

## SUMMARY OF SUBMISSIONS AND RESPONSES

Section of the Act	Issues and Comments from Respondents	Response to Submissions
<b>Heritage objects and consequential parts</b>		
heritage objects	Suggest providing statutory guidance regarding the scope of potential objects covered by the proposed provisions.	Following considerable discussion, decision was made to withdraw the proposed new Part 8A – Heritage Objects and other consequential parts from the amendment.
moveable heritage	Support the proposed amendment as a positive initiative.	
section3- amended definition of 'place', and insertion of 'heritage objects'	The amendment to the definition of 'place' does not resolve the current ambiguity of how 'objects' under the definition of 'place' intersect with general goods and chattels on privately-owned properties.	
section3- new definition of 'object'	Consideration should be given to ensuring the definition of 'object' is sufficiently broad to be applicable to collections or un-inventoried groups of objects.	
section 3 - amended definition of 'heritage object'	Suggest updating 'Practice Note No.7' relating to 'movable cultural heritage' to align with the new definition; also suggest excluding objects owned by local council from the definition.	
Part 6 relating to objects and/or heritage objects	The amendments are ambiguous as to whether Part 6 will apply to 'objects' as well as 'Heritage Objects' and create many consequential issues ( refer to detailed submission)	
S63 - registering and removing objects	S3 defines 'heritage objects' only as objects registered in accordance s63A(1) and s63A(2). Suggest s63A(1) and (2) identifies which provisions of the Act (e.g. s94 or as part of an entry under Part 4) must be followed to properly register or remove an object from an entry.  s63(A)(2)(b) seems to set up a secondary process to remove an object when its associated place ceases to be entered in the Register. Suggest substituting a provision to note that an object should be taken to be removed from the Register if its associated place ceases to have an entry.	

S63 - retrospective registering objects	<p>Can objects be retrospectively registered as 'heritage objects' if they have already been physically removed from a place?</p> <p>There is strong potential that the Heritage Council would only become aware of such items (through social media or auction sites) after they have been removed from the property. Would the THC have any course of action at this point? If the item could be registered retrospectively, could owners appeal this on the basis that while the object had a long-term historical and physical association with the property, it was not physically located there at the time of registration?</p>	
appeal right under s94(4)(a)	<p>It is unclear if limitations under (s)27(3) will apply to appeals under s94(4)(a).</p> <p>Could owners appeal the registration of a heritage object on the basis of non-heritage grounds such that it impinges on their private property rights?</p>	
delegations regarding Handling approval	Will delegations for the issuing of handling approvals for heritage objects be made to the THC's list of current delegates?	
Part 8a heritage objects 63c. (1)	<p>Clarity is required as to what the implications are for local government in 'alter the object'.</p> <p>It is unclear 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>	
Part 8A	<ul style="list-style-type: none"> <li>• No clear definition for 'object' and there are associated practicality issues.</li> <li>• Registration criterion (f) under the Act will potentially apply to all the furnishings in a church which increase bureaucratic involvement.</li> <li>• Suggest covering other legitimate practical reasons for removal in addition to the draft amendments which permits the removal of objects 'if the object was at risk or the safety of persons, or property, were at risk.'</li> </ul>	
definition of 'object'	Request to clarify if historic plantings are excluded from the definition of 'object'.	
section 90	Suggest plain-language guidelines to assist with the application of the Act to objects.	
<b>Minor Works Approval and retrospective pathway</b>		
s.43(1)(b) minor works approval	Suggest providing clarification on s.43(1)(b) containing 'subject to the conditions in the approval' for minor works approval.	s.43(1)(b) and other consequential parts containing 'subject to the conditions in the

		approval' has caused confusion and misinterpretation.
retrospective approval for minor works	Concerns over retrospective pathway may encourage more unauthorized works.	Heritage Tasmania requested redrafting of this part to be clearer that 'minor works approval' is simply a terminology change to the current 'certificate of exemption'. The proposed 'minor works approval' is not intended to introduce a separate and new approval category, nor would it be afforded conditioning ability, i.e., no conditions are to be imposed to 'minor works approval' under the amended Act should it be passed.
minor works approval	Submission acknowledges the amendment is a revised process for obtaining a 'Certificate of Exemption' and replacing that with a process for 'Minor Works Approval', including a process for obtaining retrospective approval for works already carried out. However the submission interpreted the intention of the amendment to allow the THC to place conditions on 'minor works approval'.	
retrospective approval for minor works	Support the amendment to provide a pragmatic approach for pursuing retrospective approval which could require actions to mitigate heritage impact.	
section 32, s.32(1) and s.32A, 34, 35 - 'minor works approval'	Suggest considering how new terminology relates to that used in SPP which references use or development exempt from requiring a permit.  Recommend removing ambiguity from the Heritage Act, and the definition of "minor works approval" should be limited to planning exempt proposals.	
minor works approval and retrospective approval for minor works	The submission interpreted the intention of the amendment as more than a terminology change, but will allow THC to impose conditions on a minor works approval under s.43(1)(b); and associated issues resulting from the amendment such as the responsibilities for the enforcement of any conditional minor works approval.  Dispute that the retrospective process is not available to the Heritage Council under current system, arguing that the introduction of a retrospective minor works approval does not clearly remedy any offence having been committed per section 63 of the LUPA Act.  Also suggesting lack of details in the fact sheets.	
retrospective approval for minor works	Potential risk in misaligned facts and timing of finalising enforcement if an enforcement notice is issued by planning authority, and a retrospective minor works approval is issued subsequently and independently of that enforcement notice.	

retrospective approval for minor works	Suggesting applying conditions for retrospective minor works approvals should be able to be examined by way of appeal rights being established within the Heritage Act for minor works approvals.	
minor works approval	Suggest the proposed 'minor works approval' appears to represent a separate and new approval category, with its own level of assessment and conditioning ability. This adds complexity for all users of Tasmania's development regulation system, including councils, proponents and other stakeholders.	
<b>Removal of duplicate entry</b>		
section 27(1) removal of duplicate entries	Request clarification of the amendment to section 27(1). suggesting for some entries, 'consolidation' of entries is more appropriate than removal.	Misunderstanding of scope, the consolidation of entries is common practice.
appeal right under section 25A and section 27(1)	Suggest review clause 10&12 of the draft Bill. The insertion of 25A under section 27(1) is redundant because there can be no objections or submissions under section 25A(2) to activate an appeal.	Adopted and requested redrafting.
section 25A	Support new provisions which addresses duplicate entries. Suggest consideration be given to have include similar requirement as under s.22(3) to seek written submission from a planning authority to minimise risk that 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.	Out of scope- the proposed change is to process of removal of duplicate entries, not removal of sites from THC Register completely.
section 25A, 27	The insertion of 25A under section 27(1) is redundant because there can be no objections or submissions under section 25A(2) to activate an appeal.	Adopted and requested redrafting.
removal of duplicate entries	Suggest that THC fails to include a procedure enabling update to corresponding details in Local Provisions Schedules as a consequential administrative change by direct referral to the Tasmanian Planning Commission, thereby obviating the need for a planning scheme amendment.	Out of scope. The proposed change is to process of removal of duplicate entries, not removal of sites from THC Register completely.
<b>Reduction and increase of administrative timeframe</b>		
section 19, 20, 21	Suggest justification for the proposed reduction of the timeframe for objections and submissions relating to permanent entries in the Register from 60 to 30 days but increasing the timeframe for the Heritage Council to decide on such objections or submissions from 120 to 180 days.	More detailed explanations will be provided in Cabinet/Parliamentary brief. The reduction in submission period within section 19 and 20 will speed up review

	suggest caution in reducing the timeframes for receiving submissions and objections while increasing THC's administrative timeframes; and the message that this sends to the community and the potential harm it might cause in preventing people from engaging in the consultative processes.	process time without any significant impact on stakeholder ability to make submission. The extension of time for the separate section 21 process of deciding upon permanent listings is to align it with the now bimonthly meeting schedule of the Tasmanian Heritage Council.
<b>Notice to take or stop action</b>		
notice to take or stop action	Acknowledge this is an important amendment to allow for more effective enforcement of the Act.	No further action required
section 60 - Notice to take or stop action	It is vital that the THC is given sufficient resources to properly investigate and take steps such as issuing notices, where appropriate.  The THC also should have the ability to issue infringement notices which would bring it in line with enforcement processes under LUPAA 1993.	Out of scope
<b>Drafting</b>		
section 39(2)(a)	Suggest review the drafting and check the use of 'or' and whether it should be an 'and' in section 39(2)(a). If it is the 'and', suggest drafting as 'and any other registered place that adjoins the relevant registered place or heritage area'.	Recommendation was adopted for the OPC to review drafting.
section 39A(b) and 42 (f)	Same comments as for section 39(2)(a) amendment.	Recommendation was adopted for the OPC to review drafting.
section 4A (Matters to be regarded) subsection (2)	Request clarification 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'.	Review and clarification requested from OPC.
<b>Definition</b>		
section 3 amended definition of 'building'	Suggest new definition of 'building' be consistent with that is defined in <i>the Land Use Planning and Approvals Act 1993</i> .	Recommendation is adopted.
<b>Liaison with planning authority</b>		

adjacent THR places	Support the provisions for protection of adjacent THR place; suggesting the creation of heritage zones similar to that is within the planning scheme.	The idea of creation of heritage zones is outside of the legislative level of consideration. The adjacency provision in amendment will afford statutory power to assess impacts on adjacent THR places.
<b>Liaison with planning authority</b>		
section 39(2)(e) and 39A(2)(d) 'may liaise with the relevant planning authority.'	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.	Out of the scope of this round of amendment.  This may be considered for next round of review.
s41 correction and minor amendment	Suggest that THC fails to provide opportunity for planning authority to review and refine s41 of the Heritage Act to enable the Heritage Council to re-issue Notices of Heritage Decisions in situations where Planning Permits are amended.	
<b>Other matters</b>		
THC membership	Suggest having a Tasmanian Aboriginal person on THC to recognising European historic cultural heritage has been built on Aboriginal land.	Out of the scope of this round of amendment.
change of use	Suggest use that does not involve development of heritage places be regulated.	Out of scope.
Tasmanian Planning Scheme	Comments mainly relates to the issues resulting from the Tasmanian Planning Scheme and impacts on local heritage values due to no statutory requirement to list local heritage under the local provision schedules.	Submission is acknowledged, however issues raised are not within the scope of this legislative amendment.
engagement	Recommend THC providing closer opportunities to workshop proposed changes, and engagement strategy for future work with local government.	Working closer with LGAT will be aligned with THC local government engagement strategy.