

DRAFT SECOND READING SPEECH

HON PETER GUTWEIN MP

Historic Cultural Heritage Amendment Bill 2019

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Madam Speaker, I move that the Bill now be read a second time.

Tasmania's historic environment is a vitally important feature of our island state. It helps to give our local communities their character, charm and distinctiveness; it contributes much to the visitor experience on offer; and it is an important part of our growing visitor economy.

On 1 March 2014, some of the most important amendments to the *Historic Cultural Heritage Act 1995* since its inception 22 years ago came into effect. The changes aimed to better integrate Tasmania's historic heritage and planning legislation. Feedback received on the impact of the amendments has been very positive.

These changes have delivered greater clarity, consistency and certainty in the statutory management of places of historic cultural heritage significance by the Tasmanian Heritage Council, and created a single integrated discretionary permit application process.

The amendments in this Bill align well with our commitment to reduce red tape and maximise certainty under the planning system for property owners, developers and other stakeholders who engage with the Resource Management and Planning System. In our first four years in Government, the Heritage Council, Heritage Tasmania and our 29 planning authorities have worked hard to ensure the success of the integrated process, but further amendments are needed.

It has become apparent that a number of additional reforms are warranted to fine-tune the Heritage Act, to ensure it better integrates with the *Land Use Planning Approvals Act 1993* (LUPAA) and the *Environmental Management and Pollution Control Act 1994* (EMPCA).

Madam Speaker, it gives me much pleasure to bring this Bill to the House.

In the past four years, the Heritage Council and Heritage Tasmania have worked hard to generate good owner, community and heritage outcomes. This work will continue. They have facilitated the approval of over \$670 million in works on heritage-listed places and sustained an impressive 99 per cent approval rating for works and exemption applications.

The main driver behind this Bill is the need to ensure the Act fully recognises and effectively responds to the planning system, the combined permit process; and the timing of the assessment of activities by the Board of the Environment Protection Authority; and recognises that applications can change after they have been lodged. We have drafted a Bill to address these issues and a number of other needs.

The amendments have been subject to ongoing consultation with experts in heritage management and land use planning, including the Heritage Council, Local Government Association of Tasmania and other agencies.

The Bill will deliver seven key reforms. I would now like to provide the House with an outline of each of these.

The first will introduce a provision that ensures if any Act, such as the *Environmental Management and Pollution Control Act 1994* (EMPCA), affects the assessment period under the *Land Use Planning and Approvals Act 1993* (LUPAA), the period which the Heritage Council has to assess a proposal is similarly affected.

Currently, if an application for a planning permit is forwarded to the Environment Protection Authority, and the EPA Board determines an assessment is required for their purposes, the assessment period of LUPAA is altered to incorporate the time needed for the Board to assess the proposal. However, if the same proposal involves a place in the Heritage Register, the period the Heritage Council has to assess the proposal is not affected.

As a consequence, the Heritage Council may need to make its decision well ahead of the EPA and the relevant local planning authority. This means the Heritage Council may not be able to consider public representations and it may generate uncertainty, as the decisions made may not be consistent or based on the same information.

The Bill seeks to remedy this situation. It will ensure the Heritage Council can take into account the EMPCA process, any relevant representations and changes to an application when it makes its decision, and better aligns timeframes and decisions across the planning system.

While the Heritage Council is to receive all relevant permit applications, there is no provision currently in place that allows for a minor or a substantial change to a proposal to be considered by the Heritage Council.

The Bill will ensure that any additional information, revised plans or amended permits available to a local planning authority are forwarded to the Heritage Council, so its views can be taken into account.

The Bill will also ensure that additional information or revised plans received by the planning authority are forwarded to the Heritage Council after the Heritage Council has issued its decision. If this information reflects a substantial change in the proposal, the Heritage Council can revise its decision, as long as the planning authority has not made its decision.

This will ensure the information available to both statutory parties is the same and avoids conflicting plans being considered and unnecessary conditions being imposed.

The Bill provides for a scenario where, if a planning authority fails to forward a development application to the Heritage Council within five days of the application date, the Heritage Council is given time to consider and, should it deem it necessary, comment on, the development application prior to a final decision of the planning authority. This reinforces the Heritage Council's role in regulating the impact to the significance of a heritage place.

As Members would be aware, a proponent may seek to amend a planning scheme and lodge a development application at the same time. Unfortunately, as it stands the Heritage Act does not enable the Heritage Council to consider combined permit applications. This Bill will ensure that the Heritage Act allows for the combined scheme amendment and permit application process and treats combined applications in a manner that is consistent with the assessment of discretionary permit applications.

These amendments will also introduce the capacity to appoint authorised officers, who are able to investigate compliance with, or enforcement of, works under this Act. These provisions align with the provisions already in place and working effectively under LUPAA and the *Local Government Act 1993*.

At present, the Heritage Act does not include a provision that authorises a State Service officer to attend, access or view a site for a purpose connected with the Heritage Act, nor does it provide a statutory framework upon which to investigate compliance issues, if consent is not given.

The Bill aligns with LUPAA and will enable an authorised officer to attend a site to investigate a compliance issue, where an owner does not consent to their visit. This power will only be able to be exercised if a magistrate has been satisfied that a contravention of, or failure to comply with the Heritage Act has, has, is or about to be committed.

Finally, the Bill includes amendments requested by the Heritage Council to assist it to maintain a focus on contemporary practice and good governance. These enable the appointment of a deputy chairperson, flexibility in meeting formats, and broaden the disclosure of interest provisions.

At present, the Act only makes provision to appoint a deputy chairperson on a once-off basis at a meeting where the chairperson is not present. This Bill will enable a deputy to step in for the chairperson at other times. This recognises that the Heritage Council's chairperson may not be available to carry out Heritage Council business for a wide variety of reasons, and that the business of the Heritage Council continues, both within and between its formal scheduled meetings.

Given that the Heritage Council is a 15-member body and its members come from across Tasmania, it is not always possible for them to meet in the one location, especially if they need to deal with urgent business. Amendments proposed in the Bill will validate the use of telephone and video conferencing, and provide a mechanism that enables the Heritage Council to consider urgent matters out of session.

The Heritage Act also currently only recognises conflicts of interest as being pecuniary, or financial, whereas contemporary practice and the Heritage Council's own policy recognises conflicts of interest arise for a wide variety of reasons, of a pecuniary, non-pecuniary, direct or indirect nature. The amendments will address this gap in the legislation.

Madam Speaker, this Bill is important to ensure the sound, considered and integrated statutory management of the heritage places of greatest significance to Tasmania. While the amendments are relatively modest in scale, they are important and add to our reform of the planning system.

As Minister for the Environment, Parks and Heritage, I have no doubt that these reforms will help to generate greater clarity, consistency and certainty in the statutory management of Tasmania's historic cultural heritage, and facilitate the delivery of good owner, community and historic heritage outcomes.

Madam Speaker, I commend this Bill to the House.