

HISTORIC CULTURAL HERITAGE AMENDMENT BILL 2012

FACT SHEET

The Bill seeks to amend the *Historic Cultural Heritage Act 1995* (the Heritage Act) to cut red tape, introduce a number of efficiencies, create a clearer system of defining and identifying heritage and ensure a greater level of consistency with the *Land Use Planning and Approvals Act 1993* (the Planning Act) in how works to heritage places are managed.

The principal changes are to:

1. introduce mechanisms that establish clear expectations between the State Government and the Heritage Council;
2. bring Tasmania in line with National standards and best practice with respect to defining historic cultural heritage significance and defining the extent of heritage listings;
3. create greater efficiencies in the processes used to amend and remove places entered in the Tasmanian Heritage Register; and
4. streamline the application, approval and appeal process for owners of places entered in the Tasmanian Heritage Register.

A number of relatively minor house-keeping changes have also been included.

1. Objectives

The objectives of the Principal Act, and the functions and powers of the Tasmanian Heritage Council have not changed. Section 7(1)(i) of the Heritage Act requires the Heritage Council “to perform any function the Minister determines”. The introduction of the need for a Statement of Ministerial Expectation and a corresponding Statement of Intent will ensure greater clarity and transparency in the expectations placed on the Heritage Council by the Minister and the State Government.

2. Defining historic cultural heritage significance

The Bill introduces an eighth criterion by which a place can be entered in the Tasmanian Heritage Register – the aesthetics criterion. This brings Tasmania in line with National best practice and the objectives of the Planning Act which note the need to consider the aesthetic values of a place.

Changes to the way the boundaries of a place are defined have also been refined. The Bill clearly outlines what is required. In urban areas this may be the property title and in rural areas or large industrial sites, the boundary may be limited to only part of a title. Where a boundary of a proposed listed place is larger or smaller than a single title, or for places such as bridges where no title exists, the development of a Central Plan Register (CPR) will be mandatory.

The Bill ensures that on the date of proclamation of the Bill, those provisional and permanent entries that are already on the Heritage Register that do not fully comply with the new provisions are still considered to be a valid entry in the Tasmanian Heritage Register.

3. Amending and removing Heritage Register entries

Historic heritage significance is not static. Changes may be planned, others may occur through the unfortunate or unpredicted loss of heritage values. The Bill clarifies under what circumstances the Heritage Council may remove a place from the Heritage Register. This includes where a place has been totally destroyed and no values remain, where the removal is required by law, where a clerical error has resulted in a duplicated entry, or if for some other reason the Heritage Council determines that the place no longer meets one or more criteria for entry to the Heritage Register. Owners and Local Government will be notified of any removal.

The Bill also clarifies under what circumstances an entry may be amended, for example where there is a change in land titles or new historical information is added to the entry.

The changes also assist in streamlining administrative processes and cutting red tape for owners and developers.

4. Works to listed places

The principal area of change is how works to places entered in the Tasmanian Heritage Register will be managed.

Currently, the process requires two separate applications, two advertisements and the issuing of two separate permits, which may conflict. This situation creates considerable confusion and introduces an unnecessary impost on applicants, duplicates effort and wastes scarce resources.

The Bill will introduce changes to better integrate the works approval process with the Planning Act and most importantly will introduce a single application, advertisement and permit process.

It will also introduce a certificate of exemption to remove the need for an applicant to seek Heritage Council's involvement in determining a development application. At present, approximately 40 per cent of all works matters considered by the Heritage Council are deemed to have no impact on the historic heritage significance of a place. Formalising the ability to exempt certain types of works from requiring Heritage Council input will greatly reduce the impost on applicants and planning authorities.

Where the Heritage Council does wish to be involved in determining the application, the application will be dealt with as a discretionary permit application under a single set of timeframes based on the 42 day period in the Planning Act.

The Heritage Council is able to request additional information and seek a 14 calendar day (10 working days) extension of time to assess the most complex of cases through better alignment with provisions in the Planning Act.

The Heritage Council must forward its decision to the planning authority within 35 days (or 49 days if an additional 14 days requested) and the planning authority will incorporate the decision into the permit. If the Heritage Council approves the application it may do so with conditions and the planning authority, if it decides to issue a permit, must do so consistent with the conditions set down by the Heritage Council. If the Heritage Council refuses the application, the planning authority must refuse the application.

Where the Heritage Council has been involved in determining a development application, it will be a joint respondent for any appeals.

A flowchart of the process is provided at Figure 1.

A few minor amendments to the Planning Act have been generated to support this process and are included in the cognate Bill – the *Land Use Planning and Approvals Amendment (Historic Cultural Heritage) Bill 2012*.

5. Minor amendments

A number of minor house-keeping amendments have also been addressed, including:

- removing references to the National Trust with respect to Heritage Agreements following the introduction of the *National Trust Act 2006*;
- ensuring any decisions of the Heritage Council relating to the entry of a place on the Heritage Register are publicly advertised; and

- allowing the Heritage Council to develop guidelines for any purposes under the Act.

FIGURE 1: PROCESS FOR APPLICANT WANTING TO DO WORKS TO A PLACE ON THE TASMANIAN HERITAGE REGISTER



