

CLAUSE NOTES

Historic Cultural Heritage Amendment Bill 2024

Clause 1 Short Title

This Act may be cited as the Historic Cultural Heritage Amendment Act 2024.

Clause 2 Commencement

This clause provides for the provisions of this Act to commence on a day or days to be proclaimed.

Clause 3 Principal Act

This clause provides that the *Historic Cultural Heritage Act 1995* is the Principal Act.

Clause 4 Section 3 amended (Interpretation)

This clause amends section 3 to:

- amend the definition of 'Building' to now have the same meaning as within the Planning Act to provide clarity of interpretation;
- refine the definition of 'Land' to include buildings and other structures permanently fixed to Land;
- add a definition of 'Object' in relation to a place to include fittings, artifacts, tools, implements and other items, other than fixtures, that contribute to the historic cultural heritage significance of the place, in or on the place;
- clarify the definition of 'Place' to include any building or part of a building including fixtures, any objects related to the place, and any open outdoor spaces, built landscape features, gardens or plants on the place that contribute to the historic cultural heritage significance of a place.

These all combine to better clarify the consideration of 'objects', often described as moveable heritage, particularly noting that to be considered significant they must 'contribute(s) to historic cultural heritage significance of a place', which helps to clarify that everyday non historic items at a place are not included in this definition.

Overall, it tightens up the definitions of buildings, fixtures and objects that contribute to the historic heritage significance of the place to provide clarity around the requirements to obtain works approval for removal of significant objects from the Place.

- Clause 5 Section 4A amended (Matters to be regarded)**
- This clause makes an addition to the Matters to be Regarded to include the consideration of the role an ‘object’ has in determining the historical cultural heritage significance of a place.
- Clause 6 Section 7 amended (General functions and powers of the Tasmanian Heritage Council)**
- This clause clarifies that the function and powers of the Tasmanian Heritage Council with regard to record keeping includes records of ‘objects’ relating to those places.
- Clause 7 Section 19 amended (Objection to permanent entry in the Tasmanian Heritage Register)**
- This clause reduces the period from 60 days to 30 days within which someone may object to an intention to enter a place in the Tasmanian Heritage Register. This will improve administrative processing times.
- Clause 8 Section 20 amended (submission relating to permanent entry in the Tasmanian Heritage Register)**
- This clause reduces the period from 60 days to 30 days within which someone may make a submission in relation the Tasmanian Heritage Council’s intention to enter a place in the Tasmanian Heritage Register. This will improve administrative processing times.
- Clause 9 Section 21 amended (permanent entry in the Tasmanian Heritage Register)**
- This clause amends the period of time, from 120 days to 180 days after the making of a provisional entry, that a decision on Permanent Entry must be made by the Tasmanian Heritage Council. This enables better alignment with the bi-monthly Tasmanian Heritage Council meeting schedules and reporting timeframes.
- Clause 10 Section 25A inserted**
- This clause adds an additional section to the Act to define the process for removal of duplicate entries.
- Where current entries on the Tasmanian Heritage Register are updated, they are termed new entries. With this amendment the existing, or duplicate entry may then be removed without the current lengthy full public notice and advertising periods. This will provide a significant reduction in administrative processes.

- Clause 11 Section 32 amended (Interpretation of Part)**
- This clause changes the name of an application to undertake heritage works from a 'Certificate of Exemption' to be a 'Minor Works Approval'.
- Clause 12 Section 32A inserted**
- This clause provides an additional section that enables a works application to be considered even though some or all of the heritage works to which the application relates have been carried out before the application is made. This potential retrospective approval is consistent with the Local Government Development Approval process.
- Any completed works that are subsequently not approved are likely to be required to be unmade.
- Clause 13 Section 34 amended (legal status of heritage works if no minor works approval)**
- This clause changes the name of a 'Certificate of Exemption' to now be known as a 'Minor Works Approval'.
- Clause 14 Section 35 amended (Heritage works require heritage approval)**
- This clause changes the name of a 'Certificate of Exemption' to now be known as a 'Minor Works Approval', in multiple reference locations.
- Clause 15 Section 39 amended (Procedure if Heritage Council wishes to be involved in determining discretionary permit application)**
- This clause makes some amendments to Section 39 of the Principal Act to enable the Tasmanian Heritage Council to consider the impacts of proposed works on an adjacent registered place.
- Clause 16 Section 39A amended (Procedure if Tasmanian Heritage Council wishes to be involved in determining combined permit application)**
- This clause facilitates the ability to consider works respectively and to also consider impacts on an adjacent registered place.
- Clause 17 Section 39C amended (Substantial changes to proposed heritage works)**
- This clause allows consideration of works retrospectively that may only have become apparent after further information was provided by the applicant.
- Clause 18 Section 42 amended (Minor works approval)**
- This clause provides for the changing the of term 'Certificate of Exemption' to be now known as a 'Minor Works Approval'.

- Clause 19 Section 43 substituted**
- This clause removes the old definition of the effect of a ‘Certificate of Exemption’ and replaces it with a new definition of the effect of a ‘Minor Works Approval’.
- Clause 20 Section 60 amended (Notice to take or stop action)**
- This clause removes the previous limitation that any ‘Notice to take or stop action’ must not specify any action to be done within 30 days of the notice.
- Clause 21 Section 88 substituted**
- This clause removes the previous limitation that only the Tasmanian Heritage Council Chairperson can sign a Certificate of Affected Place.
- It inserts a new clause that permits the signing of a Certificate of Affected Place by any person who has been delegated that power by the Tasmanian Heritage Council.
- It also confirms that the signature may be an electronic signature.
- Clause 22 Section 94 amended (Amendment of Tasmanian Heritage Register)**
- This clause adds a provision that allows a person to appeal the decision to remove or include an Object from a place entered on the Tasmanian Heritage Register.
- It provides the right for an appeal to be heard by the Appeal Tribunal under the *Tasmanian Civil and Administrative Tribunal Act 2020*.
- This is consistent with the current rights of appeal against the listing or removal of a place from the register.
- This specific appeal right was added as a new definition of Object has been added in clause 4.
- Clause 23 Section 100A inserted**
- This clause provides transitional arrangements allowing a previously issued Certificate of Exemption, that was issued prior to the enforcement of this amendment to the Act, to remain valid but to become known as Minor Works Approval.
- Clause 24 Repeal of Act**
- This clause provides for the repeal of the *Historic Cultural Heritage Amendment Act 2024* on the first anniversary of the day on which the last un-commenced provision of this Act commenced.