduction, sustainable use of resources and the reduction of greenhouse gas emissions.

Appropriate adaptation of heritage places and precincts is an important component of Victoria’s strategic planning initiatives and programs to increase housing supply. The *Burra Charter*, used to evaluate heritage significance in Australia, is an acknowledged example of international best practice.⁸

Commentary in the Interim Report such as the extent of heritage overlays in Australian cities exceeding their likely benefit does not sufficiently acknowledge or give weight to the following:

- heritage controls have legitimate purposes in legislation and are not implemented with the objective of frustrating other legitimate planning goals.
- heritage areas are not all the same in their extent, importance, presentation, historical, architectural or social value; the controls that exist today achieve outcomes set out in planning legislation.
- while not everyone may accept the value of heritage places, they have been introduced based on expert assessments and review processes; controls should not be considered as arbitrarily applied, ill-considered or having an unjustifiable motive, as appears to be contended in some submissions to the Inquiry.
- heritage assessment criteria are not the same across Australia – hence it is inappropriate to categorise heritage ‘rules’ and outcomes of regulations as all being the same and to propose a singular ‘solution’ in these circumstances.

⁴ Australian Government Productivity Commission, *Housing supply regulation interim report* (2026) p 24.

⁵ We note the reference to the 2023 work by the Heritage Council (p.26) and add research publications accessible at <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage> and Irons, J and Armitage, L (2011) *The value of built heritage: Community, economy and environment*, Janine Irons, Curtin Business School, Curtin University, Perth and Lynne Armitage, Institute of Sustainable Development and Architecture, Bond University, Queensland.

⁶ Australian Government Productivity Commission, *Housing supply regulation interim report* (2026) pp.24–26.

⁷ Australian Government Productivity Commission, *Housing supply regulation interim report* (2026) p.26.

⁸ [The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance, 2013.](#)

- the suggestion that heritage controls interfere with best practice is not explained or substantiated. The concept applied in the report (Figure 1.2) is itself too narrowly framed and does not include the wide range of objectives that are relevant, and referred to by the Inquiry, such as sustainable outcomes and positive legacies for future generations.

De-regulation and letting the market decide does not mean acceptable or intended outcomes will be achieved. Market failures have led to the need for controls with respect, for example, to sustainability and liveability in new units, apartments and other forms of housing in various states across Australia.

We can learn lessons from history. After WWII there were material shortages and a pressing need to provide cheap, quickly built housing at a time of unprecedented housing shortages. There were also government restrictions (in Victoria) on the sizes of houses until 1952, with the area of new houses being limited to 1200 square feet (111.5m²) for a timber house and 1250 square feet for a brick house. New free-standing houses in Australia are some of the largest in the world, with the average size being 232.3m² in 2021–22.⁹ This is more than double the size allowed in the immediate post-war years.

4.0 Comments on Reform directions

Following are some additional matters relating to specific reform directions.

Reform direction 2.1 – Allow up to 3-storey development across most residential land (and Information requests 1.2 and 5.1)

State and territory governments should allow up to 3-storey developments across all residential land, with exceptions made for areas with environmental protection, hazard-related overlays or heritage listed buildings only where the benefits of exceptions outweigh the costs.

- The evaluation of regulatory reforms is, in Victorian legislation, bound to consider all of the objectives planning as set out in the legislation.
- Creating more housing where people want to live should not compromise the values that make places attractive and in demand, and must consider place-based differences, including regional settings.
- As stated, rigorous processes already exist in Victoria to ensure the heritage overlay is appropriately applied. The benefits of the application of the heritage overlay are weighed up at the time of assessment, with evidence from relevant experts, and with a rigorous process to justify the application of the overlay.
- Heritage controls should be reviewed when needed but should not be ‘turned off’ without as rigorous an assessment as required for their introduction.
- For places of state-level significance in the Victorian Heritage Register, reasonable and economic use provisions in the *Heritage Act 2017* mean that these considerations are already part of any development permit application for change (including tower or multiple-storey redevelopment) to these important places.
- Heritage listing at the state or local level in Victoria does not prevent development or impose mandatory height controls on development. Height controls arise from other planning provisions where they apply to achieve the outcomes to which they refer. Whether additional height is appropriate depends on the significance of the place, the surrounding context and the planning framework that applies to the site.
- It is incorrect to generalise that apartments cannot be built in all heritage areas. Heritage overlays are place-based, meaning that some individual overlays or heritage precincts (referred to in the Interim Report as ‘blanket heritage areas’) can accommodate 3-storey development already, while others will be able to accommodate increased housing in other ways (e.g. townhouses or higher forms). Height is not, however, the only variable that needs to be considered in appropriate development.
- There may be locations where higher densities can be accommodated once, on careful and robust assessment, hazards and risks have been properly assessed and determined if they can be managed safely.

⁹ Australian Bureau of Statistics (12 April 2023), [Average Floor Area of New Residential Dwellings](#), ABS Website, accessed 31 August 2026.

- The Interim Report appears to adopt impacts on dwelling prices as evidence of ‘damage to neighborhood amenity’, without consideration of many other factors that are relevant to such judgements.

Reform direction 2.4 – Allow residential development in commercial zones, unless there is a clear rationale for excluding it

State and territory governments should review all commercial zones that restrict residential development and change them so they restrict residential development only where there is a clear rationale to do so and there is a net benefit from restriction.

In Victoria, the Victoria Planning Provisions provide the ‘toolkit’ that planning authorities (usually councils) currently must use. Our commercial zones have different purposes, only one of which enables accommodation. Commercial 1 Zones allow for new and adaptive re-use in commercial areas for housing, for example via the conversion of rear and upper sections of shops for residential use, and the adaptation of offices/warehouses for accommodation. This has achieved many new dwellings in inner city areas. Commercial 2 Zones are for offices, various forms of industry/manufacturing and other uses where land use separation is important and necessary for health, safety and amenity purposes and outcomes.

While the state government could consider reviewing zones, it could also encourage the wider application of mixed-use zoning or using existing provisions in the heritage overlay to ‘switch on’ the ability to allow otherwise prohibited uses in suitable locations.¹⁰ It should be understood, however, that allowing the use of land for housing as-of-right does not mean permits may not be needed to manage development outcomes.

Reform direction 2.5 – Review, reduce and remove land-use controls that reduce commercial feasibility and do not adhere to best practice principles

State, territory and local governments should identify and reduce controls that reduce commercial feasibility and do not adhere to best practice principles.

- ***Replace broad heritage protections with more targeted heritage listings with cost-benefit analysis and review processes.*** *Blanket heritage areas should be replaced by heritage listings for specific buildings or small areas. Targeted heritage listings should be justified by cost-benefit analysis, and there should be more robust mechanisms to review and delist buildings.*

‘Broad heritage controls including heritage overlays and heritage conservation areas prevent development and will likely reduce the effectiveness of other priority reforms. Blanket heritage areas risk indiscriminate classification, protecting buildings with limited heritage value while imposing substantial costs on housing supply. These controls should be replaced with more targeted heritage listings for specific buildings or small areas. Targeted heritage listings should also be based on cost-benefit analysis, including consideration of cultural value to Aboriginal and Torres Strait Islander people. Heritage listings should be supported with more robust mechanisms to review and delist buildings.’¹¹

The italicised comments (above) demonstrate multiple misunderstandings of how heritage overlays operate in Victoria. As a result, assumptions on the impact of the proposed recommendations for additional housing as a result of the removal of these overlays may be overestimated.¹² In addition to comments made earlier:

¹⁰ Clause 43.01 of the Victoria Planning Provisions currently includes this ability with the purpose being ‘To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place’. There are also multiple situations where the current planning scheme allows heights to be exceeded related to heritage outcomes (e.g. Design and Development Overlays).

¹¹ Australian Government Productivity Commission, *Housing supply regulation interim report* (2026) p.55.

¹² See also the recent article by Dr M Spiller and Dr J Lesh which critiques some of the research cited by the Interim Report to support this and other Reform directives relating to the heritage overlay, cited at footnote 3.

- there is an important misconception in Reform direction 2.5 that heritage protections are land-use controls – heritage controls are **not land-use controls**, rather, they manage **development and built form** in identified heritage places.¹³
- heritage precincts are not ‘blanket’ restrictions; the overlay is not used to regulate the number, type or density of dwellings.
- application of a heritage overlay does not ‘prevent’ development, including increased housing. Development can and does occur within areas covered by a heritage overlay – and in places of state-level or world heritage significance protected under the *Heritage Act 2017*.
- the process of heritage protection in Victoria is robust – not ‘indiscriminate’. The application of overlays is subject to rigorous assessment and justification requirements. A planning scheme amendment for application of the overlay requires strategic assessment of the proposed control based on state and local planning policies and frameworks. In this context, submissions to the Inquiry that, for example, housing supply is being restricted by heritage overlays beyond what is socially justified, should not be taken as soundly founded.
- in Victoria, precinct-level heritage protection (referred to in the Interim Report as ‘blanket heritage areas’) is supported by further classification of buildings within the precincts as:
 - individually significant
 - contributory
 - non-contributory

which allows for the management of the most valued heritage elements at each place or precinct, with non-contributory elements or buildings readily able to be developed.

- streetscapes/precincts in heritage overlays can provide identity and rich diversity where people love to live, close to public transport, services and facilities.
- mechanisms already exist – and are being used – to ensure heritage protection is fit for purpose. For example, Boroondara, Melbourne, Port Phillip, Stonnington and Yarra City Councils are reviewing older heritage precinct overlays in their municipalities to ensure the level of heritage protection meets current policies and strategic outcomes.¹⁴
- we support:
 - a proportionate approach where the level of process can be safely matched to heritage risk
 - a staged approach that continues to accelerate housing in suitable locations while the more complex work in sensitive areas is undertaken.

Reform direction 3.1 – Consider infrastructure requirements and trade-offs associated with development early through strategic planning

The identification of heritage – including updated heritage studies, review of existing overlays and implementing legacy heritage studies – could be included in the list of technical studies (e.g. flood risk, bushfire risk, biodiversity mapping **and heritage**) across suburbs and localities with high expected demand for new housing, and considering how the impacts of the expected uplift in housing development can be managed across these areas.

¹³ The same error occurs in other parts of the Interim Report. For example, in other points in Reform direction 2.5 such as the reference to neighbourhood character restrictions, which are also development-based controls, i.e. they do not control land use for the purpose of planning schemes in Victoria. The same error is also made when stating (p.56) that ‘density can be effectively controlled through other land-use controls such as height limits, setbacks and site-coverage rules’, which are also development controls.

¹⁴ More recent work than the 2018 data cited at Box 2.2 of the Interim Report, and which is available through the Department of Transport and Planning, will show the extent of new housing development in commercial areas that are subject to heritage controls.

4.0 Comments on Information requests

The follow are comments on specific Information requests in the Interim Report.

Information request 2.1

What impact would reducing the coverage of the heritage overlays have on housing supply?

- In addition to the comments above, which emphasise that fulsome and robust evidence-based analysis is required to answer this question, reducing the coverage of the heritage overlays:
 - is likely to mean loss of heritage places and character of the streetscapes in circumstances where:
 - they do not preclude any development; new development will usually require a housing design that responds to the heritage values which vary from place to place
 - it is for planning authorities to review the application of the overlay, mindful that circumstances can change
 - heritage areas are in various locations, some of which may be well placed to boost housing supply while others may not – they require assessment rather than a ‘blanket’ position.
 - may not result in significant growth in housing numbers as development, including medium-density development, is already achievable in heritage overlays. Reducing coverage may not have as great an impact on housing supply as assumed in the report and as outlined by some submissions made to the Inquiry. Residential zones can allow for developments with heights varying between 10.5 to 11.5 meters (equivalent to 3 storeys); some allow more.

Information request 3.4

How can federal, state and territory governments incentivise councils to approve development efficiently and encourage those that are slow or obstructing approval pathways?

- Better resourcing of local government planning and heritage expertise to help expedite approvals and to review older heritage studies and controls.
- Collecting better data on development outcomes in heritage areas (which are not currently being captured).
- Investing in a clearer understanding of what is actually causing planning delays – for example, understanding that the regulator and regulations are not the only pressure point in the pathways. Proponents often provide poor and incomplete information or material that delays decision-making and which will limit AI use in application processing.
- Assisting the education of design and development industries.
- Promoting, encouraging and celebrating compact, good design could contribute to more affordable, better quality and appealing new housing stock.
- Providing further guidance and support across the state to assist in achieving improved consistency in approach.

Heritage Council of Victoria

30 September 2026