Cultural Heritage Fact Sheets
Protecting Tasmanian Heritage

Several pieces of legislation in Tasmania recognise the importance of identifying, conserving, managing and promoting heritage places. This Fact Sheet explains how heritage places are identified and what you can do to protect them.

What is “historic cultural heritage”?  
In Tasmania, “historic cultural heritage” places are listed on the Tasmanian Heritage Register. This Register is maintained by the Tasmanian Heritage Council under the provisions of the Historic Cultural Heritage Act 1995. You can search the Register at http://www.heritage.tas.gov.au/.

The definition of “place” includes sites, buildings, shipwrecks and equipment, furniture and fittings associated with historic places.

To be eligible for entry onto the Register, a place must have scientific, aesthetic, architectural, community or historic significance to our community or future generations. For example, a place may be listed because it is important in demonstrating the evolution or pattern of Tasmania’s history (e.g. Port Arthur) or is representative of the characteristics of a broader class of cultural places (e.g. historic workers cottages).

Please note, indigenous heritage is dealt with under the Aboriginal Relics Act 1975 (see below).

How are heritage places protected?
Section 32 of the Historic Cultural Heritage Act 1995 makes it an offence to carry out works on a listed heritage place that may affect the cultural heritage significance of the property without approval of the Tasmanian Heritage Council (or the local council, if the Heritage Council has delegated its powers).

Many local councils also maintain a register of locally important heritage properties. Once identified in a planning scheme, such properties may be subject to development restrictions in addition to Heritage Council restrictions.

What is a heritage agreement?
The Minister, National Trust or local council may enter into a Heritage Agreement with owners of a listed heritage place (on advice from the Heritage Council).

A Heritage Agreement is a binding agreement that attaches to the land title. A heritage agreement can include provisions restricting the use of the heritage place, requiring certain works to be carried out, providing financial or technical assistance for the protection of the place or providing for public access to the heritage place.

How are places listed on the Register?
Anybody can nominate a place for inclusion on the Tasmanian Heritage Register. If the Heritage Council considers that the place should be listed, they will place a notice in the newspaper advising that they intend to list the place on the Register.

Any person can make a submission supporting or objecting to the proposal to list the place within 60 days of the notice. An objection can only be made on the basis that a property does not satisfy the criteria for entry onto the Register. The Council will consider all comments received before making a final decision on whether to permanently list a property on the Register.

This Fact Sheet has been prepared for information only and does not constitute legal advice. For advice on your legal rights and enforcement options, contact the Environmental Defenders Office (EDO) Tasmania, on (03) 6223 2770 or email edotas@edo.org.au.
Can heritage places be removed from the Register?

The Heritage Council may remove a property from the Register, based upon a recommendation from its own experts or an application from any person. The Council must publish notice in the newspaper that it intends to remove a property from the Register and invite written submissions regarding the removal for at least 30 days.

Can I appeal?

Any person who made an objection or submission regarding the removal or inclusion of a property in the Register may appeal to the Resource Management and Planning Appeals Tribunal against the Heritage Council’s decision.

You can also appeal to the Tribunal against a decision to approve works on a listed heritage place.

Indigenous heritage

The Minister can declare an area in which a relic is found to be a protected site. “Relics” include artefacts, paintings, carvings, middens and similar objects created before 1876 or places bearing signs of indigenous activities. The Aboriginal Heritage Office maintains a register of identified Aboriginal heritage places, including the Tasmanian Aboriginal Site Index.

The Director is responsible for protecting and preserving protected sites and managing appropriate access to the site. If a relic cannot be protected at the site, it may be removed to a suitable place (e.g. a museum).

It is an offence to destroy, damage, expose, remove or interfere with a relic, without a permit from the Director. 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 to protect Aboriginal heritage and a permit granted for further work.

Note: A review of legislation to protect Tasmanian Aboriginal heritage is currently being undertaken – for further information visit http://www.tahl.tas.gov.au/.

Contacts

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<thead>
<tr>
<th>Tasmanian Heritage Council</th>
<th>Aboriginal Heritage Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 6, 134 Macquarie Street</td>
<td>22 Elizabeth St</td>
</tr>
<tr>
<td>GPO Box 618</td>
<td>Hobart TAS 7001</td>
</tr>
<tr>
<td>Hobart TAS 7001</td>
<td>Ph: (03) 6233 3186</td>
</tr>
<tr>
<td>Ph: (03) 6233 2037</td>
<td>Email: <a href="mailto:tasheritage@heritage.tas.gov.au">tasheritage@heritage.tas.gov.au</a></td>
</tr>
<tr>
<td>Fax: (03) 6233 3186</td>
<td><a href="http://www.dtae.tas.gov.au/divisions_aho.html">http://www.dtae.tas.gov.au/divisions_aho.html</a></td>
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