

Legislative Council—No 107

As introduced and read a first time, 30 August 2023

South Australia

Heritage Places (Protection of State Heritage Places) Amendment Bill 2023

A BILL FOR

An Act to amend the *Heritage Places Act 1993*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Heritage Places (Protection of State Heritage Places) Amendment Act 2023*.

Part 2—Amendment of *Heritage Places Act 1993*

2—Amendment of section 33—Effect of heritage agreement

Section 33(2)(d)—delete paragraph (d) and substitute:

(d) provide for—

- 10 (i) the management, occupation, use or future use of the land,
or any place on or in the land; or
- (ii) the management of any specimens or artefacts on or in the
land,

15 in accordance with a particular management plan or in accordance
with management plans to be agreed from time to time between the
Minister and the owner;

3—Amendment of section 36—Damage or neglect

(1) Section 36(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- 20 (a) in the case of an individual—\$250 000;
(b) in the case of a body corporate—\$500 000.

(2) Section 36(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- 25 (a) in the case of an individual—\$100 000;
(b) in the case of a body corporate—\$200 000.

- (3) Section 36(3), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an individual—\$100 000;
- (b) in the case of a body corporate—\$200 000.

5 **4—Amendment of section 38A—ERD Court orders**

- Section 38A(9), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an individual—\$250 000;
- (b) in the case of a body corporate—\$500 000.

10 **5—Amendment of section 39A—Protection orders**

- (1) Section 39A(2)—after paragraph (d) insert:

(da) may specify that a requirement imposed by the order be done within a specified period or before a specified time; and

- (2) Section 39A(4), penalty provision—delete the penalty provision and substitute:

15 Maximum penalty:

- (a) in the case of an individual—\$100 000;
- (b) in the case of a body corporate—\$200 000.

- (3) Section 39A—after subsection (12) insert:

20 (13) A person who commits an offence against subsection (4) in respect of a failure to comply with an order relating to a State Heritage Place by reason of a continuing act or omission—

25 (a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an amount equal to one-tenth of the maximum penalty prescribed for that offence; and

30 (b) is, if the act or omission continues after the person is convicted of the offence, guilty of a further offence against that subsection and liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues after that conviction of not more than an amount equal to one-tenth of the maximum penalty prescribed for that offence.

35 (14) For the purposes of subsection (13) an obligation to do something is to be regarded as continuing until the act is done notwithstanding that any period within which, or time before which, the act is required to be done has expired or passed.

6—Amendment of section 42—General provisions relating to offences

- (1) Section 42(2)—after "as is prescribed for the principal offence" insert:
when committed by an individual
- (2) Section 42(2a)—after "as is prescribed for the principal offence" insert:
when committed by an individual

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