

Fact Sheet

Historic Cultural Heritage Act 1995 amendments



In October 2024, and following consultation, the Tasmanian Parliament passed the *Historic Cultural Heritage Amendment Act 2024* which amends the *Historic Cultural Heritage Act 1995*. The amendments will ensure greater protection of Tasmania's historic built heritage places and make it easier for heritage property owners and the development sector to engage with heritage regulations.

The amendments take effect from **1 January 2025**. This fact sheet describes the key amendments and the accompanying Question and Answers address common questions regarding the amendments. The full Act can be accessed from the [Tasmanian Legislation website](#).

Greater heritage protections

Retrospectivity

Under Part 6 of the *Historic Cultural Heritage Act 1995*, a person must not carry out any works to a place entered on the Tasmanian Heritage Register (the Register) unless those works have the prior approval of the Tasmanian Heritage Council (Heritage Council).

Prior to the amendments being introduced, there was no provision enabling the Heritage Council to participate in determining an application for works that had already commenced.

This amendment enables development applications that include unauthorised works elements to be assessed by the Heritage Council retrospectively (i.e. after the works have commenced). This is consistent with current local government practice as prescribed by planning legislation. Outcomes may include requiring the 'undoing' of some work assessed as having negative impacts on the heritage values of the place, or a monetary penalty where these works cannot be undone.

The Heritage Council does not expect to use this provision frequently given the extensive pre-advice service offered by Heritage Tasmania on proposed developments.

Adjoining heritage places

Occasionally works to one registered place may have a detrimental impact on the heritage values of a neighbouring registered place. This amendment supports the Heritage Council in undertaking a more holistic assessment by enabling consideration of the impacts that works to one registered place may have on adjoining (neighbouring) registered places.

For example, an owner of a terrace house wants to do work that is reasonably in keeping with the heritage character of their place but it is not in keeping with the unified character of the terrace as a whole. This may not be appropriate as it would impact the harmonious presentation of the adjacent listed places. For example, the owner proposes a different style and/or height of front fence.

This amendment only relates to state heritage listed places that share a common boundary.

Response times

The amendments provide the Heritage Council with greater flexibility to determine the appropriate timeframe for action to be taken under a 'Notice to take or stop action'. Previously, the Heritage Council could not require action to be taken under a 'Notice to take or stop action' within 30 days of the notice being issued, placing significant heritage fabric at risk of damage. For example, where roof cladding is missing the Heritage Council can now instruct the owner to reinstate the cladding in less than 30 days to ensure significant interiors are not damaged and/or permanently lost.

Clarification of terms and definitions

The *Historic Cultural Heritage Act 1995* is part of Tasmania's planning law framework. Some definitions contained in the Act were outdated and did not precisely describe inclusions and exclusions. The amendments:

- amend the definition of 'Building' (to align with the *Land Use Planning and Approvals Act 1993*) and 'land' (to add structures permanently fixed to land);
- define 'Object' to include fittings, artefacts, tools and implements that contribute to the historic significance of the place; and
- clarify the definition of 'Place' to include 'fixtures' and 'objects' and outdoor spaces or features of significance (e.g. an original chandelier, sundial, or a courtyard that is part of a place and contributes to its significance).

The amendments also replace the term for a heritage approval previously known as a 'Certificate of Exemption' with the term 'Minor Works Approval'.

The term 'Certificate of Exemption' could easily be misunderstood as an optional or self-assessed process. The change in language provides greater clarity for heritage property owners and the development sector that an assessment and decision is required to issue a statutory approval.

All Certificates of Exemption issued prior to 1 January 2025 will remain valid.

Note - actions that are routine maintenance and minor repairs that do not change the historic fabric of the place will not require heritage approval. Examples of routine maintenance works include mowing grass, pruning bushes, and trimming branches (where not likely to disfigure or destroy the affected vegetation); and repainting of a previously painted surface in colour/s and materials closely matching the existing paint.

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Improved processes

Removal of duplicate entries

These amendments streamline the process to remove an entry from the Register where the entry has been replaced by an improved entry.

When an entry in the Register is amended, the Heritage Council effectively creates a new replacement entry. This entry is subject to a series of considered, statutory processes, including owner consultation and notification.

Repeating this process for the removal of a duplicate entry serves no purpose, noting that removal of the old entry cannot start until the process for the permanent replacement entry is complete.

Adequate consultation

This amendment extends the time period for the Heritage Council to determine a permanent entry in the Register (following provisional entry) from 120 to 180 days. The Heritage Council undertakes extensive consultation with impacted stakeholders to inform its decision-making. While many decisions occur within the 120-day timeframe, more complex entries may require longer to work through issues with interested parties. This change will ensure that all stakeholders involved in the registration process have adequate time to consider and respond to a provisional entry.

Automating certificates

This amendment provides for broader delegation for the signing of certificates (including via electronic signature) to advise if a place is listed on the Register. It will allow for automation of these checks to occur, providing faster responses to enquiries and reducing red tape.



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Questions?

Your question may be covered in the accompanying Questions and Answers document.

If you have any further questions regarding the amendments please contact Heritage Tasmania by email at enquiries@heritage.tas.gov.au or by telephone on 1300 850 332.



Heritage Tasmania

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