12. Protecting Cultural Heritage

This chapter looks at laws that aim to protect human generated heritage – buildings, artefacts, structures and places of historic and cultural interest, including Aboriginal sites.

What is cultural heritage?

“Cultural Heritage” refers to any places or artifacts that have cultural, scientific, aesthetic, architectural, community or historic interest to our community or to future generations. It includes not only buildings and other physical structures, but localities where significant events have occurred. These laws protect not only individual sites, but can include entire areas, such as historic Battery Point and West Point (NW Coast). These laws help to protect the essential integrity of our cities, towns and rural landscapes for the interest and enjoyment of present and future generations.

This can be a delicate area of law, because structures and places having cultural interest exist mostly on privately owned land. It is often difficult for governments to restrict private landowners' rights.

“Aboriginal Cultural Heritage” in Tasmania is addressed as a completely separate issue from “Historic Cultural Heritage”.

<table>
<thead>
<tr>
<th>CASE STUDY: Historic Cultural Heritage vs Aboriginal Cultural Heritage</th>
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<tbody>
<tr>
<td><strong>Reynolds v Tasmanian Heritage Council</strong></td>
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<tr>
<td>As part of the campaign opposing the Brighton Bypass (see below), an application was made to the Tasmanian Heritage Council on 26 May 2010 to have the Lower Jordan River Levee listed on the Tasmanian Heritage Register on the basis of the cultural significance of the site. The applicants submitted to the Heritage Council:</td>
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<tr>
<td>‘We are not Aboriginal but that does not mean that we cannot appreciate the value of the place for the knowledge it has already given and the information it is yet to yield – if the site is preserved. We believe too much of Tasmania’s Aboriginal history has been lost or destroyed. We want to preserve for all people this unique place that offers so much for all of us.’</td>
</tr>
<tr>
<td>The Heritage Council rejected the application because s.98 of the Historic Cultural Heritage Act 1995 prevents properties being included in the Tasmanian Heritage Register if the significance of the place is because of its “association with Aboriginal history, tradition or traditional use.” The applicants challenged the decision in the Supreme Court, arguing that s.98 was invalid because it offended against the Racial Discrimination Act 1975. They argued that the Aboriginal Relics Act 1975 did not provide the same level of protection as the Historic Cultural Heritage Act 1995, so it was discriminatory to deny places of Aboriginal cultural significance the higher degree of protection offered under the Tasmanian Heritage Register. The Supreme Court dismissed the appeal, saying that the exclusion of Aboriginal cultural places from the operation of the Historic Cultural Heritage Act 1995 was not discriminatory. Justice Tennent stated:</td>
</tr>
<tr>
<td>‘The section also does not prevent Aboriginal persons from protecting places which are archaeologically, culturally, historically or socially significant for Aboriginal people. It only restricts any person nominating a place where its only significance is its association with Aboriginal history, tradition or traditional use.’</td>
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<tr>
<td>As a result, the Aboriginal Relics Act 1975 remains the only law available explicitly for the protection of Aboriginal cultural heritage in Tasmania.</td>
</tr>
</tbody>
</table>
12.1 Protecting Aboriginal Cultural Heritage

People have lived in Tasmania for over 40,000 years, a perspective that should never be lost when evaluating heritage values. For Tasmanian Aborigines, these values go well beyond saving a few artefacts for historic interest – they have an extremely high significance to their identity and living culture.

At the time of writing, laws to protect Aboriginal cultural heritage in Tasmania are badly outdated and fail to adequately protect cultural history that is important to the Aboriginal community. Some of the criticisms of the current laws include:

- lack of Aboriginal community involvement in decision making;
- restrictive definitions of Aboriginal heritage;
- availability of an ‘ignorance’ defence for damage to Aboriginal heritage (that is, a person who did not know that a place or item had significance to Aboriginal people will not be guilty for any damage caused);
- lack of integration with the broader planning system; and
- lack of enforcement or regulation of the quality of Aboriginal heritage assessments.

BRIGHTON BYPASS – CASE STUDY

Recent debate over the construction of the Brighton Bypass highlights the need for improved laws to protect Aboriginal heritage. Despite significant archaeological discoveries during planning indicating that the site of the Jordan Levee was a cultural heritage site estimated to date back nearly 42,000 years, the State Government continued with their plans to build the large road infrastructure project over the top of this important historical and cultural site. Efforts by the Tasmanian Aboriginal community to stop the work were unsuccessful, as the outdated Aboriginal Relics Act 1975 offered very limited protection.

In response to significant public outcry at the plans to build the Bypass, on 23 December 2010, the Federal Environment Minister used his emergency powers under the Environment Protection and Biodiversity Conservation Act 1999 to have the Jordan River Levee placed on the National Heritage List. The Australian Heritage Council subsequently confirmed the heritage values of the site, and listed the site permanently in the National Heritage List. Unfortunately, the listing could not prevent construction of the Bypass that had been approved before the site was entered into the Heritage List.

For more information about the Brighton Bypass situation, see www.tacinc.com.au

Proposed reforms

The Tasmanian government has recently released draft legislation which seeks to modernise the protection of Aboriginal cultural heritage in Tasmania. The public comment period in relation to the Bill closed in December 2012. The comments will help to inform the content of the final legislation. Hopefully, the new laws will provide more involvement for the Aboriginal community in the decision making process and better protection of Aboriginal heritage.

A Regulatory Impact Statement for draft regulations was also released in June 2013.

To see a copy of the draft Aboriginal Heritage Protection Bill 2012 and the proposed regulations, go to the DPIWE website.

Aboriginal Heritage Council (Interim)

As part of these reforms, the State government has also established an Interim Aboriginal Heritage Council to provide policy advice and recommendations to the Minister for
Environment, Parks and Heritage in relation to the protection and management of Aboriginal heritage.

The Council consists of seven people who reside in Tasmania. Members must represent Aboriginal interests, but are not explicitly required to be Aboriginal. Members are nominated by the Minister and appointed by the Governor on the basis of knowledge, experience and expertise.

How is Aboriginal cultural heritage protected?

Presently there are six main avenues:

- **Through land ownership** - see below

- **The Aboriginal Relics Act** (presently under review) provides for the management of protected sites and objects, which are proclaimed by order. All Aboriginal relics, whatever the land status, are protected under Section 14 of the Act unless a permit from the Minister is issued.
  
  1. It is an offence for any person (including government agencies) to damage, destroy, conceal, deface or otherwise interfere with a relic or a protected site. All alleged offences of this nature are investigated. However, it is a defence if the person can show that they did not know that the relevant relic or site was protected.

  2. If a developer discovers a relic during construction work, all work must stop until the site has been assessed to see what mitigation measures are necessary.

- **State and Historic Reserves** (declared under the Nature Conservation Act 2002) - Aboriginal sites are protected and cultural activities are permitted, including traditional hunting and gathering, provided the activities are not likely to have a detrimental effect on fauna and flora and are consistent with the Act.

- **Traditional Aboriginal hunting** and gathering is permitted on Aboriginal land under the Aboriginal Lands Act 1995 and under the Living Marine Resources Management Act 1995.

- **Land Use and Planning Approvals Act 1993** - planning decisions can protect Aboriginal cultural heritage. For example, Aboriginal heritage issues can be addressed through Planning Schemes provisions which require Environmental Impact Assessments or heritage surveys to be carried out in areas of known or potential significance to Aboriginal people (☞ Go to Chapter 5).

- **Tasmanian State Coastal Policy** - this Policy, which must be considered when assessing development or changes to planning schemes in the coastal zone, includes objectives relating to Aboriginal heritage protection (☞ Go to Chapter 7).

What about Aboriginal-owned land?

In the past two decades, several Crown Land sites have been transferred (i.e. returned) to Aboriginal ownership and control under the Aboriginal Lands Act 1995. These areas are under the control of the Aboriginal Land Council of Tasmania (ALCT), a statutory body.

Mining and exploration are prohibited in these areas without the permission of the Aboriginal Land Council.

Some of these areas are also classified as Indigenous Protected Areas (part of the National Reserve System and the international IUCN reserve system). This special land classification allows for protection and maintenance of both natural and cultural resources in tandem, producing social and cultural outcomes from natural resource conservation activities on land and sea. Indigenous Protected Areas in Tasmania include Preminghana, Oyster Cove, Risdon Cove and Badger and Chappell Islands

☞ for information on reserve classifications see Chapters 7 and 15.
In the absence of more comprehensive laws, the Tasmanian Aboriginal Land and Sea Council and the Tasmanian Aboriginal Centre (non-government organisations created by the Aboriginal community) provide Aboriginal community views on matters affecting Aboriginal heritage.

Commonwealth powers

An important piece of legislation is the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. It aims to protect sites of cultural significance to Aboriginal people themselves and it enables the Federal minister to make a declaration that a place or object is to be protected from ‘desecration or injury’. Such a declaration can only be made after consultation with the relevant State government, and only if the Minister is satisfied that State legislation will not provide adequate protection.

Unfortunately, application of the ATSIHP Act relies on demonstrating native title, or continuous connection to country. As a result of historic dispossession, Tasmanian Aborigines cannot meet this criterion for protection under the Federal legislation.

The Environment Protection and Biodiversity Conservation Act also contains important requirements:

- The role, knowledge and interests of Aboriginal people must be recognised when determining or promoting conservation and ecologically sustainable use of Australian natural systems (section 3);
- The role and interest of Aboriginal people in the conservation of biodiversity must be considered when Plans for Recovery, Threat Abatement and Wildlife Conservation are being drawn up (sections 270, 271(3), 287);
- On Commonwealth Reserves, ceremonial practices, hunting and gathering may continue (section 359A);
- Some highly significant Aboriginal sites in Australia (such as Uluru and Kata Tjuta) are legally protected under the EPBC Act. The protection is only offered to places that are specifically listed under National Heritage, Commonwealth Heritage or World Heritage classifications. You can see the list of recognised heritage places on the Department of Environment website.
- Affected Aboriginal communities must also be consulted by the Australian Heritage Council when assessing sites and when making Conservation Agreements.

A review of federal environmental legislation in 2009 (the Hawke Review) recommended that the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 be incorporated into the EPBC Act.

The Hawke Review states that this incorporation would remove overlap and duplication in the assessment and authorisation process. The government has ‘agreed to consider’ incorporating the provisions of the two Acts.

Any attempt to incorporate the two Acts will need to ensure that Federal protections are not confined to Aborigines able to demonstrate native title rights.

Go to Chapter 15 for more information on national environmental laws.
12.2 Protecting Historic Cultural Heritage

Tasmanian places that have historic cultural heritage values are protected through two principal mechanisms.


The Historic Cultural Heritage Act 1995 is the primary law relating to listing and protecting places that have historic cultural heritage values.

Under the Act, significant places are identified and listed on the Tasmanian Heritage Register, which is administered by the Tasmanian Heritage Council.

Recent changes have integrated the heritage legislation with existing development controls (described in more detail in Chapter 5). This has meant that when development is proposed that may impact on heritage values, the local council will refer the development to the Heritage Council for assessment as part of the approval process.

2. Land Use Planning and Approvals Act 1993

Some local councils (particularly Hobart and Launceston) also keep comprehensive inventories of heritage buildings and sites within their municipal areas (this may include places that are also included in the Tasmanian Heritage Register, as well as places that have only local heritage significance). Planning schemes in many council areas provide extra criteria for developments which may affect heritage places listed in the Scheme.

For example, where a development is proposed on, or adjacent to, a listed heritage place, the Planning Scheme may require the developer to obtain a heritage assessment, or may prevent the Council from approving the development unless it is satisfied that the heritage values of the listed place will not be adversely affected.

If a place is listed on the Tasmanian Heritage Register, any application for works or development on the property will be referred to the Heritage Council for consideration as part of the planning approval process (unless a certificate of exemption is issued – see below).

For more information about how you can make submissions, or challenge local council decisions, in relation to developments at heritage places, Go to Chapter 5.

What does the Heritage Act do?

The Heritage Act is an integral part of Tasmania's comprehensive planning system (the Resource Management and Planning System - RMPS), which gives owners and other citizens formal rights of appeal when decisions are made.

Go to Chapter 4 to see how the RMPS works.

What is the Tasmanian Heritage Council?

The Tasmanian Heritage Council is the statutory body responsible for administering the Heritage Act and maintaining the Tasmanian Heritage Register. Any development on places listed on the Tasmanian Heritage Register must be approved, or specifically exempted, by the Heritage Council before works can commence.

You can download a variety of online Application Forms from the Heritage Tasmania website - including an application to nominate a place to be included in the Heritage Register and an application for a certificate of exemption in relation to proposed works.
How are properties listed?

Any person is able to make an application to the Tasmanian Heritage Council to have a place included in (or removed from) the Register. “Places” include areas, land, buildings and associated items, and also shipwrecks.

In order to be entered in the Register, a place must have “cultural heritage significance” and meet at least one of the significance criteria set out in section 16 of the Heritage Act.

Please note: Aboriginal cultural heritage is not managed under the Historic Cultural Heritage Act and is dealt with under other legislation – see above.

Where can I see the Heritage List?

There are several thousand places entered on the Tasmanian Heritage Register. You can download a copy of the Register from the Heritage Tasmania website.

To purchase a hard copy of information about a particular listed place, you will need to complete a Heritage Register Search form (please note, fees of approximately $35 apply for the search.

A list of all heritage sites in Australia (on both state and national listings) is also available at the Australian Heritage Places Inventory.

Section 337 of the Local Government Act requires local councils to provide information about places on the Heritage Register if you request a Council Land Information Certificate (this is generally done before purchasing property).

How are heritage values protected?

The principal mechanism for protecting listed places or heritage areas is requiring any person who wants to undertake works at the place or area to obtain a planning permit. This also applies to state and local government officers undertaking work on public buildings. The process for obtaining a permit has recently changed, and is discussed in more detail below.

“Works” is defined broadly, and includes any development, excavation or other intervention that may change the appearance of the place, changes to the topography and removal of topsoil or vegetation (unless otherwise approved under a Forest Practices Plan - ☛ Go to Chapter 8).

Previously, landowners who wanted to undertake works on a heritage place (referred to as ‘heritage works’) required both a planning permit from the local council and a works approval from the Heritage Council. Under recent changes to the Heritage Act, heritage works require a planning permit only (unless a certificate of exemption has been granted for the works – see below).

It is an offence to undertake heritage works without a permit (or, if a certificate of exemption has been granted, without complying with the conditions of the certificate). Unlawful works can attract a fine of up to $650,000 for an individual.

If a certificate of exemption has been issued for the heritage works, but the works also require a planning permit for reasons other than heritage (for example, if the works are to change the use of the premises from residential to a shop), a planning permit will still be required. However, the permit application will not be assessed by the Heritage Council.

Until recently, the Heritage Act prevented the Heritage Council from approving demolition of a heritage place unless the Heritage Council was satisfied that there was
“no prudent and feasible alternative” to the demolition. Under the revised Heritage Act, this explicit restriction has been removed, but applications for heritage works involving demolition will continue to be assessed against the objectives of the Heritage Act.

The Tasmanian Heritage Council has various powers to prevent or restrict heritage works. This includes powers to issue orders to stop works that may harm the historic cultural heritage significance of a registered heritage place OR a place which the Heritage Council believes should be a registered place.

What if I am a property owner or developer?

Owners of heritage listed properties, or properties in heritage areas, who wish to undertake works on their property must:

- Apply for a certificate of exemption; or
- If no exemption certificate is issued, apply for a heritage works approval.

Certificates of exemption

Applications for a certificate of exemption are made in writing to the Heritage Council. Applications must provide sufficient detail regarding the proposed work and the likely impact on the heritage values of the property.

If Heritage Council is satisfied that the proposed works:

- fall within the types of work identified in the work guidelines as having no / negligible impact on heritage values; and
- will be carried out in accordance with the work guidelines

the Council must issue a certificate of exemption and provide a copy to the relevant planning authority (local council).

In all other circumstances, the Heritage Council has discretion to approve or refuse an application for a certificate of exemption.

A certificate of exemption must clearly describe the works that are exempted, and the location in which the works are authorised to occur. If the works do not comply with the description in the certificate, the landowner cannot rely on the certificate to exemption to avoid the need for a planning permit.

Planning Permits

If no certificate of exemption has been issued for proposed heritage works, a landowner must apply to their planning authority (local council) for a planning permit for the works.

The application will be treated as a discretionary application (Go to Chapter 5). The planning authority must refer the application to the Heritage Council and ask whether the Heritage Council wishes to be involved in the assessment of the application (that is, does the Heritage Council have concerns regarding the impact of the works on heritage values?).

If the Heritage Council advises that it does not wish to be involved in assessing the application for heritage works, or fails to notify the planning authority within 7 days that it wishes to be involved, the application is taken to be withdrawn. In this situation, no further permit is required in respect of the heritage works.

Please note, if the application is withdrawn for the heritage works, but the works also require a planning permit for other reasons (for example, if the works are to change the use of the premises from residential to a shop), a planning permit may still be required (go to Chapter 5). However, the permit application will not be assessed by the Heritage Council.

If the Heritage Council advises the planning authority that it does wish to be involved in assessing the application for heritage works, the Heritage Council may request further
information from the applicant. The application will also be advertised and comments from the public will be invited (go to Chapter 5).

The Heritage Council will consider the application, including any additional information, and forward its recommendation to the planning authority.

If the Heritage Council recommends that the application be refused, the planning authority must refuse to grant a permit for the heritage works.

If the Heritage Council recommends that the application be approved, with or without conditions, the planning authority still has discretion to refuse the application. However, if the planning authority does approve the application, the permit must be subject to the conditions recommended by the Heritage Council.

In this way, the powers of the Heritage Council in relation to development applications are similar to those of other referral agencies, such as the Environment Protection Authority and TasWater (go to Chapter 5).

Go to the Heritage Tasmania website for a flowchart of the assessment process.

If your property is listed in the Heritage Register and you intend to take an action that you think could affect heritage values in any way, contact the Heritage Council to discuss your plans. Heritage officers can give you a good idea about whether a permit will be required, and may assist with suggestions about amendments to your design that would make your proposal more consistent with the heritage values of your property.

Early conversations with Heritage Tasmania can save you a lot of time and money! Heritage Tasmania officers are happy to discuss proposals with landowners – check out their website for contact details and helpful guidelines.

What conditions can apply?

Permits for heritage works may be subject to a range of conditions, such as limiting the area of disturbance, requiring particular heritage trees to be retained or requiring work to be undertaken under the supervision of a suitably qualified person.

You must comply with the conditions in the planning permit. Failing to carry out the heritage works in accordance with permit conditions could result in a stop work order or a fine of up to $130,000 for an individual.

What if I am unhappy with the Heritage Council’s decision?

If you are unhappy with the decision to refuse your application, or think that the conditions are too restrictive, you can appeal against the decision to the Resource Management and Planning Appeal Tribunal (see below).

Where the Heritage Council has been involved in assessing your application, both the planning authority and the Heritage Council will be parties to your appeal and can appear at the Tribunal to give evidence in support of their decision.

Can I have a say about heritage decisions?

Any concerned person may make a submission to the Heritage Council about decisions to include a property in the Register, or remove a listed property from the Register.

Any concerned person may also make a representation to the relevant planning authority about an application to conduct works on a heritage listed property. All submissions are forwarded to the Heritage Council for consideration before they make their recommendation about whether to approve the works (see above).

A person who made a submission / representation is entitled to appeal against the relevant decision. Appeals are made to the Resource Management and Planning Appeal Tribunal.

Go to Chapters 5, 6 and 14 for information about the appeal process.
Download application forms from the Tribunal website.

Appeals to the Tribunal in relation to works approvals need to be made within 14 days of a notice of the decision. Appeals in relation to decisions to list (or de-list) properties must be made within 30 days.

What if I am a potential buyer?

If you are thinking of buying a property that you think has heritage values (or may be subject to a heritage agreement – see below), you should talk to the Heritage Council and local council to see what conditions may apply to that property.

You can search the Heritage Register online to see if the property you are looking at is on the Register, and can apply to the Heritage Council for a more detailed extract if the property is listed.

It is particularly important to check for heritage restrictions if you are thinking about making any alterations after you purchase the property – it is always best to know what hurdles you may face in advance!

In what other ways can cultural heritage be protected?

- Heritage Agreements
- Reservation of heritage areas under the Nature Conservation Act 2002
- Assessment of specific developments potentially affecting heritage (such as forestry or mining activities)
- National heritage listing under the EPBC Act

What are Heritage Agreements?

The Tasmanian Heritage Act also enables property owners to enter into Heritage Agreements. A Heritage Agreement can impose certain restrictions on how a property may be used or modified and it may provide for assistance and resources to help the owner protect the place.

These agreements attach to the property title and are binding on the owner and occupier (and any future owners or occupiers).

The Appeals Tribunal can make orders forcing owners or occupiers to comply with Heritage Agreements. If an order has been made against you, you can challenge the decision in the Supreme Court (see s.54 (1) of the Heritage Act).

What are ‘Historic Reserves’?

Historic Reserve is a classification under Tasmania’s system of protected reserves, declared under the Nature Conservation Act 2002 (go to Chapter 7 for information regarding Tasmania’s reserve system).

The Historic Heritage section of the Parks & Wildlife Service manages historic reserves. In most cases, a management plan will set out the rules for managing activities in the Historic Reserve.
Other Tasmanian laws

Tasmanian authorities may also have responsibility for protection or conservation of historic cultural heritage under other laws. For examples, see:

- **Major Infrastructure Developments Approvals Regulations 2000** (regulation 4)
  Project proponents may be required to address heritage values as part of their impact assessment for large infrastructure projects

- **Mining (Strategic Prospectivity Zones) Act 1993** (see section 7(6))
  Generally, Crown Land that has been included in a Strategic Prospectivity Zone (that is, an area identified as having mining potential) cannot be sold or protected from mining without the approval of both Houses of Parliament. However, if a mining lease or licence has been granted and then items of cultural heritage value are discovered, the land can be reserved without parliamentary approval.

- **Private Forests Act 1994** (see section 6)
  Private Forests Tasmania will examine issues relating to cultural heritage when assessing applications for forestry operations on private land.

- **Water Management Act 1999** (see sections 155, 162)
  Heritage issues must be considered when assessing applications for dam permits.

Some historic sites, including the Theatre Royal and Royal Tasmanian Botanic Gardens, are also protected under their specific management Acts.

What national laws apply?

Most heritage places are protected under State laws. The protection of heritage under national laws is limited to those places which are considered to be of national (or international) significance or which are owned by the Commonwealth government.

The following heritage lists are relevant at a national level, and managed under the Environment Protection and Biodiversity Conservation Act 1999:

1. The National Heritage List
   - This is a limited listing of heritage places that have outstanding national significance. Tasmanian places entered in the list include Port Arthur, the Hobart Female Factory and the Richmond Bridge.
   - If you would like to look up whether a place is listed on the National Heritage List, check the register on the [Department of Environment website](#).

2. The Commonwealth Heritage List
   - This is a listing of places that are owned or controlled by the Commonwealth.
   - There are 18 Tasmanian entries, mainly historic buildings such as post offices and lighthouses.

Any person may apply to have a place listed or for an emergency listing.

The EPBC Act also seeks to implement the World Heritage Convention, which obliges the Australian Government to protect any World Heritage sites (✦ Go to Chapter 7), including those that are listed for their cultural heritage significance.

Heritage sites that are included in the National Heritage List, the Commonwealth Heritage List or the World Heritage List can be protected under provisions of the national EPBC Act. Their heritage values are a ‘matter of national environmental significance’ under the Act and developers are therefore required to seek approval from the Federal Minister for any actions that are likely to have a significant impact on these heritage values.
A heritage place can be listed on both the Tasmanian Heritage Register, and on the National or Commonwealth Heritage List.

A World Heritage or a National Heritage place may not require approval under the EPBC Act if a bilateral agreement between the Commonwealth and a State enables actions (i.e., developments) to be carried out in accordance with an accredited management plan.

Commonwealth agencies are required to develop and implement management plans for heritage places under their control.

Go to Chapter 15 to see how the EPBC Act works.

Formerly, many thousands of heritage places were listed on the Register of the National Estate. This list is no longer maintained, and no specific protection is afforded to place that were included on the Register.

Many of those places have been listed under local, state or Federal heritage lists.

12.3 Moveable Cultural Heritage

Australia is a signatory to the UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property. The protections under that Convention are implemented in Australia by the Protection of Moveable Cultural Heritage Act 1986. This Act prohibits imports or exports of protected classes of items into and from Australia.

Moveable Cultural Heritage includes “objects that are of importance to Australia, or to a particular part of Australia, for ethnological, archaeological, historical…..scientific or technological reasons...” For example, books, artifacts, records and documents can be classed as moveable heritage.

There is no Tasmanian equivalent of the Moveable Cultural Heritage legislation, so you would need to check the Federal legislation when considering importing or exporting any item that may be of heritage significance.

For more information about Moveable Cultural Heritage, see arts.gov.au/movable

12.4 Protection of historic shipwrecks

There are currently 950 shipwrecks around Tasmania’s coastline. Those in Tasmanian waters are protected under the Historic Cultural Heritage Act 1995.

Approval from the Tasmanian Heritage Council is required before you can undertake any activity which is likely to disturb the shipwreck. The Heritage Council may also declare a “protected zone” around a shipwreck, and require any person who wants to enter the protected zone to get approval.

If you discover a shipwreck that is not currently registered with the Tasmanian Heritage Council, you must report it to the Tasmanian Heritage Council within 30 days.

Shipwrecks and maritime history sites may also be in ‘historic reserves’ under the Nature Conservation Act 2002.

Shipwrecks that are located in Commonwealth waters are protected by the Commonwealth Historic Shipwrecks Act 1976. In practice, this Act is managed by the Tasmanian Department of Primary Industries, Parks, Water and the Environment.