

Policy Directions in Tasmania

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Since the proclamation of the State's Historic Cultural Heritage Act in 1995 there have been significant changes in how historic heritage is managed both nationally and internationally.

With Tasmania's wealth of historic heritage, Tasmania should be at the forefront of delivering best practice.

The former Premier Jim Bacon recognised this and requested a review of the legislation.

There has been a great deal of consultation since Jim held the first historic heritage symposium in 2003, all of it worthwhile.

I am pleased that Professor Richard Mackay was able to pre-record a message for this event. He has played a critical role reviewing early submissions to the consultation process and interpreting those submissions into meaningful recommendations.

The recommendations he provided to the State Government are sound, and those that did not require changes to legislation have already been implemented.

Today, I would like to outline some of the key actions the State Government is proposing to take based on Professor Mackay's recommendations.

I am interested to hear whether we have applied your comments adequately before Cabinet considers a proposal to draft new historic heritage legislation.

I would like to start by outlining some of the challenges of working with the current legislation.

As Director of National Parks, I have sat on Heritage Council meetings and have a first hand knowledge of the difficulties faced by owners and developers trying to understand the legislation, and by Heritage Council members in trying to apply the legislation.

Professor Mackay has already touched on those items he sees as important to change.

I agree with his points, and would also draw attention to: the need for more consultation with the community, especially the owners of places that are being considered for listing; the need to end works assessments by both local and state government for the same heritage place and issue; and the need to provide greater access to practical resources.

Together, these reforms will provide greater clarity, consistency and certainty for all those involved in protecting and managing Tasmania's historic heritage.

If you put yourself in the shoes of the heritage property owner, the current legislation allows listing of your property without your prior knowledge. Even when advised, the amount of information provided as to why a place is important can be quite limited.

Without adequate information, it is difficult for owners to understand what must be protected and how to approach improvements. This places too much onus on the owner to work their way through the legislation.

It is not surprising then, that there still remains the negative perception that owning a heritage listed home or place means that no works or improvements are allowed.

I am glad to announce that Professor Mackay's recommendation that the Heritage Council should consult with property owners before the statutory listing process commences has already been implemented.

I also know that the Heritage Council and staff at Heritage Tasmania are doing more to engage, consult, educate and inform owners and others in the heritage sector.

By opening up these communication channels, the Heritage Council and Heritage Tasmania are also finding "owner's pride" is becoming a strong driving force for protection and value adding. Many owners are seeking out listing as a reflection of that pride.

The aim now is to build on these positive steps and take things to the next level through new legislation.

The aim of the new legislation will be to:

- Provide a user friendly approach
- Ensure appropriate use of scarce resources
- Provide a more contemporary framework
- Balance statutory and non-statutory effort.

I'd like now to outline some of the proposed changes.

As Professor Mackay touched on in his presentation, a tiered approach towards identifying and managing heritage will more effectively and efficiently protect Tasmania's heritage.

The Tasmanian Government made a commitment as part of the 1997 COAG Agreement to introduce a tiered system of heritage protection. The new legislation will honour this commitment.

In this approach the Australian Government is responsible for regulating places of national and World Heritage significance; State or Territory Governments are responsible for regulating places of state significance; and local government is responsible for regulating places of local significance.

From a practical level, this means that the Tasmanian Heritage Register and the heritage schemes of planning schemes will need to be reviewed.

This is a positive outcome.

The Heritage Register is in urgent need of review. Professor Mackay noted in his report that there are many gaps in the Register and that there is a strong bias towards traditional architectural forms.

Of more concern is that the bias on buildings has resulted in many owners of standard residential properties, such as a Californian bungalow in north Launceston, being required to adhere to similar regulatory requirements as nationally significant places like Woolmers or Port Arthur.

A review of the Register will be needed, but it will be done with assistance from Heritage Tasmania and following agreement between owners, the relevant planning authority and the Heritage Council.

I mentioned earlier that the Heritage Council is consulting with owners as soon as a nomination form for heritage listing is received. This process will be enshrined in the new legislation.

The Heritage Council has also been working closely with a number of planning authorities to complete heritage surveys as a way of identifying heritage places for listing to local planning schemes and the Tasmanian Heritage Register.

I'd be interested in your thoughts as to whether this approach is the best way to overcome the gaps in our Heritage Register that Professor Mackay discussed. One thing is certain however, individual nominations from the community will continue to be allowed.

The issue of public nominations raises two new issues for consideration.

Currently, many of the nominations received by the Heritage Council contain very little information. This creates difficulty for Heritage Tasmania and the Heritage Council.

Professor Mackay has recommended that the New South Wales model be adopted, whereby nominations must contain a minimum amount of information to be accepted.

In addition, all nominations will be vetted to reduce the risk of frivolous or vexatious nominations. Last year there was the very public threat to nominate Devonport, Burnie, Ulverstone and Launceston to the Heritage Register. Such nominations would cripple the Heritage Council, which was never envisaged as a local government council.

Through discussions with heritage practitioners and local government, there is agreement that the best way to assess places is against a standard set of criteria for both local and state heritage listing.

Each place will need a statement of significance, and the criteria against which they have been assessed to be clearly identified.

One of the greatest difficulties with the current legislation is ensuring that decisions made about works or developments to heritage listed places reflect community expectation, while providing enough checks and balances to protect those things that are most important to Tasmania.

Consultation has suggested that types or classes of work be identified to reflect the likely impacts of works on heritage significance. Legislation itself is not enough. This approach means that access to published guidelines on heritage advice will be critical.

I'd be interested in the views of the heritage property owners here today about whether the proposed classes of works will be a positive outcome.

A first class of works can be undertaken by a property owner or manager without needing to consult Heritage Tasmania, lodge a development application, pay a fee, or seek approval from the Heritage Council.

Many of us take for granted the ability to change the colour of a room, or replace an outdated bathroom. New legislation and guidelines will give back to owners the ability to manage day-to-day maintenance of their property.

A second class will cover works that are considered to be minor to moderate in nature. Lodging an application to gain an approval from the Heritage Council will be needed, but there will be no fees and no public advertisement.

This recognises that more complex work may be completed with a bit of knowledge and direction from Heritage Tasmania in how to protect the heritage values of the property.

The final class will cover those works that are large scale or would impact greatly on the significance of a place. For these types of works a development application will be lodged and fee paid, advertising to seek community input will be undertaken, and the Heritage Council will decide whether to approve or refuse the development.

This is a major departure from the current legislation, but one that will hopefully provide more certainty and clarity for owners and developers.

Guidelines will be published and promoted widely to ensure that the system is clearly understood.

In consulting with local government, it is clear that the same principles can apply, but that there will need to be a greater alignment with the Land Use Planning and Approvals Act.

Tasmania has 30 planning authorities. Most have provisions in their planning schemes to manage heritage, but those provisions vary considerably.

A standard cultural heritage schedule is being drafted by the Land Use Planning Branch of the Department of Justice. This is part of wider Land Use Planning initiatives to introduce a standard planning scheme template for all planning authorities.

The schedule will create similar classes of works, but these classes will be directly aligned with provisions already existing in the Land Use Planning and Approvals Act. This means that works to the interior of local heritage-listed places will not be subject to development approval.

Currently, LUPAA has categories for exempt, permitted and discretionary works. New terms are being introduced, but the principles are the same.

‘Exempt’ works will require no applications, no advertising and no approval.

‘Acceptable solutions’ will apply to those works currently known as ‘permitted’ under LUPAA. There will be no advertising of developments and no ability to refuse the works.

‘Performance criteria’ will apply to the current ‘discretionary works’ under LUPAA. Advertising, fees and the ability of local council to refuse the work will apply.

Most importantly, these changes will not affect time frames or appeal rights. All applications will still be considered within a 42 day period, and decisions can be appealed through the Resource Management Planning Appeal Tribunal.

The aim is to ensure that a clearer system is introduced that will generate greater predictability and certainty.

As I mentioned in my opening remarks, there has been a lengthy period of consultation. Today provides an opportunity to check that past comments have been appropriately addressed.

Many of you will be familiar with the *'Managing our Heritage' Position Paper* released last year.

Submissions to the paper supported a number of initiatives:

- creating a tiered system;
- developing clear guidelines for assessing nominations;
- introducing a vetting period for nominations;
- introducing more inclusive, proactive consultation with owners, developers and planning authorities; and
- providing more information, education, training and conservation resources for local communities and planning authorities.

A number of submissions also raised concerns about the proposed reforms and I would like to touch briefly on those now.

It's not uncommon that a request is made to view legislation before being tabled in Parliament and this request is being carefully considered.

A critical comment from heritage practitioners was the apparent deferral of considering cultural landscapes, archaeology and movable heritage. There is nothing in the current or proposed new legislation that precludes the Heritage Council from listing these places or artefacts. However, these matters are complex and overlap with several pieces of legislation. Once the new historic heritage legislation is in place there will be a greater opportunity to more fully consider and address these issues.

The ability of local government to adequately protect places of local heritage was also raised as a concern. The Minister mentioned the work of the Southern Midlands Council in her speech. Interstate examples also demonstrate that where adequate education, resourcing and support is provided at the local level, the conservation of heritage places remains high.

Finally, the need for adequate resourcing was highlighted.

I acknowledge these concerns and recognise that the proposed reforms have resource implications for planning authorities.

It is important to highlight that any new legislation will be based on individual planning authorities having the option to adopt the reform when resourcing allows.

This was always the intention; and this approach is now even more critical in the current economic circumstances.

In practice this means that smaller planning authorities may not be able to immediately take up the reforms without additional resources being provided. Other planning authorities may choose to begin implementing the reforms as and when they are able.

There will be a period of transition and the new legislation will address how to protect heritage at both the local and state level during that period.

The State Government will consider options such as creating a local heritage advisory service, providing funding to support the engagement of staff or consultants, or shared access to centralised support personnel through Heritage Tasmania.

One resource sharing initiative already under development is the new Heritage Management System.

This system will deliver a searchable online database.

Stage one of this system has already been implemented, replacing the Tasmanian Heritage Register database. The Heritage Management System now contains all entries which make up the Heritage Register.

The aim is to create a single centralised, statutory database which will replace the Heritage Register and all the heritage schedules contained in planning schemes across the State.

Heritage Tasmania will provide the database infrastructure. Local Government will have access to the database through a web-based portal, allowing them to update and maintain their own heritage lists of locally significant places.

Eventually, it is intended that an overlay will be provided on the Land Information System of Tasmania (LIST), managed by the Department of Primary Industries and Water.

It is anticipated that Cabinet will consider a request to draft new legislation in the coming weeks.

If supported, a new Act is expected within 12 months of this decision.

As the Minister indicated, a strategy for the Tasmanian historic environment will also be developed. Today's discussions will help inform its developments.

The draft Strategy will be released for public and industry comment before being finalised.

In closing, I'd like to again thank those of you who have and continue to contribute to this important process, through your involvement in events or forums such as this and through other means.

Your involvement indicates the strong interest in the State Government's proposed reforms and the desire to be a part of shaping a better future for Tasmania's historic environment.

I recognise that many of you are not paid for your time to participate in forums or to provide submissions, and it is not always easy to find time in busy diaries to contribute to the process.

Your input today is greatly appreciated.

Creating new legislation is important and challenging. It is also one that will generate some very positive, worthwhile and meaningful changes that support heritage owners and help protect those historic heritage places most important to Tasmania.

I understand there is some time to answer questions. Pete Smith will help me with some of the more specialist details if required.

Thank you.