

Frequently Asked Questions

Historic Cultural Heritage Act 1995 amendments

Amendments to the *Historic Cultural Heritage Act 1995* take effect from **1 January 2025**. The amendments will ensure greater protection of state listed historic heritage places and make it easier for heritage property owners and the development sector to engage with heritage regulations.

Below are common questions regarding the amendments. The accompanying Fact Sheet provides a further description of the key amendments. The full Act can be accessed from the [Tasmanian Legislation website](#).

Retrospectivity

Will allowing retrospective approval of works encourage people to commence works without approval?

The amendment makes it clear that development applications that include some unauthorised works elements can be assessed retrospectively (i.e. after works have commenced), in a manner consistent with current local government practice, and prescribed under the *Land Use Planning and Approvals Act 1993* (LUPAA).

Under LUPAA, a planning authority may accept a development application that includes works that have occurred prior to approval. The planning authority then conducts an assessment as though no works had been commenced. If any of the completed works are subsequently assessed as not approved, these may be required to be undone.

The risk of potentially having to undo unauthorised works remains an incentive for owners to seek approval for works.

Adjoining places

Why would the Tasmanian Heritage Council (THC) need to consider the impacts of works on an adjoining state heritage place?

There are situations where the works to one registered property may impact on the heritage values of an adjoining registered property. Prior to these amendments, the Heritage Council was not able to consider the likely impacts of proposed works and their effect on the heritage value of neighbouring state registered heritage places.

For example, the owner of a registered property that is one of a set of registered terraced houses may wish to undertake work to their place that is different from the heritage character that the adjoining properties have in common. Examples of such work would include a change to the paint colour scheme of one terrace house or a proposal to build a fence that is a different style and/or height to that of neighbouring terraces.

Importantly, this amendment:

- only relates to state heritage listed places that share a common boundary; and
- does not seek to affect the broader domain of local heritage precincts or streetscape character currently managed by Local Government under the Statewide Planning Scheme.

Will this change provide appeal rights to a neighbour?

No. This amendment gives the Heritage Council the ability to consider impacts on adjoining places and to potentially add conditions to the development approval of the subject property, to manage likely impacts.

It does not alter the existing appeal rights available to any neighbour under the *Land Use Planning and Approvals Act 1993*.

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Minor Works Approvals

Does the introduction of a Minor Works Approval add another layer of approvals when undertaking work to a registered property?

No. This is a change in terminology only to more explicitly describe what is being provided. It replaces the term 'Certificate of Exemption' which many did not understand to be a form of heritage approval. The provision is otherwise unchanged.

A 'Minor Works Approval' will be a form of heritage approval for works to a registered heritage place that will have negligible impact on the place's heritage values. The approval cannot be issued subject to conditions. No application fee is charged and the application is assessed by Heritage Tasmania on behalf of the Heritage Council.

Will a Certificate of Exemption issued prior to 1 January 2025 remain valid?

Yes. Certificates of Exemption are not subject to an expiry date.

Definition of a 'heritage object'

Will the inclusion of a definition of a 'heritage object' add to the 'red tape' of a heritage works approval?

No. Prior to the amendments, the *Historic Cultural Heritage Act 1995* included under the definition of 'Place' "any equipment, furniture, fittings and articles in or on, or historically or physically associated or connected with any building or item". However, this definition had been the subject of some misunderstanding and inconsistent application in the past.

The inclusion of the definition of 'Object', to be read in relation to a 'Place', seeks to contain the reach of this clause and provide greater certainty for registered property owners and stakeholders. Importantly, included in the definition is that the

Object must "contribute to the cultural heritage significance of the place", which helps exclude ordinary objects related to a place.

Examples of heritage objects would include: the lectern, font or pews in a church property; a cast iron garden fountain or stone horse trough related to a rural homestead; or the remaining tools and anvil and bellows in a blacksmiths shop.

More recently, the Heritage Council's focus has been to identify the significant heritage objects related to a property in the related Registration Data Sheet which will help provide clarity within registrations.

Will the Heritage Council register heritage objects that are not situated at a registered place?

No. The changes are intended to apply only to objects that are part of a place. It is the place that is registered, not the object. The heritage object is treated as a component that contributes to the significance of the place. It is possible that an object would be the most important component of a place. But the amendments do not enable the Heritage Council to register an object separate from a place.

Consultation

Why does the THC need more time to determine a permanent entry on the Tasmanian Heritage Register?

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 require a longer period to ensure adequate consultation occurs to work through issues raised.

More questions?

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**.