

## **HISTORIC CULTURAL HERITAGE AMENDMENT BILL 2012**

### **CLAUSE NOTES**

**Clause 1      Short Title**

**Clause 2      Commencement**

This Act will commence on a date to be proclaimed.

**Clause 3      Principal Act**

The *Historic Cultural Heritage Act 1995* is identified as the Principal Act.

**Clause 4      Section 3 amended (Interpretation)**

**S3(a)** A definition for **GDA** (Geocentric Datum of Australia) is inserted to assist with the provisions outlined at s15(4) with respect to more clearly identifying the location of the place.

A definition of **guidelines** is inserted to assist with the provisions outlined under section 90A

**S3(b)** The definition of historic cultural heritage significance is substituted to link directly with the criteria outlined in s16 so as to remove the duplication of definitions in the Principal Act.

**S3(c)** A definition of **local public notice** is inserted to clarify the methods by which the Heritage Council may give notification of its decisions. The definition requires all decisions to be published in a local daily newspaper along with a notice in the Gazette and/or a notice by electronic means.

**S3(d)** The definition of the National Trust of Australia (Tasmania) has been updated to reflect new legislation introduced in 2006.

**S3(e)** A definition of **notify** has been inserted to clarify that any notice of the Heritage Council to an applicant, owner or Local Government must be in writing.

**S3(f)** A definition of **Planning Act** has been inserted to simplify the language used in the Act rather than using the longer phrased and full title - *Land Use Planning and Appeals Act 1993* throughout the Act.

**S3(g)** A definition of **registered** has been inserted to clarify the word refers to a place entered in the Tasmanian Heritage Register.

**S3(h)** The definitions of “registered place” and “registered shipwreck” are no longer necessary given the introduction of the definition “registered”. “Shipwreck” is included within the definition of “place”.

**S3(i)** The definition “required criteria” has been substituted with “**registration criteria**” to more clearly define in plain English the criteria set out under s16.

A definition of **responsibilities** has been added to clarify that responsibilities of the Heritage Council are inclusive of powers, function and duties.

**S3(j)** A definition of **statutory rule** has been inserted to clarify that a statutory rule has the same definition as that under the *Rules Publication Act 1953*.

**S3(k)** The definition of **use** has been substituted to ensure consistency between this Act and the Planning Act. The current definition under the *Historic Cultural Heritage Act 1995* is scant, simply noting that “use includes proposed use”, whilst the Planning Act defines use as “**use**, in relation to land, includes the manner of utilising land but does not include the undertaking of development”.

**S3(l)** The clause referring to works being inclusive of “any removal, destruction or lopping of trees otherwise than in accordance with forest practices as defined in the *Forest Practices Act 1985*” has been removed as it is covered by the new s45(4)(a).

**S3(m)** The definition for **works application** has been removed as the application will now be a development application under s57 of the Planning Act and substituted with a definition of **works guidelines** to clarify that any references to works guidelines is defined by the provisions set out in 90A(1)(b).

**Clause 5 Section 3A inserted (Timing of Action)**

This definition clarifies that where the Act requires a person to take an action then that person must take the action as soon as practicable unless the Act specifically states otherwise.

**Clause 6 Section 5 amended (Establishment of Heritage Council)**

This amendment simplifies the language used.

**Clause 7 Section 8 and Section 9 substituted (Delegation by Minister and Delegation by Heritage Council)**

The amendment to Section 8 removes the reference for a delegation by the Minister to be in writing to address unnecessary duplication with section 23AA of the *Acts Interpretation Act 1991*. It further clarifies that the Minister may not delegate responsibilities with respect to the issuing of a Statement of Ministerial Expectation under s10A.

The amendment to Section 9 removes the need for the Heritage Council to seek approval from the Minister for any delegations, except the power of delegation, to another person. It further clarifies that the Heritage Council may not delegate responsibilities with respect to the issuing of a Statement of Intent under s10B.

**Clause 8 Section 10A and 10B inserted (Statement of Ministerial Expectation and Statement of Intent)**

The requirement to develop a Statement of Ministerial Expectation and Statement of Intent will introduce greater accountability and assist in explaining to the Tasmanian community the activities and roles the Heritage Council will undertake throughout a three year period.

**S 10A(1)** Requires the Minister to issue to the Heritage Council a Statement of Expectation every three years.

**S 10A(2)** The Minister cannot expand or reduce the responsibilities of the Heritage Council from those set out in the Act, nor interfere or impede with the Heritage Council's statutory responsibilities.

**S 10A(3)** The Minister may amend or cancel a Statement of Expectation either on his or her own motion or at the request of the Heritage Council.

**S 10A(4)** The Minister is to consult with the Heritage Council and, if he or she determines, with any planning authority or other person, in preparing or amending the Statement.

**S 10A(5)** The Statement of Expectation is to be in writing and signed by the Minister.

**S 10A(6)** The Statement of Expectation takes effect following the date of issue written on the Statement.

**S 10A(7)** Directs the Heritage Council to make the Statement of Expectation available to the public.

**S 10A(8)** Further clarifies that any person presenting to the office of the Heritage Council during normal business hours should be able to view or get a copy of the Statement of Expectation without charge.

**S 10(B)(1)** requires the Heritage Council to respond to the Minister's Statement of Expectation.

**S 10(B)(2)** The responding Statement of Intent should outline how the Heritage Council will undertake the requests set out by the Minister.

**S 10(B)(3)** The Heritage Council's Statement of Intent should be in writing, signed by the Chairperson and given to the Minister no later than three months after the date of issue included in the Statement of Expectation.

**S 10(B)(4)** The Heritage Council is to make its Statement of Intent available to the public.

**S 10(B)(5)** Further clarifies that any person presenting to the office during normal business hours should be able to view or get a copy of the Statement of Intent without charge.

## **Clause 9 Section 15 amended (Heritage Register)**

**S 9(a)** Inserts s15(1A) in to the Principal Act to clarify the purpose of the Tasmanian Heritage Register as being a Register which provides an inventory of places of State historic cultural heritage significance; which conveys status and recognition of those places; and ensures those places are protected. It also inserts s15(1B) to clarify that the purpose of the Heritage Register does not extend so far as to those places where the historic cultural heritage values relate solely to the Aboriginal people of Tasmania (previously s98 of the *Historic Cultural Heritage Act 1995*).

**S 9(b)** Section 15(4)(a) and (b) of the Principal Act are amended to express more clearly how the location and boundary of a place on the Tasmanian Heritage Register may be defined. The location of a place may be identified by its address, its property title or its GDA coordinates, or a combination of these identifiers. The boundary of a place may be identified by either its title or a plan in the Central Plan Register, or both.

**S 9(c)** inserts a new provision in s15(4) of the Principal Act to require the Heritage Council to inform the public under which criteria a place has been assessed for entry to the Tasmanian Heritage Register and why.

**S 9(d)** repeals s15(6) of the Principal Act as the definition of GDA is included within Section 3 (Interpretations).

**Clause 10 Section 16 substituted (Required criteria for entry in Register)**

Section 16 of the Principal Act is repealed and substituted with “s16 Registration criteria” to bring Tasmania in to line with the National best practice standard for the criteria for entering a place on a heritage register as agreed by the National Heritage Convention 1997. Minor wording change has been applied to each criterion to standardise wording. An eighth criterion has been added at s16(h): “the place is important in exhibiting particular aesthetic characteristics”.

**Clause 11 Section 17 amended (Provisional entry in Register)**

The amendment is of a house-keeping nature as a consequence of the amendment at Section 16 above.

**Clause 12 Section 18 amended (Procedure relating to provisional entry in Register)**

The amendments are of a house-keeping nature as a consequence of the amendment at Section 16 above and the new definition of “local public notice” provided at section 3 (interpretations).

**Clause 13 Section 19 amended (Objection to permanent entry in Register)**

The amendment is of a house-keeping nature as a consequence of the amendment at Section 16 above.

**Clause 14 Section 20 amended (Submission relating to permanent entry in Register)**

The amendment is of a house-keeping nature as a consequence of the new definition of “local public notice” provided at section 3 (interpretations).

**Clause 15 Section 22 amended (Removal of place from Register)**

**s22(1A)** clarifies those circumstances under which the Heritage Council may remove a place from the Heritage Register. Those circumstances included the place has been destroyed [s22(1A)(a)]; or the place is determined to no longer meet the registration criteria because of new information received [s22(1A)(b)]; or a clerical error has caused a duplicated entry [s22(1A)(c)]; or the removal is required by law [s22(1A)(d)].

The amendments assist in streamlining administrative processes and simplifying red tape for those owners whose place has been destroyed or which warrant removal from the Heritage Register based on new information.

It also allows the Heritage Council to remove duplicated entries in the Heritage Register which were created as a result of administrative error without creating concern for owners and the general public.

**S22(1A)(2)** removes from the Principal Act the ability of the Heritage Council to penalise a person for not assisting it with its assessment of a request for removal. The provision was considered unreasonably punitive.

The remaining amendments are of a house-keeping nature to reflect the new definition of "registration criteria" and "local public notice" at section 3 (interpretations).

**Clause 16 Section 24 amended (Submission relating to removal from Register)**

The amendment is of a house-keeping nature as a consequence of the new definition of "local public notice" provided at section 3 (interpretations).

**Clause 17 Section 26 amended (Notice of entry in or removal from Register)**

The amendments are of a house-keeping nature as a consequence of the new definition of "local public notice" provided at section 3 (interpretations) that include the option of advertising in the Gazette, hence the repeal of s26(c) from the Principal Act.

**Clause 18 Section 27 amended (Appeal against Heritage Council's decision)**

The minor amendments change the need to appeal a decision of the Heritage Council in writing from mandatory ("must") to directive ("is to") and reflect the simplification of language at Section 16 of the Act, where "required criteria for entry in Register" has been substituted for "registration criteria".

**Clause 19 Section 29 amended (Declaration of heritage areas)**

The amendments are of a house-keeping nature as a consequence of the new definition of "local public notice" provided at section 3 (interpretations). The amendment further clarifies that an order under this section is not a statutory rule requiring further regulations or rules.

**Clause 20 Section 30 amended (Effect of order)**

The amendment is of a house-keeping nature as a consequence of introducing the term Planning Authority in section 3 (interpretations) to simplify language.

**Clause 21 Part 6 substituted**

This substitution aims to streamline the *Historic Cultural Heritage Act 1995* with the *Land Use Planning and Approvals Act 1993* with respect to works and development on places entered in the Tasmanian Heritage Register.

**S 32(1)** introduces new definitions relevant to this Part:

- **Application day** means the day that the planning authority receives a valid application under the *Land Use Planning Act 1993*
- **Certificate of exemption** is a certificate as provided for under s42 for which a permit is not required
- **Discretionary permit** means a permit under section 57 of the *Land Use Planning and Approvals Act 1993*.
- **Discretionary permit application** means an application for a discretionary permit to carry out heritage works.
- **Exemption certificate application** means an application for a certificate of exemption made under section 42(1)
- **Heritage works** means works to a registered place or heritage area in the Tasmanian Heritage Register
- **Relevant planning authority** means the planning authority of the municipality in which the registered place is located
- **Relevant planning scheme** means the scheme of the municipality in which the registered place is located
- **Relevant special planning order** means the special planning order in which the registered place is located

**S 32(2)** clarifies that expressions defined in the Planning Act have the same meaning as those used in this Part of the Heritage Act, except for the definition of “works”.

**S 33 Application of Planning Act to heritage works is subject to this Part**

This clause clarifies that this Part of the Heritage Act takes precedence over any provisions within the Planning Act, planning scheme or special planning order should there be any inconsistencies.

**S 34 Legal status of heritage works if no certificate of exemption**

This clause clarifies that any works to a place entered on the Tasmanian Heritage Register for which a certificate of exemption has not been issued [s34(1)] is to be considered as a development under *the Land Use Planning and Approvals Act 1993* [s34(2)(a)] and that the permit is taken to be for discretionary works which may be either approved or refused under s57 of the *Land Use Planning and Approvals Act 1993* [s34(2)(c)].

**S 35 Heritage works require heritage approval**

**S35 (1)** A person who undertakes works to a place or heritage area in the Heritage Register may be fined 10,000 penalty units for a body corporate and 5,000 penalty units for an individual. The penalties remain the same as in the *Historic Cultural Heritage Act 1995*.

**S 25(2)** Clarifies that unauthorised works are those works for which a discretionary permit or a certificate of exemption has not been received.

**S 35(3)** It is a defense to have undertaken works without approval if the works were done in response to an emergency.

**S 35(4)** No penalties exist for undertaking forestry activity as defined by and undertaken in accordance with the *Forest Practices Act 1985* and associated laws; mining activity as defined by and undertaken in accordance with the *Mineral Resources Development Act 1995*; and works to support changes in liturgical practices in places of worship.

**S 35(5)** defines emergency as an event which is a threat to life or property.

### **Section 36 Discretionary permit application to be sent to and considered by Heritage Council**

This clause sets out the process to be followed should a person make an application for a discretionary permit.

**S 36(2)** The planning authority that receives the application is to forward it to the Heritage Council as soon as possible, but no later than five calendar days from receipt of a valid application.

**S 36(3)** The Heritage Council to notify the planning authority within seven calendar days of receipt of the application whether or not it has an interest in being involved in determining the application.

**S36(4)** If the Heritage Council is interested in being involved in determining the application it must also notify the planning authority within the seven working days whether or not it needs additional information to assess the application.

### **Section 37 Procedure if Heritage Council requires additional information to consider application**

**S 37(1)** This section outlines the process that the Heritage Council and the relevant planning authority are to follow if the Heritage Council requires additional information to make an assessment.

**S 37(2)** As soon as practicable after receiving the Heritage Council's request for additional information, the planning authority is to use its power under s54 of the Planning Act to ask the applicant for the information.

**S 37(3)** Once the planning authority receives the additional information it must give it to the Heritage Council.

**S37(4)** The Heritage Council must inform the relevant planning authority whether or not it is satisfied that the additional information addresses the request.

**S37(5)** The periods under s54 of the Planning Act do not run until the Heritage Council notifies the planning authority that it is satisfied with the additional information.

### **Section 38 Procedure if Heritage Council has no interest in discretionary permit application**

**S 38(1)** This section outlines the process that the Heritage Council and the relevant planning authority are to follow if the Heritage Council has no interest in the application under s36(3)(a), or if it fails to give the relevant planning authority any notification of its intention within the 14 day period required in s36(3).

**S 38(2)** In these circumstances the planning authority may determine the application without any further consultation with the Heritage Council.

**S38(3)** In these cases the Heritage Council is not allowed to then make representations or take any other action under the legislation with respects to the works.

**S 38(4)** The planning authority is to forward a copy of its determination to the Heritage Council for its records.

### **Section 39 Procedure if Heritage Council wishes to be involved in determining discretionary permit application**

**S 39(1)** This section outlines the process that the Heritage Council and the relevant planning authority is to follow if the Heritage Council has an interest in the application under s 36(3)(b).

**S 39(2)** In making an assessment the Heritage Council must limit its consideration to likely impact of the proposed works to the historic heritage values of the place [s39(2)(a)]. The Heritage Council must also consider any public representations received [s39(2)(b)], any relevant regulations [s39(2)(c)] and guidelines [s39(2)(d)]. Liaison with the relevant planning authority is also encouraged through s40(2)(e).

**S 39(3)** The Heritage Council may notify the planning authority that it requires an extra 14 calendar days (10 working days) to consider the discretionary permit. This provision is only to be used in the most complex of cases, which amount to an average of 3-6 applications per annum for the Heritage Council. The effect is that the 42 day period for assessing permits as referred to in s57(6)(b) is extended by 14 calendar days (10 working days).The relevant planning authority must notify the applicant of the extension of time.

**S 39(4)** The planning authority must forward to the Heritage Council a copy of any representations received.

**S 39(5)** The planning authority is to notify the Heritage Council of any extension of time that has been agreed to between the planning authority and the applicant under s56(6)(b)(i) or (ii) or s57(6A) of the *Land Use Planning and Approvals Act 1993*.

**S 39(6)** The Heritage Council is to notify the planning authority whether consents to the discretionary permit, consents with conditions, or refuses the permit.

**S 39(7)** This section clarifies the types of conditions the Heritage Council may set including standards for heritage works, the engagement of suitably qualified persons to complete the works, arranging for appropriate storage of items removed from a registered place, and making a record of the place and works.

**S 39(8)** If the Heritage Council consents to the permit being granted and has not provided any additional comment or conditions, or it fails to notify the planning authority of its decision within 35 days, the relevant planning authority may determine the application without any further consultation with the Heritage Council. The Heritage Council is not allowed to then take any action under the legislation with respects to the works. The planning authority is to forward a copy of its determination to the Heritage Council for its records.

**S 39(9)** If the Heritage Council consents to the permit being granted and has also requested conditions be set with respect to the works, the relevant planning authority must incorporate those conditions into the permit and cannot impose any condition that conflicts with a condition required by the Heritage Council.

**S 39(10)** The relevant planning authority must refuse a discretionary permit if the Heritage Council refuses the discretionary permit application.

**S 39(11)** The planning authority must give a copy of a discretionary permit for a place in the Heritage Register to the Heritage Council for its records.

**S39(12)** This section defines the term “prescribed period”. Where the Heritage Council has not sought an extra 14 calendar days to determine an application, the Heritage Council must make its determination on an application within 35 days from the application day. Where the Heritage Council has sought an extra 14 calendar days to determine the matter it must notify the planning authority of its decision within 49 days after the application day.

#### **Section 40 Consideration of application under delegation**

The provision requires that any person who has been delegated responsibilities under this Part by the Heritage Council must keep the Heritage Council informed of all decisions made.

#### **Section 41 Correction and minor amendment of permits**

**S 41(1)** This provision clarifies what happens if the planning authority receives a request to correct or make an amendment to a permit, as allowed under s55 and s56 respectively of the Planning Act.

**S 41(2)** The planning authority must consult the Heritage Council and take into consideration any requests of the Heritage Council with respect to the correction or amendment.

**S 41(3)** Allows the planning authority to undertake corrections or amendments where that correction or amendment will have no impact on the historic cultural heritage significance of the place or any condition set by the Heritage Council.

#### **Section 42 Certificates of exemption for heritage works**

**S 42(1)** A person may apply to the Heritage Council for a certificate of exemption for heritage works.

**S 42(2)** An application for a certificate of exemption can be in any form and with any amount of detail as requested by the Heritage Council.

**S 42(3)** Allows the Heritage Council to approve or refuse the application, in the case of the latter a works application will be required.

**S 42(4)** A certificate of exemption will be provided if the works are identified in guidelines as having no or negligible impact on the historic heritage significance of the place or heritage area and are able to be carried out in accordance with the guidelines.

**S 42(5)** If the Heritage Council refuses the application for a certificate of exemption it must let the applicant know why an exemption is not possible.

**S 42(6)** If the Heritage Council approves an application for a certificate of exemption it must issue the certificate to both the applicant and the relevant planning authority.

**S 42(7)** Any certificate of exemption issued may be in any form the Heritage Council determines, but must at least state what works are exempt and details of the registered place or heritage area.

**S 42(8)** Heritage works may be a specific type of work or a series of works across multiple places.

### **Section 43 Effect of certificate of exemption**

**S 43(1)** A certificate of exemption allows the work to be carried out in the place or heritage area identified in the certificate.

**S 43(2)** A certificate of exemption does not mean that a permit might still be necessary under the Planning Act.

### **Section 44 Contravention of heritage works conditions**

A person who does not comply with any condition set out in a discretionary permit may be fined 2,000 penalty units if a body corporate or 1,000 penalty units if an individual.

### **Section 45 Appeals concerning applications**

**S 45(1)** The Heritage Council is to be a joint respondent to any appeal against a request for additional information under section 61(3) of the Planning Act, but only where the appeal is against a request by the Heritage Council for further information.

**S 45(2)** The Heritage Council is to be a joint respondent to any appeal against any approval or approval with conditions of a permit under sections 61(4) or 61(5) of the Planning Act, but only if the Heritage Council notified the planning authority that it consented to the permit, or consented to the permit with conditions.

**S 45(3)** The Heritage Council is to be a joint respondent to any appeal against a permit which has been refused partly on the grounds of the Heritage Council and partly on the grounds of the relevant planning authority.

**S 45(4)** The Heritage Council is to be the respondent to any appeal under s61(4) of the Planning Act where it was solely responsible for the refusal to grant a permit.

**S45(5)** The Heritage Council is to be a joint respondent to any appeal under s36(3) or s59(3) of the Planning Act where a decision has not been made with the 42 day period or any other such agreed time.

**Section 45 Limitation on power of Heritage Council to agree to heritage works**

**S 46(1)** The Heritage Council may only agree to heritage works that will destroy or reduce the historic cultural heritage significance of a registered place or heritage area if it is satisfied that there are no prudent and feasible alternatives.

**S 46(2)** For the purposes of s46(1), the Heritage Council agrees to heritage works if it has notified the relevant planning authority it has no interest in the discretionary permit application [s46(2)(a)], consented to a discretionary permit being granted [s46(2)(b)], consented to a discretionary permit being granted with conditions [s46(2)(c)] or issued a certificate of exemption [s46(2)(d)].

**Clause 22 Section 47 amended (Heritage Agreement)**

This amendment removes the ability of the National Trust to be party to a Heritage Agreement. The amendment is of a house-keeping nature following proclamation of the *National Trust Act 2006* which repealed the National Trust's role in the statutory management of historic heritage places. There are no Heritage Agreements to which the National Trust is a party.

**Clause 23 Section 29 amended (Variation or termination of heritage agreement)**

This amendment removes the ability of the National Trust to be party to a Heritage Agreement. The amendment is of a house-keeping nature following proclamation of the *National Trust Act 2006* which repealed the National Trust's role in the statutory management of historic heritage places.

**Clause 24 Section 50 amended (Notification to Record of Titles)**

This amendment removes the ability of the National Trust to be party to a Heritage Agreement. The amendment is of a house-keeping nature following proclamation of the *National Trust Act 2006* which repealed the National Trust's role in the statutory management of historic heritage places.

**Clause 25 Section 53 amended (Enforcement order)**

This amendment is of a house-keeping nature as a consequence of the new definition of "Planning Act" provided at section 3 (interpretations).

**Clause 26 Section 56 amended (Non-application of other laws)**

This amendment clarifies that the creation of statutory rules is not required.

- Clause 27 Section 57 amended (Stopwork order)**  
This amendment is of a house-keeping nature.
- Clause 28 Section 61 amended (Appeal against notice)**  
This amendment is of a house-keeping nature and changes the request from mandatory to directory.
- Clause 29 Section 69 amended (Protected zone)**  
This amendment clarifies that the creation of statutory rules is not required.
- Clause 30 Section 74 amended (Order prohibiting works)**  
This amendment clarifies that the creation of statutory rules is not required.
- Clause 31 Section 75 amended (Lodgment of orders with Recorder of Titles)**  
This amendment is of a house-keeping nature.
- Clause 32 Section 78 amended (Application for certificate for unregistered place)**  
This amendment is of a house-keeping nature.
- Clause 33 Section 80 amended (Issue of certificate for unregistered place)**  
This amendment is of a house-keeping nature including as a consequence of the amendment at Section 16 above and the new definitions of “local public notice” and “notify” provided at section 3 (interpretations).  
The amendment also creates an additional provision to allow the Heritage Council to give any additional notices it considers appropriate.
- Clause 34 Section 82 amended (Submission relating to certificate for unregistered place)**  
This amendment is of a house-keeping nature as a consequence of the new definitions of “local public notice” and “notify” provided at section 3 (interpretations).
- Clause 35 Section 86 (Application for certificate for affected place) amended**  
This amendment is of a house-keeping nature.
- Clause 36 Section 87 amended (Issue of certificate for affected place)**  
This amendment is of a house-keeping nature as a consequence of the new definition of “notify” provided at section 3 (interpretations).

**Clause 37 Section 90 amended (Matters to take into account)**

This amendment is of a house-keeping nature as a consequence of the new definition of "Planning Act" provided at section 3 (interpretations).

**Clause 38 Section 90A inserted (Guidelines)**

**S 90A(1)** The Heritage Council may issue guidelines on registration, works and any other matters.

**S 90A(2)** The Heritage Council may amend or revoke guidelines.

**S 90A(3)** The guidelines are to be in plain English, and must not contain any information that is contradictory to the legislation or a Ministerial Direction. Guidelines must not, however, include any sanctions or penalties.

**S 90A(4)** The guidelines are to be interpreted as if they were by-laws.

**S 90A(5)** The Heritage Council must notify the public of the issue, amendment or revocation of any guidelines and ensure that the public has reasonable access to the guidelines.

**S 90A(6)** Any person may inspect or obtain any guidelines during normal business hours.

**S 90A(7)** The Heritage Council may publish any guidelines it thinks necessary to assist in dealing with matters before it.

**Clause 39 Section 91 substituted**

**S 91(1)** A member or person acting for or on behalf of the Heritage Council is not personally liable for any act or omission made in all due honesty while performing a function under the Act.

**S 91(2)** Any liability would lie against the Crown.

**Clause 40 Section 94 substituted (Amendment of Heritage Register)**

**S 94(1)** The Heritage Council may amend an entry in the Heritage Register to update information in the entry, correct an error, to comply with a decision of the Resource Management and Planning Appeal Tribunal, to reflect physical events or legal or planning changes, to accommodate changes in the form of the Heritage Register or any other reasonable cause.

**S 94(2)** If an entry is amended, the Heritage Council must notify the owner and provide any other notice it considers appropriate.

**S 94(3)** If the amendment is minor and will not affect the intent of the entry, then the owner may not be notified.

**Clause 41 Section 96 amended (Regulations)**

This amendment is of a house-keeping nature.

**Clause 42 Section 98 repealed (Non-application of Act)**

This amendment is of a house-keeping nature as the provision is to be included at s15(1B).

**Clause 43 Section 100A substituted**

S100 of the Principal Act is repealed as the provisions is to be included at s35(4)(b). The substituted provision ensures that all current provisional and permanently registered entries in the Tasmanian Heritage Register will remain valid regardless of whether or not the entry complies with the new provisions of section 15(4).

**Clause 44 Repeal of Act**

This section is of a house-keeping nature and closes the loop on the legislative process.