

Legislative Reform Fact Sheet



OCTOBER 2009

What is historic heritage?

Historic heritage is a really important, notable and distinctive feature of Tasmania.

As the second oldest permanent European settlement in Australia, Tasmania's heritage is early, important and unique.

Historic heritage places include grand houses, quaint cottages, public buildings, churches, cemeteries, historic plantings, towns, suburbs and important historic sites.

Historic heritage includes the places past and present generations feel are important to protect for the future, so that current and future generations have them to appreciate and enjoy, now and in the future.

Why is heritage important?

Heritage places and precincts give our homes and communities their character, charm and value, and help distinguish one community from another.

Our heritage is also important for economic and environmental reasons; as a core visitor appeal, a competitive advantage and an important part of the visitor experience. It also contributes to the sustainability agenda through its use and adaptive reuse.

Heritage listing is one way heritage places values and features that are important to Tasmania can be recognised, protected and managed through the resource management and planning system.

How is heritage managed?

In 1997 the Council of Australian Governments (COAG) agreed to develop a more streamlined and effective national system for the recognition, protection and statutory management of historic heritage places.

The Tasmanian Government, as a party to this agreement, recognises the importance of having places of local, state, national and world heritage significance managed by its respective level of government. The adoption of the National Heritage System in 2004 reflected the first major step towards this goal.

The proclamation of the *Historic Cultural Heritage Act 1995* in 1997 was an essential part of this process, building on the important work groups like the Scenery Preservation Board, the National Trust, local government and others have done. The Act led to the formation of the Tasmanian Heritage Council and the Tasmanian Heritage Register.

Some important gains have been made in this time, but more needs to be done to develop a much more consistent framework for local and the State Government to adopt and use, and a system that is clear and predictable to use by heritage owners and developers.

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Why change the legislation?

There are at least 31 statutory planning bodies in Tasmania, each of them manage historic heritage quite differently.

Changes to Tasmania's legislation will develop a more integrated approach, cut red tape and streamline arrangements to generate greater clarity, consistency and predictability for heritage owners, managers and local government.

Reforms aim to ensure the onus placed on a heritage owner matches the significance of a place and the processes governing historic heritage are fairer, more transparent and provide greater certainty to owners.

How will listing be managed?

A new and much more consistent approach to heritage listing is proposed.

Heritage listing at a local and a state level will be based on a standard set of criteria that have been adopted nationally. Guidelines will outline how to distinguish between places of nil or negligible, local and state significance.

The listing process for places of local and state significance will be included in the proposed new legislation. A statement of heritage significance will be required for all listings.

Individual nominations for heritage listing will continue to be allowed, but greater emphasis will be given to heritage surveys and thematic studies, to ensure the comprehensive identification of heritage places.

Early consultation with an owner will be required and a new preliminary assessment of nominations introduced.

Set timeframes to determine a nomination will also be introduced, with certainty provided as to the possibility of heritage significance within four weeks of the receipt of a nomination. Heritage listing processes will continue to provide an opportunity for public input.

New provisions for heritage precincts are also proposed with precincts managed through planning schemes in agreement between a planning authority and the Heritage Council.

Interim protection orders will be introduced for cases where protection is urgently required.

How will works be managed?

The management of listed places will be simplified. A single application and a single permit will be introduced, removing the current duplication of assessment of a works application by local government and the Heritage Council.

Works on places listed at a local level will continue to be classified as exempt, permitted or discretionary. The minimum framework will require that works approval at the local level will be required only for external works.

Works on places listed at a State level will be classified as exempt or discretionary. Information on each class of work will be made publicly available to help owners better identify and anticipate those types of works that require approval from the Heritage Council.

A wider range of exemptions will be available reducing the need for owners to lodge a works application for works considered to have no or a negligible impact on a place's heritage values. State-listed heritage places require a higher level of scrutiny, with internal and external works requiring approval.

The 42 day determination period on works applications will continue to apply.

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Can I have pre-development advice?

Pre-lodgment consultation on a works application is already encouraged.

Such consultation will be particularly important in the future for all, especially major private and public sector developments proposed for heritage listed sites or where heritage needs to be proactively managed.

Experience has shown that early consultation can greatly assist the approval process for all concerned. Proactively discussing plans and understanding the heritage features and values of a place often achieves a better outcome that marries development with the protection of a place's heritage values, enhancing or creating unique new spaces.

New provisions for Management Agreements will enable an owner to enter into an agreement on listing or works on a listed place. These will reflect best practice, and create new mechanisms that allow the proactive approval of staged works on a listed place over an extended period.

What will it mean for heritage owners?

The Heritage Council and Heritage Tasmania have worked very hard over the past few years proactively listening to and talking with owners, working alongside them to achieve 'win-win' solutions to difficult issues.

The aim is to ensure that the processes used in implementing the current legislation are fair and transparent with a stronger client focus.

Some of the changes implemented to date are outlined on our website, as non-legislative reforms. For further details go to: www.heritage.tas.gov.au/act_reform.html.

New legislation will build on this framework. The main thrust of the proposed new legislation is to ensure a clear and agreed framework for managing historic heritage is introduced that is consistently applied across the state and offers owners greater certainty.

Emphasis will be given to ensuring the impact of listing for most owners is limited. This will help generate good owner, good heritage and good community outcomes.



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What will it mean for local government?

The proposed legislative changes recognise the existing role local government has for the statutory management of heritage under the *Land Use Planning and Approvals Act 1993* (LUPAA), through local planning schemes, and as signatories to the COAG Agreement on the Environment (1997).

Under proposed legislation, the need for planning authorities to assume responsibility for the management of places of local significance will be strengthened and more clearly defined.

Planning authorities can opt into the new system when they have the capacity to engage with the proposed system. Heritage Tasmania will take on a more proactive role in supporting local government by providing information, advice, educational opportunities and funding to support joint projects.

A range of resources will be developed to ensure a more consistent approach to identifying, protecting and managing heritage by local and State Government.

Where appropriate the proposed new legislation will better integrate with LUPAA and a new standard heritage schedule template for all planning schemes is in the process of being developed.

What will it mean for the Heritage Council?

The Heritage Council's membership will be reduced to nine members, but will continue to include representatives of relevant professional expertise, groups with an interest in heritage and the community. Its role as an independent statutory body is reinforced.

The Minister will have the ability to ask the Heritage Council to give attention to particular matters through a *Statement of Ministerial Expectation*.

The Heritage Council will in turn be required to develop a *Statement of Intent* as a means of demonstrating how it will address the matters raised by the Minister.

The Heritage Council will be required to publish its minutes and decisions to ensure greater transparency of statutory decisions.

The annual meeting schedule for the Heritage Council will also continue to include provision for regional meetings to be held.

How will transition be managed?

Transitional arrangements are also being built into the proposed new legislation. This recognises that the transition to a more integrated approach between local and state government will take time to implement.

A review of current planning schemes and entries in the Heritage Register will need to be reviewed against the new thresholds for listing at a local and a state level. Joint heritage surveys to identify new places that may warrant heritage listing will continue to be implemented over the next decade.

Emphasis is being given to establishing a consistent framework that individual planning authorities can elect to engage in when they are able to do so.

It will include negotiations to have planning authorities assume responsibility for the management of places of local significance, while the Heritage Council assumes responsibility for places of state significance.

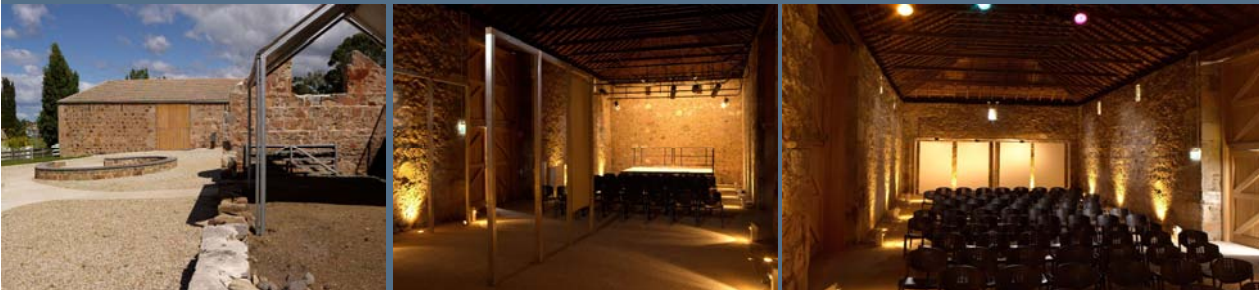
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When will these changes occur?

New legislation is currently being drafted.

It is intended that it will be introduced to State Parliament during the 2009-10 financial year. It is hoped and anticipated that the new Act will be proclaimed and come into effect on 1 July 2010.

The success of this reform process, the extent of take-up and implementation by local government will be reviewed five years after proclamation of the Act. This review will enable the State Government to measure the effectiveness of these reforms and determine future goals.



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FURTHER DETAILS ON THE REFORM PROCESS ARE AVAILABLE AT :

www.heritage.tas.gov.au/act_reform.html

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