



HERITAGE

Background

In July 2007 the Minister announced a review of the Heritage Act by an independent expert panel. The panel released its report on 19 March 2008 and made a number of recommendations on the reform of the Heritage Act. Many of these reforms constituted process rather than legislative change. Generally the overall intent of the report was to further integrate heritage matters within the planning framework.

The legislation has followed this general approach by reducing the consideration of heritage matters as stand alone.

Proposal

The legislation includes three key changes on heritage matters. These are:

1. The Heritage Branch is not required to be consulted during the preparation of an Local Environmental Plan (LEP) or State Environmental Planning Policy (SEPP). Also the Branch cannot request the preparation of a LEP on land affected by a heritage item. Instead heritage is to be considered under the 'gateway test'. The gateway determination of a 'planning proposal' is an upfront assessment of a proposed LEP.
2. Complying development can apply to land subject to a heritage conservation order and an item of heritage significance. The current legislation specifically excludes these from the application of complying development codes.
3. Current rights of review now under the 'Commissioner of Inquiry' will be referred to the proposed Planning Assessment Commission (PAC).

Assessment

Gateway test

Heritage matters are not listed as a criterion for consideration of the gateway test under s56. It is recommended to be included in the relevant Planning Circular (PC).

This change would be supported if the consideration of heritage matters under the 'gateway test' was clarified, and it is clear whether heritage matters can override a proposed rezoning subsequent to a gateway determination.

Removal of exclusion from complying development codes

Minor development can negatively impact on or destroy the heritage significance of a heritage item or a property within a Conservation Area. Generally a heritage assessment, even if minimal, is required.

PAC to review proposed heritage listings

Due to the demise of the Commissioner of Inquiry, it has been necessary to find an alternative review process. Depending on the procedures adopted by the PAC, this proposal may have practical benefits and, for property owners, provide an appropriate mechanism for reviewing proposed listings.

Recommendations

The Associations:

- Support in principle the consideration of heritage under the 'gateway test' but would like to see further details of the proposal;
- Oppose the application of complying codes to heritage items; and
- Note the transfer of review rights to the Planning Assessment Commission (PAC).