

KELLEHERS AUSTRALIA

In-House Memorandum

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Heritage: the Light at the end of Development!

Imagine the situation. You're a business owner and you want your place of business to have a little more character than your competitors'. Upon coming across a beautiful building with lovely archways and a beautiful façade, you are made aware that it's covered by a Heritage Overlay. Although the Heritage Overlay is much maligned, it may be just the start of many opportunities for use and development at the site.

Heritage zoning is often seen as a hindrance to development, yet it can prove to be an alternative way to side-step the issue of 'prohibited use'. Although the historical significance of a building may appear insignificant on first inspection, details of the planning overlay and zoning controls often prove otherwise.

Clause 43.01-5, *Victoria Planning Provisions*, allows for a permit to be granted to use a heritage place for a use which would otherwise be prohibited. Conditions for approval are if:

- the local schedule identifies the heritage place as one where prohibited uses may be permitted;
- the use will not adversely affect the significance of the heritage place; and
- the benefits obtained from the use can be demonstrably applied towards the conservation of the heritage place.

In addition, permits for places listed on the Heritage Register are determined by the Victorian Heritage Council and not the local municipality.

The option to use the provisions of the Heritage Overlay and Heritage listing to allow for an otherwise prohibited use is a good example of how creative solutions to a zoning problem may be overcome by lateral thinking and innovative use of planning controls.

Developments in this area are not new. Dr Kelleher, during her time on the Heritage Council of Victoria, was involved in reviewing reforms to heritage controls and intricately understands the potential of heritage controls to be a strategic asset rather than a hindrance to a property.

Cameron Algie
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