

2023-24 PRE-BUDGET SUBMISSION



VICTORIAN GOVERNMENT DEPARTMENT OF TREASURY



Australian
Institute of
Architects

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2023-24 Victorian Government Pre-Budget Submission

INFORMATION ABOUT THE INSTITUTE

- The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with more than 13,000 members across Australia and overseas.
- The Institute's vision is: *Everyone benefits from good architecture.*
- The Institute's purpose is: *To demonstrate the value of architecture and support the profession.*
- At the time of this submission the Victorian Chapter President is David Wagner FRAIA and the Acting Chief Executive Officer is Barry Whitmore.

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About the cover photo

The Australian Institute of Architects' 2022 Sir Zelman Cowen Award for Public Architecture Bundanon. Kerstin Thompson Architects. Traditional Land Owners: The Wodi Wodi and the Yuin peoples of the Dharawal country. Photographer: Rory Gardiner.

For further information visit: <https://www.architecture.com.au/awards/2022-awards/2022-act-architecture-awards-winners/the-sir-zelman-cowen-award-for-public-architecture-bundanon>

1. Connecting with Country Draft Framework for the built environment

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2. Victorian Aboriginal Heritage Council

Recommendation 2.1: The Victorian Government increase funding for Traditional Owner engagement and cultural heritage management programs to \$50 million for the 2023-24 and beyond.

Recommendation 2.2: The Victorian Government amend the Aboriginal Heritage Act 2006 to provide the VAHC with independent enforcement powers, including proactive enforcement powers and to provide the VAHC with the power to regulate and set standards for Heritage Advisers.

Recommendation 2.3: The Victorian Government provide the VAHC greater independence in its functions and to ensure Victorian Aboriginal voices are at the heart of protecting Victorian Aboriginal cultural heritage.

3. Built heritage funding

Recommendation 3.1: The Victorian Government allocates \$2.5 million to the Heritage Council to ensure it is able to undertake its responsibilities.

Recommendation 3.2: The Victorian Government allocates \$60 Million over the next three years to maintain funding the “Living Heritage Grants”.

Recommendation 3.3: The Victorian Government allocates \$25m per annum for a new class of heritage entitlement grants.

4. Funding for the Office of the Victorian Government Architect (OVGA)

Recommendation 4: The Victorian Government commit to centrally funding the OVGA to elevate design and reduce risk across state projects.

5. Better apartment design and regulation

Recommendation 5.1: The Victorian Government allocates \$20M to develop a state-wide framework for local councils to establish and administer design review panels.

Recommendation 5.2: The Victorian Government mandates using Design Review Panels for apartments.

Recommendation 5.3: The Victorian Government mandate that an independent registered architect verifies all apartment designs.

Recommendation 5.4: The Victorian Government fund a report into whether there is a need for a single apartment authority responsible for all regulatory issues relating to apartments.

DETAILED EXPLANATION OF RECOMMENDATIONS

1. Connecting with Country Draft Framework for the built environment

Recommendation 1: The Victorian Government allocates \$10 million to work with representatives of First Nations people of Victoria to develop a Connecting with Country Draft Framework for the built environment.

Respecting Country is a design position that forms part of the 2021 National Standard of Competency for Architects (NSCA). It requires an ethical approach to design and respect for Country and the environment.

The NSCA requires that all Architects understand and/or can apply the principles of project planning considering implications for Country - the ethical and considered behaviour towards Country and those who are part of Country, including human and nonhuman.

Minimum considerations involve protecting existing cultural materials and ensuring that projects do no further harm to culture and the environment. At its best, it is about celebrating Country through a project.

The NSCA notes that considering the implications for Country is an aspect of environmental sustainability and a precursor for activities relating to the health and wellbeing of Country. This requires architects do no further harm to Country, including waterways, soils, landscapes, flora, fauna, ecological communities, biodiversity, etc.

First Nations people of Victoria know that if we care for Country it will care for us.

It is not always required nor possible that all built environment projects engage with First Nations communities, Knowledge Holders or Traditional Custodians. However, we must ensure that the best efforts are made to demonstrate respect for Country. It is imperative that the Victorian Government leads on good practice in its own procurement of buildings and infrastructure.

We call on the Victorian Government to ensure building and infrastructure procurement processes that respect Country is developed in partnership with Victorian First Nations communities.

The Institute notes the leading contribution made by the 2021 National Standard of Competency for Architects as well as the Government Architect of NSW's draft of Connecting with Country.

Connecting with Country is a draft framework for developing connections with Country to inform the planning, design, and delivery of built environment projects in NSW.

Victoria does not have an equivalent resource to Connecting with Country that sets the expectations for the whole built environment sector, even though the NSCA establishes the professional practice requirement for all architects.

NSW's Connecting with Country helps to establish expectations, is highly informative, and provides practical guidance.

The Institute recommends that the Victorian Government collaboratively develops a framework and guidelines to ensure that the planning, design, and delivery of built environment projects in Victoria address the implications for Country.

2. Victorian Aboriginal Heritage Council

Recommendation 2.1: The Victorian Government increase funding for Traditional Owner engagement and cultural heritage management programs to \$50 m for the 2023-24 and beyond.

Recommendation 2.2: The Victorian Government amend the Aboriginal Heritage Act 2006 to provide the VAHC with independent enforcement powers, including proactive enforcement powers and to provide the VAHC with the power to regulate and set standards for Heritage Advisers.

Recommendation 2.3: The Victorian Government provide the VAHC greater independence in its functions and to ensure Victorian Aboriginal voices are at the heart of protecting Victorian Aboriginal cultural heritage.

The recent destruction of indigenous cultural sites due to mineral extraction highlights how indigenous cultural sites are poorly protected throughout Australia. In Victoria, the destruction of the Stone Eel near Lake Bolac is emblematic of both the lack of understanding of what are culturally significant sites by non-indigenous Australians and the lack of appropriate mapping and overlays to protect such sites.

The Institute does not see any heritage value differentiation between built heritage and First Nation (and other) cultural heritage. While our expertise may be in the first, we recognise and support efforts to protect other forms of heritage.

As such, the Institute recognises the work done by the Victorian Aboriginal Heritage Council (VAHC) and believes that, as with Heritage Victoria, the VAHC requires additional funding to help it carry out its functions.

In particular, we support the VAHC as it seeks to put Aboriginal voices at the centre of the Aboriginal Heritage Act 2006 (the Act). As the VAHC notes in their *Taking Control of Our Heritage* report (the Report):

It is essential that, as a society, we truly understand that Traditional Owners are the only comprehensive knowledge holders of their Cultural Heritage.

Transforming the VAHC and the Aboriginal Heritage Act 2006 to put Aboriginal voices centre stage requires significantly greater autonomy. Greater autonomy can only exist with greater funding and independence to spend such funding as the VAHC deems appropriate.

The Institute supports the VAHC's call for independent enforcement powers. As the holders of the knowledge of aboriginal heritage and their connections to community, only First Nations centred organisations like VAHC can fully protect culturally important places.

No amount of money can return heritage once it is destroyed. History has taught Victoria's First Nations people that non-indigenous people, more often than not, do not understand, value, or even recognise what is culturally relevant to Indigenous people. Therefore, protection of such sites should not be determined by non-indigenous actors alone.

Furthermore, those enforcement powers need to include preventative, not just reactive, enforcement. Preventative measures require funding to identify and seek the protection of Aboriginal cultural heritage sites. This will require additional skilled indigenous staff for the VAHC.

Preventative powers must also include the ability to seek an injunction to prevent development or potential development on sites of aboriginal cultural heritage.

It should also be recognised that financial compensation is a poor substitute for lost heritage. In the case of lost First Nations cultural heritage, it is more so. First Nations cultural heritage belongs to the community as a whole and includes past, present, and future community members rather than a particular person or organisation. In such circumstances, financial compensation after the fact cannot truly compensate for what has been lost.

For these reasons, the Institute supports recommendation 10 in the Report:

That the rights and responsibilities of prosecution be moved from DPC (as delegated by the Secretary) to the Council so that it can prosecute as a statutory authority on its own behalf.

As the VAHC notes, “Other statutory authorities, such as the Environment Protection Authority and the Royal Society for the Prevention of Cruelty to Animals, have prosecution powers.”

The Institute also supports Recommendation 14 of the Report calling for regulation of ‘Heritage Advisors’ under the Act. Heritage Advisors require specific skills and knowledge, particularly concerning indigenous heritage. Heritage Advisors should be subject to a formal registration process, a binding code of conduct and ethics, and be subject to appropriate disciplinary processes. The Institute would expect no less regarding built heritage advisors, and we demand no less regarding indigenous heritage.

3. Built Heritage funding

Recommendation 3.1: The Victorian Government allocates \$2.5 million to the Heritage Council to ensure it is able to undertake its responsibilities.

Recommendation 3.2: The Victorian Government allocates \$60 Million over the next three years to maintain funding the “Living Heritage Grants”.

Recommendation 3.3: The Victorian Government allocates \$25m per annum for a new class of heritage entitlement grants.

Preserving heritage places is a crucial driver of Australia’s cultural heritage. It tells the stories of our past and provides the rich, diverse tapestry of our predecessors’ lives and how we lived. It enhances our cities and landscapes, providing a rich ground of history and a sense of identity. Heritage is increasingly under stress due to overdevelopment, neglect, environmental changes, and population growth.

The UNESCO 2030 Agenda for Sustainable Development directly links the role of cultural heritage and creativity as an enabler of sustainable development. Existing buildings have a high level of embodied energy which is lost if they are destroyed. Heritage places’ preservation and adaptive reuse reduce CO2 emissions, landfill waste, and energy used for demolition and new construction and materials. A symbiotic relationship exists between “recycling and reducing waste” and “preservation and conservation of place.”

Unfortunately, too much of our built heritage is either being deliberately knocked down or allowed to become dilapidated through both neglect and deliberate planning. It is often too late that society acknowledges the loss of such heritage.

To assist in arresting this decline in our built heritage, the Institute is calling on the Victorian Government to increase funding for Heritage Victoria would enable more heritage places to be assessed on a timely basis. We would like to see a 25% increase in the number of heritage

officers who assess which places and objects should be included in the Victorian Heritage Register.

The Institute is particularly concerned that the “Living Heritage Grants” will cease and that no additional funding has been allocated to this very effective tool for heritage conservation. The Institute believes these grants have been effective in helping to prevent the loss of built heritage around Victoria, particularly concerning regional heritage sites that might otherwise fall either into disrepair or be demolished. The Institute is recommending the reinstatement of this program for at least another three years.

International experience has shown that grants are a quite effective and relatively low-cost way for the State to support maintaining heritage buildings. State Government funding commitments both public and private give certainty to building owners so that maintenance planning can be done. The cost benefits of regular maintenance over leaving a building to deteriorate are significant. Owners have a legal obligation to maintain a state-listed heritage place under the *Heritage Act 2017*. It seems reasonable that owners would be able to receive some financial assistance (as outlined in the draft submission) to assist them in meeting their legal obligations under the Act

The primary rationale for maintaining these grants is that other jurisdictions, particularly in the UK and EU, have realized that strict heritage laws did not always work as intended. They often created the unintended situation where it was cheaper and easier for historic building owners to leave heritage buildings to dereliction, as the cost to maintain or renovate was uneconomic. Most European nations (and many US States) provide grants similar to the Victorian scheme to prevent the loss of such heritage.

It has also been argued that due to the high “public value” attributed to heritage buildings, the state has a role and obligation to assist in maintaining that “public value.” As the public gains the most significant benefit or “value” of maintaining such buildings – through both the visual enjoyment of retaining such structures and the economic benefit from tourism – the public has an obligation to assist in maintaining such buildings.

The economic benefit derived from heritage tourism should be recognised. However, the benefit is usually shared by the local economy in totality. Many regional Victorian towns rely on day trippers to help keep shops and cafes alive. Local heritage properties are often drawcards for these towns.

We believe the Living Heritage Grants scheme needs to be funded for at least three more years.

The Institute also believes there is a capacity to create entitlement grants for both private and public heritage buildings. These grants would not require the time and expense (to both the property owner and the Victorian Government) of making and assessing grant requests. They would be provided merely because the recipient meets specific prescribed requirements.

Examples could be where the owner of a listed property is seeking to replace or upgrade windows in their building. Heritage requirements usually mean that such renovations/replacements are more expensive, given the need to use materials that are suited to the time and design of the building. This often requires bespoke replacements that cannot be manufactured at scale and at low cost. To offset the additional financial burden, the building

owners should be able to seek a grant to cover those costs by meeting prescribed requirements.

To ease budgetary pressures, these entitlement grants should be limited to under \$5,000. They would assist in upgrading or maintaining heritage-listed properties for specific purposes, such as fixing/maintaining a roof, windows, or other heritage elements of a building, rather than major repairs or upgrades.

An ancillary benefit that is likely to emerge from such entitlement grants is the creation of jobs and the maintenance of unique skills attached to the upkeep of heritage buildings. In the UK (and other jurisdictions), heritage funding has contributed to preserving traditional building skills such as thatched roofs, ornate carpentry, specialist stonemasonry, and joinery.

Grants funded through the UK lottery system have meant that these specialist skills are in demand as there is a consistent flow of heritage work. Many employ young people attracted to the hands-on and bespoke nature of such work. The Institute believes the adoption of entitlement grants will see similar growth in Victoria, particularly in areas such as stonemasonry, period-accurate carpentry, artisanal painting, and metalwork.

The Institute would like to see an annual investment of \$25m annually into such grants. The Institute would welcome the opportunity to work with the Victorian Government on the development of the requirements for such entitlement grants.

4. Funding for the Office of the Victorian Government Architect (OVGA)

Recommendation 4: The Victorian Government commit to centrally funding the OVGA to elevate design and reduce risk across state projects.

The Institute advocates that the State Government appropriately fund the Office of the Victorian Government Architect (OVGA). The OVGA provides an independent voice within state government on a range of projects, from broader strategic policy to project specific design advice. The OVGA's primary purpose is to support government to be a smart client, encouraging the delivery of high-quality buildings, infrastructure and public space, and embedding expectations of design quality in projects of state significance.

The Victorian Government's expenditure on significant projects has increased fourfold since the OVGA was established in 2006, from \$4.9 billion a year to \$21.3 billion a year. In contrast, the OVGA's output funding has not increased proportionately and does not cover ongoing operating costs, including the Victorian Design Review Panel (VDRP). The OVGA is critically underfunded and will shortly be unable to service key Government delivery areas and maintain operations.

The independent 2021 report by SGS Economics and Planning demonstrated that the OVGA provides exceptional value for money for the Victorian Government and taxpayers. In the last three years, the total value of projects to which the OVGA has provided input exceeds \$25 billion, helping to improve design and reduce construction risks on projects. The OVGA advised and collaborated on 187 Victorian projects of State Significance. It provided immediate project savings estimated to be \$20 million through project risk reduction alone. The operational and maintenance savings are even more significant as embedded design improvements can drastically reduce costs over the life of a project.

The OVGA is critical for the Victorian Government in:

- Protecting quality and reducing risk on government's significant projects
- Collaborating on projects for a whole-of-government approach
- Removing red tape through its quality assurance role in fast-tracking processes
- Improving the procurement of design services, buildings, and infrastructure
- Design review of local and regional projects of significance
- Informing policy to enhance livability, including design of apartments
- Good design publications informing state and local governments, industry, community and the public
- Conducting post-occupancy evaluations on built outcomes to inform future projects
- Sharing knowledge of exemplary benchmarks that can help inform a business case

The impact of good design decisions being built-in at the design and construction stage is significant economic savings for those larger ongoing operating and maintenance costs and future-proofing. This return on investment is magnified for the government as it is a long-term asset holder. Hence it is critical to have key design input from the OVGA at the early design stages to capture these savings.

In addition to operational savings, there are also significant long-term financial and non-financial benefits to both society and users of well-designed buildings in areas such as climate resilience, energy efficiency, accessibility, safety, and physical and mental well-being. Furthermore, well designed buildings, infrastructure, landscapes and cities attract and retain highly skilled workers both nationally and internationally, which further boosts the economy. The 2021 SGS report concluded that *'ongoing additional funding will allow the OVGA to maintain, customise and expand its current level of operations to keep pace with demand and to explore and implement suggested service improvements.'*

The lack of funding places at risk the OVGA's staff who currently advise on all of the state's Public Private Partnership (PPP) projects including the Homes Victoria Ground Lease Model Projects, Metro Tunnel, Footscray and Frankston Hospitals, Geelong Convention and Exhibition Centre and North East Link. These projects are once-in-a-generation government investments. The quality of these major state projects has a very significant impact on our society. Previous PPPs which involved the OVGA have become international benchmarks, including the Royal Children's Hospital and the regional Bendigo Hospital, both of which have also won numerous international and national design awards.

The lack of funding also places at risk the Victorian Design Review Panel (VDRP) of external consultants who, in tandem with the OVGA team, review both private and public sector projects. The VDRP alone has delivered advice on more than 300 projects and precincts of state significance, including the current 'Big Housing Build' of social and affordable housing worth over \$5 billion.

The Institute advocates that the OVGA's funding be increased to reflect increased service demand, actual ongoing costs and to protect the liveability for all Victorians.

5. Better apartment design and regulation

Recommendation 5.1: The Victorian Government allocates \$20M to develop a state-wide framework for local councils to establish and administer design review panels.

Recommendation 5.2: The Victorian Government mandates using Design Review Panels for apartments.

Recommendation 5.3: The Victorian Government mandate that an independent registered architect verifies all apartment designs.

Recommendation 5.4: The Victorian Government fund a report into whether there is a need for a single apartment authority responsible for all regulatory issues relating to apartments.

The Institute believes in a holistic approach to apartment design that encompasses good design, liveability, community connectivity, and sustainability. Apartments should be designed as a living part of the community they inhabit. Arresting urban sprawl and reducing congestion and emissions from commuting requires that apartments must be an attractive and affordable alternative to greenfield residential developments. The market has shown that this will only be achieved with clear and sustained guidance and direction from government.

Requiring Design Review Panels for apartments

The Inquiry into Apartment Design Standards (the Inquiry) released its final report in October 2022. The report made 35 recommendations to improve the design and regulation of apartments in Victoria.

The Inquiry noted the importance of Design Review Panels (DRP) in addressing the quality of apartment designs and ensuring that apartments are designed for the community they will inhabit, not merely for developer profit motives. A DRP is a process where plans for a design, in this case, an apartment, are reviewed by an expert panel. These experts include architects, urban designers, landscape architects, planners, and, increasingly, sustainability, accessibility, and cultural heritage experts.

The Inquiry noted:

Several studies indicate that design review panels are effective in promoting greater innovation and improving the quality of built environments, particularly in the absence of a prescriptive approach to apartment design standards.

DRPs are not novel in Victoria, the Victorian Design Review Panel (VDRP) assists the Victorian Government in reviewing large infrastructure projects, and the Melbourne Design Review Panel (MDRP) assists the City of Melbourne with its large projects.

The approval of apartments is mainly in the hands of local councils, who often lack the financial and technical workforce to review apartment proposals effectively. The Inquiry recognises this in finding 60, which noted the effectiveness of DRP while finding 61 also stated that “Some local councils are struggling to effectively administer design review panels...”

The Inquiry, therefore, recommended “...the development of a statewide framework for local councils to administer design review panels...”(recommendation 27) and “The Victorian Government implement legislative approaches to mandate the referral of apartment designs to design review panels...”(recommendation 28).

The Institute has advocated for DRP for many years; however, we are cognisant of the financial and workforce constraints on local councils concerning DRP. Therefore, the Institute recommends that the Victorian Government assist local councils through a matched payment of around \$250,000 per council. This payment will assist local councils to establish and administer apartment DRP. The budgetary impact is only approximately \$20 million, a small cost compared to the benefits DRP would provide.

Apartment Design Verification

The outcomes of poor apartment designs can be catastrophic. These include cladding fires, building collapses in quake-prone areas, black mold, and water leaks. Apartment design verification is essential to reduce these incidences by reviewing designs to ensure they meet building codes and are fit for purpose.

The Inquiry noted problems with the enforcement and accountability of actors within the broader building and construction industries. It also stated that while it was preferable to have a registered architect undertake the design of an apartment (due to their higher educational and experiential requirements), economic and other constraints meant this was not always possible.

As a compromise, the Inquiry recommended that rather than mandating only registered architects be allowed to design apartments, that apartment designs should instead be reviewed by a registered architect to ensure the design complies with all laws and regulations concerning building design.

While the Institute would prefer that all apartment designs be undertaken by a registered architect - due to the complex technical nature of such designs and the consequences of poor design - we support as an alternative that an independent registered architect must sign off design verification for any proposed apartment.

Victorian Apartment Authority

The Institute believes consideration should be given to whether a dedicated apartment authority should be established, either independently or within the Department of Transport and Planning. This authority would be a single spot for all issues relating to apartments, from design, building, maintenance, and even decommissioning. It could have responsibility for ensuring the Better Apartments Design Standards (BADS) are maintained up to date, oversee responsibility for DRP for apartments (freeing local councils of the burden), maintain a repository of all apartment designs, including defects and rectifications, and could maintain a sinking fund to assist in remediation where the builder or other responsible party are unable to fund. The Institute recommends that the Victorian Government commission a report into whether a single apartment authority would enhance apartment design and standards.