



City of **HOBART**

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Mr Andrew Roberts
Director Heritage Tasmania

Via Email: enquiries@heritage.tas.gov.au

Dear Mr Roberts

HISTORIC CULTURAL HERITAGE AMENDMENT BILL 2023

Thank you for the opportunity for Council to provide a submission on the Historic Cultural Heritage Amendment Bill 2023.

The City of Hobart is generally in support and sees merit in the majority of the proposed amendments. There are some particular concerns regarding aspects of the amendments particularly the administrative and transitional amendments. Council requires a number of clarifications, in light of Council owning and managing a large number of heritage assets on the Tasmanian Heritage Register as well as 'heritage objects'.

Council also raises additional matters outside of what has been proposed as we are of the view that further amendments of the *Historic Cultural Heritage Act 1995* would be beneficial and result in a more effective integration with the Resource Management and Planning System.

In particular we have raised a number of matters that required consideration in light of the proposed Local Provisions Schedule (LPS) as part of the Statewide Planning Provisions (SPP).

Our concerns are summarised below.

Reference in Historic Cultural Heritage Amendment Bill 2023 – Consultation Draft	City of Hobart response
4. Section 3 amended (Interpretation) (a) – substituting new definition of building	<p>The proposed definition of building is different to the <i>Land Use Planning and Approvals Act 1993</i>. The HCHA 1995 is an Act under the Resource Management and Planning System (RMPS). Having the HCHA 1995 align with the LUPAA 1993 has been an ongoing priority.</p> <p>On this basis it is considered appropriate for there to be a consistency of language across the RMPS rather than introduce a new definition.</p>
4. Section 3 amended (Interpretation) (c) – new definition of ‘heritage object’	<p>While the introduction of this new term is not at issue, it needs to be considered in relation to what the THC refers to as ‘movable cultural heritage’ (See Practice Note No. 7). This practice note requires revision in light of this amendment and a consistent approach.</p> <p>It is proposed that the definition excludes any objects owned by a local council, to ensure that items of heritage significance (for example, moving or repairing chairs and updating honour rolls) are not prevented from carrying out usual operations.</p>
5. Section 4A (Matters to be regarded) subsection (2)	<p>Does the use of the term ‘person’ referred to in (3) mean the same as the reference in (2) which refers to ‘person who performs or exercises function or powers under this Act’. If so clarification and duplication is recommended.</p>
10. Section 25A inserted	<p>Section 25A relates to removal of entry from the Tasmanian Heritage Register (THR). There is no objection to the proposed new section which addresses duplicates.</p> <p>In relation to the broader issue of removal of places from the THR consideration should be given to a requirement at s.22(3) Removal of Place from Register to seek written submission from a planning authority. Under the LPS there is a risk of a THR place, once listed with a planning authority, being removed without the opportunity for that place to be listed in a Local Historic Heritage Code through a Scheme amendment. Further engagement with planning authority is required to ensure amendments to not result in unanticipated consequences.</p>

Reference in Historic Cultural Heritage Amendment Bill 2023 – Consultation Draft	City of Hobart response
<p>13. Section 32 (Interpretation of Part) s.32(1) and s.32A, 34, 35 etc.</p>	<p>This refers to the removal of the definition of ‘certificate of exemption’ and replacement with ‘minor works approval’. In relation to this, there should be further consideration of how the introduction of new terminology relates to that used in SPP which references use or development exempt from requiring a permit.</p> <p>If a proposal required planning permission then the THC has the power to regulate the proposal through that process.</p> <p>If a proposal is exempt from requiring planning permission, the THC would not regulate via planning and there is scope for regulation through a different process such as the “minor works approval”.</p> <p>It is recommended that the ambiguity is removed from the HCHA 1995, and the definition of “minor works approval” should be limited to planning exempt proposals.</p>
<p>18. Section 39(2)(e) and 39A(2)(d) ‘may liaise with the relevant planning authority.’</p>	<p>Under the SPP, the ability of a planning authority to consider the application of the Local Historic Heritage Code for local heritage precinct, place of archaeological potential, local historic landscape precinct is removed where the place is on the THR. Liaison with planning authorities needs to be strengthened and formalised either through an amendment (replacing “may” with “must”) or clear policy and guidelines to ensure local heritage values are not diminished by THC decisions.</p>

Reference in Historic Cultural Heritage Amendment Bill 2023 – Consultation Draft	City of Hobart response
22. Section 60 (Notice to take or stop action)	<p>This amendment is supported to allow greater input from THC in the context of illegal works.</p> <p>Clarity is required in relation to the goals of THC given the current role and level of commitment of local government in relation to enforcement and compliance. Will THC be more active and proactive in the issuance of stopwork orders or repair notices?</p> <p>It is vital that the THC is given sufficient resources to properly investigate and take steps such as issuing notices, where appropriate.</p> <p>The THC also should have the ability to issue infringement notices which would bring it in line with enforcement processes under LUPAA 1993.</p>
23. PART 8A Heritage Objects 63C. (1)	<p>The City of Hobart owns and manages a number of THR listed places with 'heritage objects' eg the Hobart Town Hall which has honour rolls/boards, historic furniture and fittings, organ etc, Clarity is required as to what the implications are for local government when it comes to what 'alter the object' might involve. For example: adding to or amending a memorial plaque or Honour Roll or modifying or maintaining the console of the Town Hall organ or adjusting historic fittings or furniture for ergonomic purposes.</p> <p>Neither is it clear, if the current data sheet for a THR heritage listing which already identifies 'heritage objects' becomes a listing for a 'place' as well as a 'heritage object' and will this involve a subsequent amendment to the THR (s.63A (1)).</p> <p>The suggestion made above that local councils are excluded from the definition of a heritage object, is repeated. Local councils are responsible when it comes to heritage objects and there is a concern that the proposed changes to the legislation could unreasonably interfere with operational tasks carried out regularly by local councils.</p> <p>At a minimum, Clarification, clear practice notes or guidelines are required with the input of relevant stakeholders. Will a planning authority be required to take an application under s.63C where it is also part of an application under s.39 or 39A?</p>

Please do not hesitate to contact us should you require further clarification on any matter raised. We believe that further discussions about the matters we have raised are required and that a meeting between Heritage Tasmania and City of Hobart officers would be beneficial.

Yours faithfully



(Karen Abey)

ACTING DIRECTOR CITY LIFE