

TASMANIA

ABORIGINAL HERITAGE PROTECTION (CONSEQUENTIAL AMENDMENTS) BILL 2013

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ABORIGINAL HERITAGE PROTECTION (CONSEQUENTIAL AMENDMENTS) BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
12 November 2013

*(Brought in by the Minister for Environment, Parks and
Heritage, the Honourable Brian Neal Wightman)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993* consequent on the enactment of the *Aboriginal Heritage Protection Act 2013*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Aboriginal Heritage Protection (Consequential Amendments) Act 2013*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

s. 3

Part 2 – Coroners Act 1995 Amended

PART 2 – CORONERS ACT 1995 AMENDED

3. Principal Act

In this Part, the *Coroners Act 1995** is referred to as the Principal Act.

4. Section 23 amended (Aboriginal remains)

Section 23 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

- (4) If the Aboriginal organisation in its report to the coroner advises that the remains are Aboriginal remains –
 - (a) then on receipt by the coroner of the report –
 - (i) the jurisdiction of the coroner under this Act in respect of the remains ceases; and
 - (ii) this Act ceases to apply to the remains; and
 - (b) the coroner is to provide a copy of that report to the Secretary of the responsible Department in

*No. 73 of 1995

*Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of*

Part 2 – Coroners Act 1995 Amended

s. 4

relation to the *Aboriginal
Heritage Protection Act 2013*.

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

s. 5

Part 3 – Crown Lands (Shack Sites) Act 1997 Amended

**PART 3 – CROWN LANDS (SHACK SITES) ACT 1997
AMENDED**

5. Principal Act

In this Part, the *Crown Lands (Shack Sites) Act 1997** is referred to as the Principal Act.

6. Schedule 2A amended (Model conversion criteria)

Clause 1(1)(a) of Schedule 2A to the Principal Act is amended by omitting “an Aboriginal site, or a relic as defined under the *Aboriginal Relics Act 1975*” and substituting “Aboriginal heritage registered under the *Aboriginal Heritage Protection Act 2013*”.

*No. 87 of 1997

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

Part 4 – Crown Lands Regulations 2011 Amended

s. 7

**PART 4 – CROWN LANDS REGULATIONS 2011
AMENDED**

7. Principal Regulations

In this Part, the *Crown Lands Regulations 2011**
are referred to as the Principal Regulations.

**8. Regulation 19 amended (Restrictions relating to
public reserves)**

Regulation 19 of the Principal Regulations is
amended as follows:

- (a) by omitting from subregulation (3)(a)
“Aboriginal relic within the meaning of
the *Aboriginal Relics Act 1975*” and
substituting “Aboriginal heritage within
the meaning of the *Aboriginal Heritage
Protection Act 2013*”;
- (b) by inserting the following subregulation
after subregulation (10):

(11) In this regulation –

authority includes an
Aboriginal heritage
permit within the meaning
of the *Aboriginal
Heritage Protection Act
2013*.

*S.R. 2011, No. 116

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

s. 9 Part 5 – Gas Infrastructure (Planning Permit Exemption) Regulations 2013
Amended

**PART 5 – GAS INFRASTRUCTURE (PLANNING
PERMIT EXEMPTION) REGULATIONS 2013
AMENDED**

9. Principal Regulations

In this Part, the *Gas Infrastructure (Planning Permit Exemption) Regulations 2013** are referred to as the Principal Regulations.

10. Schedule 1 amended (Prescribed Work and Criteria)

Schedule 1 to the Principal Regulations is amended as follows:

- (a) by omitting “*Aboriginal Relics Act 1975*,” from column 3 of paragraph (a) of item 2 in Part 3 and substituting “*Aboriginal Heritage Protection Act 2013*,”;
- (b) by omitting “*Aboriginal Relics Act 1975*,” from column 3 of paragraph (a) of item 2 in Part 4 and substituting “*Aboriginal Heritage Protection Act 2013*,”.

*S.R. 2013, No. 60

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

Part 6 – Land Use Planning and Approvals Act 1993 Amended

s. 11

**PART 6 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

11. Principal Act

In this Part, the *Land Use Planning and Approvals Act 1993** is referred to as the Principal Act.

12. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting before the definition of *accredited person* the following definition:

Aboriginal Heritage Minister means the Minister administering the *Aboriginal Heritage Protection Act 2013*;

13. Section 57 amended (Applications for discretionary permits)

Section 57(6)(b) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (i) “in a case where the Heritage Council has not, under section 39(3) of the *Historic Cultural Heritage Act 1995*, required extra time to consider the application,” and substituting “in a case where extra time to consider the application has not

*No. 70 of 1993

*Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of*

s. 14

Part 6 – Land Use Planning and Approvals Act 1993 Amended

been required under section 39(3) of the *Historic Cultural Heritage Act 1995* or section 72(4) of the *Aboriginal Heritage Protection Act 2013*,”;

- (b) by omitting from subparagraph (ii) “in a case where the Heritage Council has, under section 39(3) of the *Historic Cultural Heritage Act 1995*, required extra time to consider the application,” and substituting “in a case where extra time to consider the application has been required under section 39(3) of the *Historic Cultural Heritage Act 1995* or section 72(4) of the *Aboriginal Heritage Protection Act 2013*,”.

14. Section 59 amended (Failure to determine an application for a permit)

Section 59 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (ab) in subsection (2):
 - (ac) if the Aboriginal Heritage Minister has notified the planning authority under section 68(4)(b) of the *Aboriginal Heritage Protection Act 2013* that he or she wishes to be involved in the determination of the application, on the Aboriginal Heritage Minister; and

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

Part 6 – Land Use Planning and Approvals Act 1993 Amended

s. 14

(b) by omitting subsection (3A) and substituting the following subsection:

(3A) The Appeal Tribunal must give notice of an application for an order under subsection (3) to –

- (a) the planning authority;
and
- (b) if the Heritage Council, by reason of section 45(5) of the *Historic Cultural Heritage Act 1995*, is joined as a respondent to the application, the Heritage Council; and
- (c) if the Aboriginal Heritage Minister, by reason of section 76(6) of the *Aboriginal Heritage Protection Act 2013*, is joined as a respondent to the application, the Aboriginal Heritage Minister.

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

s. 15 Part 7 – National Broadband Network (Tasmania) Act 2010 Amended

**PART 7 – NATIONAL BROADBAND NETWORK
(TASMANIA) ACT 2010 AMENDED**

15. Principal Act

In this Part, the *National Broadband Network (Tasmania) Act 2010** is referred to as the Principal Act.

16. Section 28 amended (Application of planning laws)

Section 28 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) the *Aboriginal Heritage Protection Act 2013*; or

*No. 48 of 2010

*Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of*

Part 8 – Port Arthur Historic Site Management Authority Act 1987 Amended

s. 17

**PART 8 – PORT ARTHUR HISTORIC SITE
MANAGEMENT AUTHORITY ACT 1987 AMENDED**

17. Principal Act

In this Part, the *Port Arthur Historic Site Management Authority Act 1987** is referred to as the Principal Act.

18. Section 12 amended (Co-ordination of administration with requirements of *Nature Conservation Act 2002*)

Section 12(1)(b) of the Principal Act is amended by omitting “*Aboriginal Relics Act 1975*” and substituting “*Aboriginal Heritage Protection Act 2013*”.

*No. 61 of 1987

*Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of*

s. 19

Part 9 – Wellington Park Regulations 2009 Amended

**PART 9 – WELLINGTON PARK REGULATIONS 2009
AMENDED**

19. Principal Regulations

In this Part, the *Wellington Park Regulations 2009** are referred to as the Principal Regulations.

20. Regulation 26 amended (Relics)

Regulation 26 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1) “Aboriginal relic” and substituting “Aboriginal heritage”;
- (b) by omitting subregulation (2) and substituting the following subregulation:
 - (2) In this regulation –

Aboriginal heritage means
Aboriginal heritage
registered under the
*Aboriginal Heritage
Protection Act 2013*.

*S.R. 2009, No. 19

Aboriginal Heritage Protection (Consequential Amendments) Act
2013
Act No. of

Part 10 – Miscellaneous

s. 21

PART 10 – MISCELLANEOUS

21. Amendment of statutory rules

The amendment by this Act of any statutory rules does not prevent their subsequent amendment, repeal, revocation or rescission by further statutory rules of the same kind.

22. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.