



Queensland

Queensland Heritage and Other Legislation Amendment Act 2007

Act No. 50 of 2007



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Queensland Heritage and Other Legislation Amendment Act 2007

Act No. 50 of 2007

An Act to amend the *Queensland Heritage Act 1992*, and for related purposes

[Assented to 25 October 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Heritage and Other Legislation Amendment Act 2007*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Queensland Heritage Act 1992

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Queensland Heritage Act 1992*.

4 Amendment of s 2 (Objects of this Act)

(1) Section 2, heading, ‘Objects’—

omit, insert—

‘Object’.

(2) Section 2(1)—

omit, insert—

‘(1) The object of this Act is to provide for the conservation of Queensland’s cultural heritage for the benefit of the community and future generations.

‘(1A) The object is to be primarily achieved by—

- (a) establishing the Queensland Heritage Council; and
 - (b) keeping the Queensland heritage register; and
 - (c) keeping local heritage registers; and
 - (d) regulating, in conjunction with other legislation, development affecting the cultural heritage significance of registered places; and
 - (e) providing for heritage agreements to encourage appropriate management of registered places; and
 - (f) providing for appropriate enforcement powers to help protect Queensland's cultural heritage.'
- (3) Section 2(2), from 'the Minister,' to 'persons'—
omit, insert—
'the Minister, the chief executive, the council and other persons and entities'.
- (4) Section 2(2), 'objects'—
omit, insert—
'artefacts'.
- (5) Section 2(1A) and (2)—
renumber as section 2(2) and (3).

5 Replacement of s 4 (Crown bound)

Section 4—

omit, insert—

'4 Act binds all persons

- '(1) This Act binds all persons including the State, and to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- '(2) Nothing in this Act makes the State liable to be prosecuted for an offence.'

6 Amendment of s 7 (Functions of council)

Section 7(1)—

omit, insert—

- ‘(1) The council has the following functions—
- (a) to provide strategic advice to the Minister about matters relating to Queensland’s cultural heritage, including, for example, measures necessary to conserve Queensland’s cultural heritage;
 - (b) to provide information to the community to encourage interest in, and understanding of, Queensland’s cultural heritage;
 - (c) to advise entities about conserving Queensland’s cultural heritage, including, for example, government entities and community organisations;
 - (d) to encourage the appropriate management of places of cultural heritage significance;
 - (e) to perform other functions given to the council under this Act or by the Minister.’.

7 Amendment of s 8 (Delegation by council)

- (1) Section 8(1)(c) and (d)—

omit, insert—

‘(c) an appropriately qualified public service officer.’.

- (2) Section 8(2) and (3)—

omit.

8 Amendment of s 10 (Chairperson and deputy chairperson of council)

- (1) Section 10(4) to (6)—

renumber as section 10(5) to (7).

- (2) Section 10(3)—

omit, insert—

- ‘(3) The chairperson or deputy chairperson holds office as chairperson or deputy chairperson for the term, of not more than 3 years, decided by the Governor in Council.
- ‘(4) Despite subsection (3), a person stops holding office as chairperson or deputy chairperson if the person stops being a member.’

9 Replacement of s 12 (Disqualification from membership)

Section 12—

omit, insert—

‘12 Eligibility for membership

- ‘(1) A person can not be appointed as a member if the person—
 - (a) has a conviction, other than a spent conviction, for an indictable offence or an offence against this Act; or
 - (b) has been a member for at least 6 consecutive years and the proposed appointment would happen less than 1 year after the day the person was last a member.
- ‘(2) A person who is a member can not be reappointed as a member if the reappointment would result in the person continuing as a member for more than 6 consecutive years.
- ‘(3) In this section—

spent conviction means a conviction—

 - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.’

10 Amendment of s 13 (Vacation of office)

Section 13(1)(b)—

omit, insert—

- ‘(b) is convicted of an indictable offence or an offence against this Act; or’.

11 Amendment of s 19 (Times and places of meetings)

(1) Section 19(1), ‘10 times’—

omit, insert—

‘6 times’.

(2) Section 19—

insert—

‘(5) Subsection (1) does not limit the number of meetings the council may hold in a year.’.

12 Amendment of s 28 (Annual report)

Section 28(2)—

omit, insert—

‘(2) The report must include—

(a) information, required by the Minister, relating to the performance of the council’s functions under this Act; and

(b) information about the timeliness of the council’s dealings with applications under part 4, division 5; and

(c) a statement about the measures the council considers necessary to conserve Queensland’s cultural heritage.’.

13 Replacement of ss 30 and 31

Sections 30 and 31—

omit, insert—

‘30 The Queensland heritage register

‘(1) The chief executive must keep a register called the Queensland heritage register.

‘(2) The Queensland heritage register must include a record of the following—

(a) State heritage places;

(b) archaeological places;

- (c) protected areas.
- ‘(3) An entry in the Queensland heritage register, for each place or area, must—
- (a) include enough information to identify the location and boundaries of the place or area; and
 - (b) include information about the history of the place or area; and
 - (c) include a description of the place or area; and
 - (d) if the place or area is the subject of a heritage agreement—state that fact; and
 - (e) for a State heritage place—include a statement about the cultural heritage significance of the place related to the cultural heritage criteria; and
 - (f) for an archaeological place—include a statement about the place related to the archaeological criteria; and
 - (g) for a protected area—include a statement about the cultural heritage significance of the place relevant to the declaration of the protected area.
- ‘(4) The chief executive may keep the Queensland heritage register in the form, including electronic form, the chief executive considers appropriate.

‘31 Register to be available for public inspection

- ‘(1) The chief executive must keep the Queensland heritage register, or a copy of the register, available for inspection, free of charge, by members of the public at—
- (a) the department’s head office; and
 - (b) other places the chief executive considers appropriate.
- ‘(2) The chief executive may publish a copy of the Queensland heritage register on the department’s website.’.

14 Amendment of s 32 (Extracts from heritage register)

- (1) Section 32, heading, ‘heritage’—
omit.
- (2) Section 32(1)—
omit, insert—
- ‘(1) The chief executive must, on application by a person and payment of the fee prescribed under a regulation, give to the person—
 - (a) a certified copy of any entry in the Queensland heritage register; or
 - (b) a certificate as to whether a place or area—
 - (i) is a State heritage place, an archaeological place or a protected area; or
 - (ii) is the subject of a heritage agreement.’.
- (3) Section 32(2), ‘heritage register’—
omit, insert—
‘Queensland heritage register’.

15 Replacement of s 33 (Changing entries in the heritage register)

Section 33—

omit, insert—

‘33 Changing entries in register

- ‘(1) The chief executive may change an entry in the Queensland heritage register for a registered place if the change—
 - (a) is the addition of an informative note to the entry; or
 - (b) corrects or updates the address or real property description of the place; or
 - (c) is another change to correct an error, or update information, in the entry.
- ‘(2) Despite subsection (1)(c), the chief executive must not, without the written agreement of the owner of a registered

place and the council, change a statement mentioned in section 30(3)(e), (f) or (g) for the place.’.

16 Amendment of s 34 (Criteria for entry in the register)

- (1) Section 34, heading, ‘the’—
omit.
- (2) Section 34(1), ‘heritage register if it is of cultural heritage significance and’—
omit, insert—
‘Queensland heritage register as a State heritage place if it’.
- (3) Section 34(2), ‘heritage register’—
omit, insert—
‘Queensland heritage register’.
- (4) Section 34(3) and (4)—
omit.

17 Replacement of ss 35–42

Sections 35 to 42—
omit, insert—

‘Division 2 Applications for entry of places in, or removal of places from, register

‘35 Applying to enter place in, or remove place from, register

- ‘(1) A person or other entity may apply to the chief executive—
 - (a) to have a place entered in the Queensland heritage register as a State heritage place; or
 - (b) to have a State heritage place removed from the register.
- ‘(2) The application must—
 - (a) be in the approved form; and

- (b) include the details, required in the approved form, to enable the chief executive to give the council a heritage recommendation for the application; and
 - (c) for an application to enter a place in the register, be accompanied by—
 - (i) a statement of how the place satisfies 1 or more of the cultural heritage criteria; and
 - (ii) information about the history of the place to support the statement mentioned in subparagraph (i); and
 - (iii) a description of the features of the place that contribute to its cultural heritage significance, supported by photographs, drawings or other documents showing the features; and
 - (d) for an application to remove a place from the register, be accompanied by—
 - (i) a statement of how the place does not satisfy any of the cultural heritage criteria; and
 - (ii) information to support the statement mentioned in subparagraph (i).
- ‘(3) The applicant may withdraw the application at any time before the council makes a decision on a heritage recommendation for the application.
- ‘(4) If the chief executive makes an application under this section, sections 37(1)(a) and 42C(1)(a) do not apply in relation to the application.
- ‘(5) Subsection (1) is subject to section 36.

‘36 Particular restriction on application

- ‘(1) If a place has been removed from the Queensland heritage register as a State heritage place, or the council has decided under this part not to enter a place in the register, a person or other entity can not apply to have the place entered in the register until at least 1 year after—
- (a) the day the place was removed from the register; or

- (b) the day the council decided not to enter the place in the register.
- ‘(2) If a place has been entered in the Queensland heritage register as a State heritage place, or the council has decided under this part not to remove a place from the register, a person or other entity can not apply to have the place removed from the register until at least 1 year after—
- (a) the place was entered in the register; or
 - (b) the council decided not to remove the place from the register.

‘37 Initial notice of application

- ‘(1) The chief executive must, within 10 business days after receiving an application for a place—
- (a) give notice of its receipt to the applicant; and
 - (b) if the applicant is not the local government for the area in which the place is situated—give the local government a copy of the application; and
 - (c) if the applicant is not the owner of the place—give the owner a copy of the application and a notice stating each of the following—
 - (i) the day the application was received;
 - (ii) for an application to have the place entered in the Queensland heritage register—that the place is under consideration for entry in the register;
 - (iii) for an application to have the place removed from the register—that the place is under consideration for removal from the register;
 - (iv) that the owner may give the chief executive a written submission about the application;
 - (v) the place where the submission may be given;
 - (vi) information about the period in which the submission may be given.

Note—

See section 40 for the period in which a submission may be given.

- ‘(2) If a notice under subsection (1)(a) or (c) is given to the owner of a place about an application to have the place entered in the Queensland heritage register, the notice must include information about the owner’s obligations under sections 43A and 43B in relation to the place.
- ‘(3) A copy of an application given to a local government or owner of a place under subsection (1)(b) or (c) must not include the applicant’s personal information, unless the applicant has given written consent to its inclusion.

‘38 Chief executive to publish notice of application

- ‘(1) The chief executive must, within 10 business days after acting under section 37 in relation to an application for a place, publish notice of the application—
 - (a) in a newspaper circulating generally in the area in which the place is situated; and
 - (b) on the department’s website.
- ‘(2) The notice under subsection (1)(a) must—
 - (a) include enough information to identify the place; and
 - (b) state the following—
 - (i) whether the place is under consideration for entry in, or removal from, the Queensland heritage register;
 - (ii) the place where the application may be viewed;
 - (iii) that a person or other entity may give the chief executive a written submission about the application;
 - (iv) the place where the submission may be given;
 - (v) information about the period in which the submission may be given.

‘39 Chief executive to keep applications available for inspection

- ‘(1) The chief executive must keep a copy of each application available for inspection by members of the public at—
- (a) the department’s head office; and
 - (b) other places the chief executive considers appropriate.
- ‘(2) A copy of an application available for public inspection must not include the applicant’s personal information, unless the applicant has given written consent to its inclusion.

‘Division 3 Submissions and representations about applications

‘40 When submission about application may be given to chief executive

- ‘(1) A person or other entity may give the chief executive a written submission (a *heritage submission*) for an application within 20 business days after notice of the application is published under section 38(1)(a).
- ‘(2) However, the chief executive and a person or other entity intending to give a submission under subsection (1) may, at any time before the end of the period mentioned in the subsection, agree in writing on a day (the *later day*) by which the submission may be given.
- ‘(3) The later day must not be more than 40 business days after notice of the application was published.

‘41 Basis for making submission

‘A heritage submission for an application must be made on the basis that the place the subject of the application does or does not satisfy the cultural heritage criteria.

‘42 Chief executive may seek further information

‘Before giving the council a heritage recommendation for an application, the chief executive may ask a person or other entity the chief executive considers appropriate to make written representations to the chief executive about the place the subject of the application.

‘Division 4 Heritage recommendations

‘42A Chief executive to give heritage recommendation to council

- ‘(1) After considering the relevant material for an application, the chief executive must give a written recommendation (a *heritage recommendation*) to the council about whether the place the subject of the application should be entered in, or removed from, the Queensland heritage register.
- ‘(2) The chief executive must give the council a heritage recommendation for an application by the final recommendation day for the application.
- ‘(3) A heritage recommendation must be accompanied by—
 - (a) a copy of the application to which it relates; and
 - (b) the heritage submissions for the application; and
 - (c) the written representations made under section 42 about the place the subject of the application.
- ‘(4) If the chief executive considers the place satisfies 1 or more of the cultural heritage criteria, the chief executive must recommend that—
 - (a) the place be entered in the register; or
 - (b) the place stay on the register.
- ‘(5) If the chief executive considers the place does not satisfy any of the cultural heritage criteria, the chief executive must recommend that—
 - (a) the place not be entered in the register; or
 - (b) the place be removed from the register.

‘(6) In this section—

final recommendation day, for an application, means the later of the following days—

- (a) 80 business days after its receipt;
- (b) if, under section 42B(2), the chief executive extends the period for making the heritage recommendation for the application—120 business days after its receipt.

relevant material, for an application, means the following—

- (a) the application;
- (b) the heritage submissions for the application;
- (c) the written representations made under section 42 about the place the subject of the application;
- (d) other information the chief executive considers relevant to the application.

‘42B Further consideration of application

‘(1) This section applies if the chief executive considers more time is needed to make a heritage recommendation for an application because of the matters that need to be considered in relation to the application.

‘(2) The chief executive may at any time before 80 business days after receipt of the application, give notice to the applicant, and the owner of the place the subject of the application if the owner is not the applicant, that—

- (a) because of the matters that need to be considered in relation to the application, the chief executive needs more time to make a heritage recommendation for the application; and

Example—

The chief executive might need more time to consider an application because of the remote location of the place the subject of the application.

- (b) the period within which the chief executive must make the heritage recommendation is extended to a day that is 120 business days after receipt of the application.

‘42C Notice of heritage recommendation

- ‘(1) The chief executive must, within 10 business days after giving the council a heritage recommendation for an application, give a copy of the recommendation to each of the following—
- (a) the applicant;
 - (b) if the applicant is not the owner of the place the subject of the application—the owner;
 - (c) if the applicant is not the local government for the area in which the place is situated—the local government;
 - (d) any other person or entity, if the person or entity gave the chief executive a heritage submission for the application.
- ‘(2) The copy of the heritage recommendation must be accompanied by a notice stating the person or entity to whom it is given may, within 10 business days after its receipt, ask to make oral representations to the council about the recommendation.

‘Division 5 Council to decide about entry of place in, or removal of place from, register

‘Subdivision 1 Preliminary

‘42D Council’s role in relation to heritage recommendations

‘The council must consider and make a decision on each heritage recommendation it receives.

‘42E Council may seek further information

‘Before making a decision on a heritage recommendation for an application, the council may ask a person or other entity the council considers appropriate to make written

representations to the council about the place the subject of the application.

‘Subdivision 2 Oral representations about heritage recommendations

‘42F Request to make oral representations about heritage recommendation

- ‘(1) This section applies if a person or entity is given a notice under section 42C(2) for a heritage recommendation.
- ‘(2) The person or entity may, by notice given to the council, ask to make oral representations to the council before it makes a decision on the heritage recommendation.
- ‘(3) The person or entity must make the request within 10 business days after receiving the notice mentioned in subsection (1).
- ‘(4) If the person or entity is the owner of the place the subject of the heritage recommendation, the council must take all reasonable steps to comply with the request.
- ‘(5) If the person or entity is not the owner of the place the subject of the heritage recommendation, the council may decide to hear the person or entity if satisfied it is appropriate in the circumstances.
- ‘(6) In deciding to hear a person or entity mentioned in subsection (5), the council must have regard to—
 - (a) the heritage submission, if any, given by the person or entity for the application to which the heritage recommendation relates; and
 - (b) whether the person or entity has new information about the place the subject of the recommendation that is relevant to—
 - (i) the recommendation; and
 - (ii) the cultural heritage criteria.

‘42G How oral representations may be made

- ‘(1) The council may allow a person or entity to make oral representations about a heritage recommendation in the way the council considers appropriate.
- ‘(2) Without limiting subsection (1), the council may allow a person or entity to make the representations by phone, videoconferencing or another form of electronic communication if the council considers it is reasonable in the circumstances, including, for example, because of the person’s or entity’s remote location.

‘Subdivision 3 Decisions on heritage recommendations

‘42H Council to make decision on heritage recommendation

- ‘(1) The council must make a decision on a heritage recommendation for an application within the later of the following periods to end—
 - (a) 60 business days after receiving the recommendation;
 - (b) if the council and the owner of the place the subject of the recommendation agree, under section 42I, to extend the day for making the decision—100 business days after receiving the recommendation.
- ‘(2) In making the decision, the council—
 - (a) must have regard to all of the following—
 - (i) the application to which the heritage recommendation relates;
 - (ii) the heritage submissions for the application;
 - (iii) the written representations made under section 42 or 42E about the place the subject of the application;

- (iv) if the council allows a person or entity to make oral representations about the recommendation—the representations; and
 - (b) may have regard to other information the council considers relevant to the application.
- ‘(3) Without limiting subsection (2)(b), the council may, in making the decision, have regard to whether the physical condition or structural integrity of the place may prevent its cultural heritage significance being preserved.

‘42I Agreement about extending time for making decision

- ‘(1) This section applies if the council and the owner of a place the subject of a heritage recommendation agree that more time is needed to make a decision on the recommendation because of the matters that need to be considered in relation it.
- ‘(2) The council and the owner of the place may agree in writing to extend the day for making the decision to a day that is 100 business days after the day the council received the heritage recommendation.
- ‘(3) An agreement under subsection (2) must be made before the end of 60 business days after the day the council received the heritage recommendation.

‘42J Council’s decision about entering place in, or removing place from, register

- ‘(1) The council may decide to enter the place the subject of an application in the Queensland heritage register if the council considers it satisfies 1 or more of the cultural heritage criteria.
- ‘(2) The council must decide to remove the place the subject of an application from the Queensland heritage register if the council considers it no longer satisfies any of the cultural heritage criteria.
- ‘(3) In making a decision on a heritage recommendation for an application about the proposed entry of a place in the Queensland heritage register, the council may decide—

- (a) to enter the place, as proposed in the heritage recommendation, in the register; or
 - (b) to enter the place, as varied from the heritage recommendation, in the register; or
 - (c) not to enter the place in the register.
- ‘(4) In making a decision on a heritage recommendation for an application about the proposed removal of a place from the Queensland heritage register, the council may decide—
- (a) to remove the place from the register; or
 - (b) to vary the entry of the place in the register; or
 - (c) to leave the place in the register.

‘42K Notice of council’s decision

- ‘(1) Immediately after making a decision on a heritage recommendation, the council must advise the chief executive of the decision, the reasons for the decision and the day it was made.
- ‘(2) Within 10 business days after receiving the advice, the chief executive must—
- (a) give public notice of the decision and the day it was made; and
 - (b) give notice of the decision and the reasons for it to—
 - (i) the applicant for the application to which the heritage recommendation relates; and
 - (ii) if the applicant is not the owner of the place the subject of the application—the owner; and
 - (iii) if the applicant is not the local government for the area in which the place is situated—the local government; and
 - (iv) any other person or entity, if the person or entity gave the chief executive a heritage submission for the application.
- ‘(3) If the council’s decision on a heritage recommendation is a decision mentioned in section 42J(3)(a) or (b), or (4)(a) or (b),

the notice given under subsection (2)(b) to the owner of the place must be accompanied by an information notice about the decision.

‘42L When council is taken to have made decision

- ‘(1) This section applies if the council fails to make a decision on a heritage recommendation for an application within the relevant period for the recommendation.
- ‘(2) If the application is for the entry of a place in the Queensland heritage register, the council is taken to have decided not to enter the place in the register.
- ‘(3) If the application is for the removal of a place from the Queensland heritage register, the council is taken to have decided to leave the place in the register.
- ‘(4) A decision mentioned in subsection (2) or (3) is taken to have been made by the council at the end of the relevant period for the recommendation.
- ‘(5) In this section—
relevant period, for a heritage recommendation, means—
 - (a) 60 business days after the council receives the recommendation; or
 - (b) if the council and the owner of the place the subject of the recommendation have agreed, under section 42I, to extend the day for making the decision on the recommendation—100 business days after the council receives the recommendation.

‘42M Notice of decision under s 42L

- ‘(1) If the council is taken to have made a decision under section 42L in relation to an application, the chief executive must, as soon as practicable after the day the decision is taken to have been made, give notice of the decision to—
 - (a) the applicant; and
 - (b) if the applicant is not the owner of the place the subject of the application—the owner.

- (2) The notice given under subsection (1) to the applicant must be accompanied by an information notice about the decision.

‘Division 6 Other matters’.

18 Amendment of s 43 (Certificate of immunity)

- (1) Section 43(1), from ‘registration’—
omit, insert—
‘registration of the place under this part.’.
- (2) Section 43(2), ‘in respect of’—
omit, insert—
‘for’.
- (3) Section 43(3)(a) and (b)—
omit, insert—
‘(a) the information prescribed under a regulation; and
(b) the fee prescribed under a regulation.’.
- (4) Section 43(5), from ‘heritage’—
omit, insert—
‘Queensland heritage register, must issue a certificate of immunity for the place or the relevant part of the place.’.
- (5) Section 43(7), from ‘in respect of’ to ‘register’—
omit, insert—
‘for a place, the place may not be entered in the Queensland heritage register as a State heritage place’.

19 Insertion of new ss 43A and 43B, and pt 4A

Before part 5—

insert—

‘43A Obligation to give notice about proposed development

- ‘(1) This section applies to the owner of a place if—
- (a) the owner—
 - (i) has applied under division 2 to have the place entered in the Queensland heritage register; or
 - (ii) is given a notice under section 37(1)(c) for an application to have the place entered in the register; and
 - (b) the council has not made a decision on a heritage recommendation for the application.
- ‘(2) The owner must, at least 10 business days before an application is made for a development approval for development on the place, give the chief executive notice of the application.
- Maximum penalty—100 penalty units.
- ‘(3) In subsection (2)—
- application* means an application—
- (a) for which the owner is the applicant; or
 - (b) that is supported by the written consent of the owner.

‘43B Obligation to give notice about development approvals

- ‘(1) Subsection (2) applies to the owner of a place if—
- (a) the owner—
 - (i) has applied under division 2 to have the place entered in the Queensland heritage register; or
 - (ii) is given a notice under section 37(1)(c) for an application to have the place entered in the register; and
 - (b) when the owner made the application or was given the notice, the owner knew or ought reasonably to have

known that a person had a development approval for development on the place.

- ‘(2) The owner must, within the relevant period, advise the chief executive of the development approval.

Maximum penalty—100 penalty units.

- ‘(3) Subsection (4) applies to the owner of a place if—

(a) the owner—

- (i) has applied under division 2 to have the place entered in the Queensland heritage register; or
(ii) is given a notice under section 37(1)(c) for an application to have the place entered in the register; and

(b) when the owner made the application or was given the notice, the owner knew or ought reasonably to have known that an application for a development approval for development on the place had been made but not decided under the Planning Act.

- ‘(4) The owner must, within the relevant period, advise the chief executive of the application for the development approval.

Maximum penalty—100 penalty units.

- ‘(5) In this section—

relevant period means 10 business days after the owner received a notice under section 37(1)(a) or (c) for the application to have the place entered in the Queensland heritage register.

‘Part 4A

Matters about registration of archaeological places in Queensland heritage register

‘Division 1 Criteria for entry in register as archaeological place

‘43C Criteria for entry in register

‘A place may be entered in the Queensland heritage register as an archaeological place if the place—

- (a) is not a State heritage place; and
- (b) has potential to contain an archaeological artefact that is an important source of information about Queensland’s history.

‘Division 2 Entry of places in, or removal of places from, register

‘43D Notice of proposal to enter place in, or remove place from, register

‘(1) If the chief executive proposes to recommend to the council the entry of a place in, or removal of a place from, the Queensland heritage register under this part, the chief executive must—

- (a) give notice of the proposal to—
 - (i) the owner of the place; and
 - (ii) if the owner is not the local government for the area in which the place is situated—the local government; and
- (b) within 10 business days after giving the notice under paragraph (a), publish notice of the proposal—
 - (i) in a newspaper circulating generally in the area in which the place is situated; and
 - (ii) on the department’s website.

‘(2) The notice of the proposal must—

- (a) include enough information to identify the place; and

-
- (b) state the following—
- (i) whether the chief executive proposes to recommend to the council that the place be entered in, or removed from, the Queensland heritage register;
 - (ii) the reasons for the proposed entry or removal;
 - (iii) that a person or other entity may give the chief executive a written submission (an *archaeological submission*) about the proposal;
 - (iv) the place where the submission may be given and the basis on which it may be given;
 - (v) that the submission must be given within 20 business days after the notice is published.
- ‘(3) An archaeological submission must be made on the basis that the place does or does not satisfy the archaeological criteria.

‘43E Recommendation about entering place in, or removing place from, register

- ‘(1) The chief executive may make a written recommendation to the council to enter a place in the Queensland heritage register as an archaeological place if the chief executive considers the place satisfies the archaeological criteria.
- ‘(2) In considering whether a place satisfies the archaeological criteria, the chief executive—
- (a) must have regard to the archaeological submissions given to the chief executive for the place; and
 - (b) may have regard to other information the chief executive considers relevant, including, for example, geographical, historical or archaeological information about the place.
- ‘(3) The chief executive must make a recommendation to the council to remove an archaeological place from the Queensland heritage register if the chief executive considers the place no longer satisfies the archaeological criteria.

- ‘(4) In considering whether a place no longer satisfies the archaeological criteria, the chief executive—
- (a) must have regard to the archaeological submissions given to the chief executive for the place; and
 - (b) may have regard to other information the chief executive considers relevant, including, for example, information about archaeological investigations of the place or development on the place.
- ‘(5) The chief executive’s recommendation must be accompanied by a copy of the archaeological submissions given to the chief executive for the place.

‘43F Notice of recommendation

- ‘(1) The chief executive must, within 10 business days after giving the council a recommendation, give a copy of the recommendation to each of the following—
- (b) the owner of the place the subject of the recommendation;
 - (c) if the owner is not the local government for the area in which the place is situated—the local government;
 - (d) any other person or entity, if the person or entity gave the chief executive an archaeological submission for the place.
- ‘(2) The copy of the recommendation given to the owner of the place must be accompanied by a notice stating the owner may, within 10 business days after its receipt, ask to make oral representations to the council about the recommendation.

‘43G Request to make oral representations about recommendation

- ‘(1) This section applies if the owner of a place is given a notice under section 43F(2).
- ‘(2) The owner may, by notice given to the council, ask to make oral representations to the council before it makes a decision on the recommendation.

-
- ‘(3) The owner must make the request within 10 business days after receiving the notice mentioned in subsection (1).
 - ‘(4) The council must take all reasonable steps to comply with the request.

‘43H How oral representations may be made

- ‘(1) The council may allow the owner of a place to make oral representations about a recommendation in the way the council considers appropriate.
- ‘(2) Without limiting subsection (1), the council may allow the owner to make the representations by phone, videoconferencing or another form of electronic communication if the council considers it is reasonable in the circumstances, including, for example, because of the owner’s remote location.

‘43I Council to make decision on recommendation

- ‘(1) The council must consider each recommendation given to the council about a place and make a decision on the recommendation within 60 business days after receiving the recommendation.
- ‘(2) In making the decision, the council—
 - (a) must have regard to—
 - (i) the archaeological submissions accompanying the recommendation; and
 - (ii) if the owner makes oral representations to the council about the recommendation—the oral representations; and
 - (b) may have regard to other information the council considers relevant to the recommendation.
- ‘(3) The council may decide to enter the place in the Queensland heritage register only if the council considers it satisfies the archaeological criteria.

- ‘(4) The council must decide to remove the place from the Queensland heritage register if the council considers it no longer satisfies the archaeological criteria.

‘43J Notice of council’s decision

- ‘(1) Immediately after making a decision on a recommendation, the council must advise the chief executive of the decision, the reasons for the decision and the day it was made.
- ‘(2) Within 10 business days after receiving the advice, the chief executive must—
- (a) give public notice of the decision and the day it was made; and
 - (b) give notice of the decision and the reasons for it to—
 - (i) the owner of the place the subject of the recommendation; and
 - (ii) if the owner is not the local government for the area in which the place is situated—the local government; and
 - (iii) any other person or entity, if the person or entity gave the chief executive an archaeological submission for the place.
- ‘(3) If the council’s decision was to enter the place in, or remove the place from, the Queensland heritage register, a notice given to the owner of the place must be accompanied by an information notice about the decision.’.

20 Amendment of s 44 (Criteria for assessing development applications under the Integrated Planning Act 1997)

- (1) Section 44, heading—
omit, insert—

‘44 Assessing development applications under the Planning Act—State heritage places’.

- (2) Section 44(1)—
omit, insert—

- ‘(1) If, under the Planning Act, the chief executive is the assessment manager or a referral agency for a development application for development on a State heritage place, the chief executive must assess the application against the object of this Act.’.
- (3) Section 44(2), from ‘registered place’ to ‘prudent’—
omit, insert—
‘State heritage place, the chief executive must, unless satisfied there is no prudent’.
- (4) Section 44(2) and (3), ‘council’—
omit, insert—
‘chief executive’.
- (5) Section 44(3), ‘In deciding if there is a prudent’—
omit, insert—
‘In considering whether there is no prudent’.

21 Insertion of new ss 44A and 44B

After section 44—

insert—

‘44A Assessing development applications under the Planning Act—archaeological places

- ‘(1) This section applies if, under the Planning Act, the chief executive is the assessment manager or a referral agency for a development application for development on an archaeological place.
- ‘(2) The chief executive must assess the application having regard to the following—
- (a) the impact of the proposed development on any archaeological artefact on the place;
 - (b) other information the chief executive considers relevant to the application, including, for example, an archaeological investigation of the place.

-
- ‘(3) If the chief executive is satisfied the development is likely to have a detrimental impact on any archaeological artefact on the place, the chief executive may—
- (a) if the chief executive is the assessment manager for the application—include in any development approval for the development—
 - (i) a condition requiring the applicant to carry out an archaeological investigation of the place; or
 - (ii) other conditions the chief executive considers necessary to appropriately manage archaeological artefacts on the place; and
 - (b) if the chief executive is a concurrence agency for the application—tell the assessment manager to include in any development approval for the development a condition mentioned in paragraph (a).

‘44B Chief executive may seek council’s advice on development application

‘If, under the Planning Act, the chief executive is the assessment manager or a referral agency for a development application for development on a registered place, the chief executive may, before giving the chief executive’s decision or referral agency’s response under that Act for the application—

- (a) refer a matter relating to the application to the council; and
- (b) obtain the council’s advice about the matter.’.

22 Amendment of s 45 (Development by the State)

- (1) Section 45(1)—
omit, insert—

- ‘(1) This section applies if the State—
- (a) proposes to carry out development in relation to a registered place other than because of an emergency endangering—

- (i) the life or health of a person; or
 - (ii) the structural safety of a building; and
- (b) does not have an exemption certificate for the development.’.
- (2) Section 45(4)—
omit, insert—
- ‘(4) If the place is a State heritage place and the council is satisfied the development would substantially affect the cultural heritage significance of the place, the council must publish a public notice stating the following—
 - (a) details of the development;
 - (b) that a person or other entity may give the council a written submission about the development;
 - (c) the place where the submission may be given;
 - (d) that the submission must be given within 20 business days after the notice is published.’.
- (3) Section 45(5)—
omit.
- (4) Section 45(6), after ‘consider’—
insert—
‘the report and’.
- (5) Section 45(7), ‘If the council’—
omit, insert—
‘If the place is a State heritage place and the council’.
- (6) Section 45(8), ‘In deciding if there is a prudent’—
omit, insert—
‘In considering whether there is no prudent’.
- (7) Section 45(6) to (10)—
renumber as section 45(5) to (9).
- (8) Section 45(9), as renumbered, ‘subsection (9)’—

omit, insert—

‘subsection (8)’.

23 Replacement of s 46 (Application for exemption certificate)

Section 46—

omit, insert—

‘46 Application for exemption certificate

‘(1) A relevant person for a registered place may apply to the chief executive for an exemption certificate to carry out development mentioned in subsection (3) on the place.

‘(2) The application must—

- (a) be in the approved form; and
- (b) be accompanied by all of the following—
 - (i) enough details about the proposed development to enable the chief executive to assess its impact on the cultural heritage significance of the place;
 - (ii) a plan showing the location of the development in relation to the features of the place that contribute to its cultural heritage significance;
 - (iii) if the application is for development permitted under a heritage agreement for the place—details of the agreement to support the application;
 - (iv) if the application is for development other than development mentioned in subparagraph (iii)—information showing how the development will not have a detrimental impact on the cultural heritage significance of the place;
 - (v) the fee prescribed under a regulation.

‘(3) An exemption certificate may be given to carry out development on a registered place only if the development—

- (a) is permitted under a heritage agreement for the place; or

- (b) will not have a detrimental impact on the cultural heritage significance of the place.

‘(4) In this section—

relevant person, for a registered place, means—

- (a) the owner of the place; or
- (b) with the owner’s consent, another person who has an interest in the place.

‘46A Inquiry about application

- ‘(1) The chief executive may, by notice given to the applicant, require the applicant to give the chief executive further information the chief executive reasonably requires to decide the application.
- ‘(2) The notice must state the applicant is required to give the information to the chief executive within 60 business days after the notice is given.
- ‘(3) The applicant is taken to have withdrawn the application if, within 60 business days after the notice is given, the applicant does not comply with a requirement under subsection (1).
- ‘(4) A notice under subsection (1) must be given to the applicant within 10 business days after the chief executive receives the application.’.

24 Amendment of s 47 (Deciding application for exemption certificate)

(1) Section 47(1)—

omit, insert—

- ‘(1) The chief executive must decide the application within 20 business days after the later of the following—
 - (a) the day the chief executive receives the application;
 - (b) if, under section 46A, the applicant gives the chief executive further information about the application—the day the chief executive receives the information.’.

- (2) Section 47(2) and (3), ‘council’—
omit, insert—
‘chief executive’.

25 Replacement of ss 48 and 49

Sections 48 and 49—

omit, insert—

‘48 Chief executive may give exemption certificate without application

- ‘(1) The chief executive may give a person an exemption certificate to carry out, on a registered place, development mentioned in section 46(3).
- ‘(2) The chief executive’s power to give an exemption certificate under this section includes the power to give a certificate (a *general exemption certificate*) in relation to all registered places or a class of registered places.
- ‘(3) An exemption certificate, including a general exemption certificate, may be given under this section at any time, with or without conditions, and without a person having applied for the certificate under section 46.
- ‘(4) The chief executive may give a general exemption certificate under this section by publishing the certificate on the department’s website.

‘49 Compliance with conditions of exemption certificate

‘A person who carries out, on a registered place, development for which an exemption certificate has been given under this division, must not contravene a condition of the certificate.

Maximum penalty—1000 penalty units.

‘Division 3 Development for liturgical purposes

‘49A Purpose of div 3

‘The purpose of this division is to provide for matters about particular development that is exempt development under the Planning Act, schedule 8, part 1, table 5, item 2.

‘49B When is development *liturgical development*

‘Development is *liturgical development* if the development—

- (a) is in a place, or the precincts of a place, that is a place of public worship and a registered place; and
- (b) is required for a liturgical purpose; and
- (c) is proposed by an official of a religious organisation with appropriate knowledge of its religious services.

‘49C Notice of development

‘At least 20 business days before starting development that is liturgical development, an official of the religious organisation proposing the development must give the chief executive a notice that—

- (a) states the name and position of the official; and
- (b) includes a brief description of the proposed development and the liturgical purpose for which it is required.’.

26 Replacement of s 50 (Heritage agreements)

Section 50—

omit, insert—

‘50 Heritage agreements

‘(1) The chief executive may, after obtaining and considering the council’s advice, enter into a heritage agreement for a registered place with—

- (a) the owner of the place; or
- (b) with the owner’s consent, another person or entity who has an interest in the place.

- ‘(2) A heritage agreement attaches to the land the subject of the agreement, unless the agreement states otherwise.

Note—

For when a heritage agreement that attaches to land is binding on an owner or occupier of a place, see section 103B.

- ‘(3) The chief executive may, after obtaining and considering the council’s advice, change or end a heritage agreement—
- (a) if the agreement was entered into with the owner of the registered place—by agreement with the owner; or
 - (b) if the agreement was entered into with another person or entity—by agreement with the person or entity and the owner.’.

27 Amendment of s 51 (Provisions of heritage agreement)

- (1) Section 51(1)(a), after ‘conservation’—

insert—

‘and appropriate management’.

- (2) Section 51(3)—

omit.

28 Omission of ss 52 and 53

Sections 52 and 53—

omit.

29 Insertion of new pt 6A

After section 54—

insert—

‘Part 6A Interim protection orders and notices about maintaining State heritage places

‘Division 1 Interim protection orders

‘54A Chief executive may give interim protection order

- ‘(1) The chief executive may give the owner of a place an order (an *interim protection order*) in relation to the place if—
- (a) there is a current application for the place; and
 - (b) the chief executive is satisfied on the evidence available to the chief executive when the order is given that—
 - (i) the place is likely to satisfy 1 or more of the cultural heritage criteria; and
 - (ii) the order is necessary to conserve the cultural heritage significance of the place because of development that may be carried out on the place.
- ‘(2) The chief executive may give a copy of the order to any person the chief executive considers is proposing to carry out development on the place.
- ‘(3) In this section—
- current application***, for a place, means an application—
- (a) to have the place entered in the Queensland heritage register as a State heritage place; and
 - (b) in relation to which the council has not made a decision, and is not taken to have made a decision, under section 42J or 42L.

‘54B Form and content of order

‘The interim protection order must—

- (a) be in writing; and
- (b) include enough information to identify the place; and
- (c) state the following—
 - (i) the name of the owner of the place;
 - (ii) the reasons for making the order;

- (iii) that the place is taken to be a State heritage place when the order is given; and
- (d) include information about the duration of the order.

‘54C Duration of order

- ‘(1) The interim protection order—
 - (a) takes effect when it is given to the owner of the place; and
 - (b) unless sooner ended by the chief executive, ends on the earliest of the following days—
 - (i) the day that is 60 business days after the day the order is given;
 - (ii) the day the council makes a decision under section 42J in relation to the application mentioned in section 54A(1)(a) for the place;
 - (iii) the day the council is taken to have made a decision under section 42L in relation to the application.
- ‘(2) The chief executive may, by notice given to the owner of the place, end the interim protection order at any time.

‘54D Effect of order

‘For the purposes of this Act and the Planning Act, the place the subject of the interim protection order is taken to be a State heritage place while the order has effect.

‘Division 2 Notices about maintaining State heritage places

‘54E Chief executive may give notice about essential maintenance work

- ‘(1) This section applies if the chief executive reasonably believes—

-
- (a) it is necessary to carry out essential maintenance work on a State heritage place; and
- (b) the work is urgently required to be carried out to protect the place from serious or irreparable damage or deterioration caused by weather, fire or vandalism.
- ‘(2) The chief executive may give the owner of the place a notice (the *maintenance notice*) requiring the owner to carry out the essential maintenance work stated in the notice.
- ‘(3) Before giving the maintenance notice, the chief executive must take reasonable steps to consult with the owner of the place about the essential maintenance work the chief executive believes necessary to carry out.
- ‘(4) The maintenance notice must state the following—
- (a) the essential maintenance work the chief executive requires to be carried out on the State heritage place;
- (b) that the chief executive believes the work is necessary to prevent serious or irreparable damage to, or deterioration of, the place;
- (c) the reasons for the chief executive’s belief;
- (d) that the owner of the place must carry out the stated work within the stated reasonable period;
- (e) that it is an offence to fail to comply with the notice unless the owner has a reasonable excuse.
- ‘(5) The stated period for subsection (4)(d) must not be less than 20 business days after the owner receives the maintenance notice.
- ‘(6) The owner of the place must comply with the maintenance notice unless the owner has a reasonable excuse.
- Maximum penalty—
- (a) for an individual—100 penalty units;
- (b) for a corporation—1000 penalty units.
- ‘(7) In this section—
- essential maintenance work*, in relation to a State heritage place, means work of a minor nature that, if carried out on the

place, would help to prevent serious or irreparable damage to, or deterioration of, the place.

Examples—

- re-fixing loose roofs or wall boards
- removing potential fire hazards
- maintaining existing fire management systems, or locks on doors and windows
- boarding up insecure openings in an unoccupied building
- shutting down electricity or gas services to an unoccupied building’.

30 Replacement of pt 7, divs 1 and 2

Part 7, divisions 1 and 2—

omit, insert—

‘Division 1 Offences relating to archaeological artefacts and shipwrecks

‘55 Definition for div 1

‘In this division—

interfere with includes damage, destroy, disturb, expose or move.

‘56 Requirement to give notice about discovery of archaeological artefact

- ‘(1) A person who discovers a thing the person knows or ought reasonably to know is an archaeological artefact that is an important source of information about an aspect of Queensland’s history must give the chief executive a notice under this section.

Maximum penalty—1000 penalty units.

- ‘(2) The notice must—

- (a) be given to the chief executive as soon as practicable after the person discovers the thing; and

- (b) state where the thing was discovered; and
- (c) include a description or photographs of the thing.

'57 Offence about interfering with discovery

- '(1) This section applies to a thing for which a person has, under section 56, given the chief executive a notice.
- '(2) A person who knows that the notice has been given must not, without the chief executive's written consent or unless the person has a reasonable excuse, interfere with the thing until at least 20 business days after the giving of the notice.

Maximum penalty—1000 penalty units.

'58 Offence about interfering with shipwreck

- '(1) A person must not, without the chief executive's written consent or unless the person has a reasonable excuse, interfere with a shipwreck.

Maximum penalty—1000 penalty units.

- '(2) In this section—

shipwreck means the remains or any part of the remains of a ship that—

- (a) is in Queensland waters; and
- (b) has been in the waters for more than 75 years.

'Division 2 Provisions about ownership of particular archaeological artefacts

'Subdivision 1 Declaration of ownership

'59 Declaration about ownership of particular archaeological artefacts

- '(1) The chief executive may, by public notice, declare that an archaeological artefact that is in, or has been removed from, a

registered place is the property of the State if the chief executive is satisfied—

- (a) the artefact is important to Queensland’s cultural heritage; and
- (b) a declaration under this section is necessary to help conserve the cultural heritage significance of the artefact.

‘(2) The notice must—

- (a) include enough information to identify the archaeological artefact; and
- (b) state that a person who suffers loss because of the exercise of the chief executive’s power under subsection (1) is entitled to apply for compensation for the loss; and
- (c) state how the person may apply for the compensation.

‘(3) As soon as practicable after the notice is published, the chief executive must give a copy of it to any person the chief executive reasonably considers is likely to suffer loss because of the exercise of the chief executive’s power under subsection (1).

‘Subdivision 2 **Compensation**

‘59A **Entitlement to compensation**

‘Subject to this division, a person who suffers loss because of the exercise of the chief executive’s power under section 59 is entitled to be paid just and reasonable compensation for the loss.

‘59B **Applying for compensation**

‘(1) A person who suffers loss because of the exercise of a power under section 59 may apply to the chief executive for compensation for the loss.

‘(2) The application must—

- (a) be in writing; and

- (b) be made within 20 business days after the notice is published; and
 - (c) state—
 - (i) details of the person's loss; and
 - (ii) the amount of compensation claimed and the grounds for the amount claimed.
- ‘(3) The applicant also must give the chief executive any other relevant information reasonably required by the chief executive to decide the application.
- ‘(4) Despite subsection (2)(b), the chief executive may accept a person's application for compensation made more than 20 business days after the notice is published if the chief executive is satisfied it would be reasonable in all the circumstances to accept the application.

‘59C Lapsing of application

- ‘(1) If an application for compensation is made under this division, the chief executive may make a requirement under section 59B(3) for information to decide the application by giving the applicant a notice stating—
- (a) the required information; and
 - (b) the time by which the information must be given to the chief executive; and
 - (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.
- ‘(2) The stated time must be reasonable and, in any case, at least 20 business days after the requirement is made.
- ‘(3) The chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- ‘(4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.

- ‘(5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

‘59D Deciding application

- ‘(1) The chief executive must consider and decide an accepted application within 60 days after the last of the following to happen—

- (a) the chief executive receives the application;
- (b) the chief executive receives all necessary information to decide the application.

- ‘(2) If the chief executive has not decided an accepted application within the period stated in subsection (1) for the application, the chief executive is taken to have refused to pay compensation.

- ‘(3) In this section—

accepted application means an application made under section 59B(2) or an application the chief executive accepts under section 59B(4).

‘59E Notice about decision

‘As soon as practicable after deciding the application, the chief executive must give the applicant a notice stating all of the following—

- (a) the decision and the reasons for it;
- (b) if the chief executive decides to pay compensation—
 - (i) details of the amount and how the amount was assessed; and
 - (ii) if the amount is less than the amount claimed—that the applicant may appeal against the decision, and how the applicant may appeal;
- (c) if the chief executive decides not to pay compensation—that the applicant may appeal against the decision, and how the applicant may appeal.

‘Subdivision 3 Appeals

‘59F Who may appeal

‘An applicant for the payment of compensation under this division who is dissatisfied with the chief executive’s decision to refuse to pay compensation or about the amount of compensation may appeal against the decision.

‘59G Starting an appeal

- ‘(1) An appeal may be started at—
- (a) the Magistrates Court nearest the place where the person lives or carries on business; or
 - (b) a Magistrates Court at Brisbane.
- ‘(2) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—
- (a) if the person is given notice of the decision under section 59E—the day the person is given the notice; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- ‘(3) The court may, at any time, extend the time for filing the notice of appeal.

‘59H Hearing procedures

- ‘(1) In hearing the appeal, the Magistrates Court is not bound by the rules of evidence and must comply with natural justice.
- ‘(2) The appeal is by way of rehearing, unaffected by the chief executive’s decision, on the material before the chief executive and any further evidence allowed by the court.

‘59I Powers of court on appeal

- ‘(1) In deciding the appeal, the Magistrates Court may confirm the chief executive’s decision or substitute another decision the

chief executive could have made for the chief executive's decision.

(2) The chief executive must give effect to the court's decision.

'59J Appeal to District Court

'An appeal lies to the District Court from a decision of a Magistrates Court under this subdivision, but only on a question of law.'

31 Amendment of s 60 (Declaration of protected areas)

Section 60, 'protected objects or'—
omit.

32 Amendment of s 61 (Offence to destroy protected area)

(1) Section 61(1), penalty—

omit, insert—

'Maximum penalty—

(a) for an individual—1700 penalty units;

(b) for a corporation—17000 penalty units.'

(2) Section 61(2)—

renumber as section 61(3).

(3) Section 61—

insert—

(2) For subsection (1), it is a reasonable excuse if the entering or interfering happens under a heritage agreement or an exemption certificate for the protected area.'

33 Amendment of s 68 (Appeals)

(1) Section 68, heading, after 'Appeals'—

insert—

'about permit to enter protected area'

-
- (2) Section 68(1)(d)—
omit.
- (3) Section 68(5), ‘*Integrated Planning Act 1997*’—
omit, insert—
‘Planning Act’.

34 Insertion of new pt 7B

After section 68—

insert—

‘Part 7B Provisions about places of cultural heritage significance in local government areas

‘Division 1 Preliminary

‘68A Non-application of pt 7B

- ‘(1) This part does not apply to a local government prescribed for this section under a regulation.
- ‘(2) A local government may be prescribed under subsection (1) only if the chief executive is satisfied—
- (a) the local government has, in its planning scheme, identified places of cultural heritage significance in its area; and
 - (b) the local government’s planning scheme satisfactorily provides for the conservation of places of cultural heritage significance in its area.

‘Division 2 Local heritage registers

‘68B Local government to keep register

- ‘(1) A local government must keep a register (a *local heritage register*) of places of cultural heritage significance in its area.
- ‘(2) A local government—
 - (a) may keep its local heritage register in the form, including electronic form, it considers appropriate; and
 - (b) must keep it available for inspection, free of charge, by members of the public.

‘68C Content of register

‘A local heritage register must include, for each place entered in the register under division 3—

- (a) enough information to identify the location and boundaries of the place; and
- (b) a statement about the cultural heritage significance of the place.

‘Division 3 Entry of places in, and removal of places from, local heritage registers

‘68D Chief executive may recommend entering place in local heritage register

- ‘(1) This section applies if the chief executive is satisfied—
 - (a) a place is of cultural heritage significance for a local government’s area; and
 - (b) entry of the place in the local government’s local heritage register is necessary to help conserve its cultural heritage significance.
- ‘(2) The chief executive may, by notice given to the local government, recommend that the local government enter the place in its local heritage register.

- ‘(3) The notice must include—
- (a) enough information to identify the location and boundaries of the place; and
 - (b) a statement about the cultural heritage significance of the place; and
 - (c) information to support the statement.

‘68E Local government to propose entry of place in, or removal of place from, local heritage register

- ‘(1) A local government may, on its own initiative, propose to enter a place in its local heritage register if—
- (a) the place is in the local government’s area; and
 - (b) the local government reasonably considers the place is a place of cultural heritage significance for its area.
- ‘(2) A local government must propose to enter a place in its local heritage register if the chief executive, under section 68D, recommends that the local government enters it in the register.
- ‘(3) A local government must propose to remove a place from its local heritage register if the local government is satisfied it is no longer a place of cultural heritage significance for its area.

‘68F Notice of proposal

- ‘(1) If a local government proposes to enter a place in, or remove a place from, its local heritage register, the local government must—
- (a) give the owner of the place notice of the proposal; and
 - (b) within 10 business days after giving the notice under paragraph (a), publish the notice in a newspaper circulating generally in its area.
- ‘(2) The notice must—
- (a) include enough information to identify the place; and
 - (b) state the following—

- (i) whether the place is under consideration for entry in, or removal from, the local government's local heritage register;
 - (ii) the reasons for the proposed entry or removal;
 - (iii) that a person or other entity may give the local government a written submission about the proposal;
 - (iv) the place where the submission may be given and the basis on which it may be given;
 - (v) that the submission must be given to the local government within 20 business days after the notice is published.
- (3) A submission under subsection (2) must be made on the basis that the place is or is not a place of cultural heritage significance for the local government's area.

'68G Local government to consider submissions and other information

'Before deciding to enter a place in, or remove a place from, its local heritage register, a local government—

- (a) must have regard to—
 - (i) the submissions received under section 68F about the proposal to enter or remove the place; and
 - (ii) if the chief executive, under section 68D, recommended that the local government enter the place in its register—the information about the place included in the chief executive's recommendation; and
- (b) may have regard to other information the local government considers relevant to the application.

'68H Local government resolution to enter place in, or remove place from, local heritage register

- (1) A local government may, by resolution, decide to enter a place in its local heritage register if—

- (a) the place is in the local government's area; and
 - (b) the local government is satisfied it is a place of cultural heritage significance for its area.
- '(2) A local government may, by resolution, decide to remove a place from its local heritage register if the local government is satisfied the place is no longer a place of cultural heritage significance for its area.
- '(3) A decision under subsection (1) or (2) must be made by the local government within 80 business days after the notice under section 68F is published for the place.

'68I Notice of decision

'If a local government decides to enter a place in, or remove a place from, its local heritage register, the local government must, within 10 business days after making the decision, give notice of the decision and the reasons for it to—

- (a) the owner of the place; and
- (b) any other person or entity, if the person or entity gave the local government a submission under section 68F about the proposal to enter or remove the place.

'Division 4 Code for IDAS for local heritage places

'68J Code for IDAS

- '(1) A regulation may prescribe a code for IDAS for development on a local heritage place.
- '(2) In this section—
- IDAS* means the system detailed in the Planning Act, chapter 3, for integrating State and local government assessment and approval processes for development.

'Division 5 Other matters

‘68K Changing entries in register

- ‘(1) A local government may change an entry for a place in its local heritage register if the change—
- (a) is the addition of an informative note to the entry; or
 - (b) corrects or updates the address or real property description of the place; or
 - (c) is another change to correct an error, or update information, in the entry.
- ‘(2) Despite subsection (1)(c), the local government must not, without the written agreement of the owner of the place, change a statement mentioned in section 68C(b) for the place.

‘68L Local heritage register may be adopted in planning scheme

- ‘(1) A local government’s planning scheme may, under the *Statutory Instruments Act 1992*, section 23, apply, adopt or incorporate its local heritage register.
- ‘(2) This section applies despite the Planning Act, section 2.1.18.

‘68M Provision about entitlement to claim compensation

- ‘(1) This section applies if a place is entered on a local government’s local heritage register under division 3.
- ‘(2) For the purposes of the Planning Act, chapter 5, part 4, the entry of the place on the local heritage register is taken to be a change to the local government’s planning scheme.
- ‘(3) An owner of the place at the time the change mentioned in subsection (2) happens is entitled to claim compensation under the Planning Act, section 5.4.2, in relation to the change.
- ‘(4) For claiming compensation—
- (a) the change mentioned in subsection (2) has effect as if the local government’s planning scheme were amended to the extent of the change; and

- (b) the local government's planning scheme that was in effect before the amendment mentioned in paragraph (a) happens is taken to be a superseded planning scheme under the Planning Act; and
- (c) the Planning Act, chapter 5, part 4, applies in relation to the claim with any necessary changes.'.

35 Insertion of new pt 8, div 2, sdivs 3A and 3B

Part 8, division 2—

insert—

'Subdivision 3A Power to seize evidence

'84A Seizing evidence at a place that may be entered without consent or warrant

'An authorised person who enters a place under this division without the consent of the occupier and without a warrant, may seize a thing at the place only if the authorised person reasonably believes the thing is evidence of an offence against this Act.

'84B Seizing evidence at a place that may only be entered with consent or warrant

- '(1) This section applies if—
 - (a) an authorised person is authorised to enter a place under this division only with the consent of an occupier of the place or a warrant; and
 - (b) the authorised person enters the place after obtaining the necessary consent or warrant.
- '(2) If the authorised person enters the place with the occupier's consent, the authorised person may seize a thing at the place only if—
 - (a) the authorised person reasonably believes the thing is evidence of an offence against this Act; and

- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- ‘(3) If the authorised person enters the place with a warrant, the authorised person may seize the evidence for which the warrant was issued.
- ‘(4) The authorised person also may seize anything else at the place if the authorised person reasonably believes—
- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
- (i) hidden, lost or destroyed; or
- (ii) used to continue, or repeat, the offence.
- ‘(5) Also, the authorised person may seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act.

‘Subdivision 3B Dealing with seized things

‘84C Securing seized things

‘Having seized a thing, an authorised person may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- sealing a thing and marking it to show access to it is restricted
- sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted

‘84D Tampering with seized things

- ‘(1) If an authorised person restricts access to a seized thing, a person must not tamper with the thing, or something

restricting access to the thing, without an authorised person's approval.

Maximum penalty—100 penalty units.

(2) In this section—

tamper includes attempt to tamper.

'84E Powers to support seizure

(1) To enable a thing to be seized, an authorised person may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement—

- (a) must be made by notice; or
- (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice as soon as practicable.

(3) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(5) Subject to section 87, the cost of complying with subsection (4) must be borne by the person.

'84F Authorised person may require thing's return

(1) If an authorised person has required a person to take a thing to a stated place by a stated reasonable time under section 84E, the authorised person may require the person to return the thing to the place from which it was taken.

‘(2) A person of whom a requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(3) Subject to section 87, the cost of complying with subsection (2) must be borne by the person.

‘84G Receipts for seized things

‘(1) As soon as practicable after an authorised person seizes a thing, the authorised person must give a receipt for it to the person from whom it was seized.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

‘(3) The receipt must describe generally each thing seized and its condition.

‘(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing’s nature, condition and value.

‘84H Forfeiture of seized things

‘(1) A seized thing is forfeited to the State if the authorised person who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts.

‘(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and

- (b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- ‘(3) Regard must be had to a thing’s nature, condition and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.
- ‘(4) On the forfeiture of a thing to the State—
 - (a) the thing becomes the State’s property; and
 - (b) it may be dealt with by the chief executive as the chief executive considers appropriate.
- ‘(5) Without limiting subsection (4), the chief executive may destroy or dispose of the thing.
- ‘(6) Despite subsection (5), the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal, relevant to the thing, of which the chief executive is aware.

‘84I Return of seized things

- ‘(1) If a thing has been seized but not forfeited under this division, the authorised person must return it to its owner—
 - (a) at the end of 6 months; or
 - (b) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding.
- ‘(2) Despite subsection (1), unless the thing has been forfeited, the authorised person must immediately return a thing seized as evidence to its owner if the authorised person stops being satisfied its continued retention as evidence is necessary.

‘84J Access to seized things

- ‘(1) Until a thing that has been seized is forfeited or returned under this division, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.
- ‘(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.’.

36 Insertion of new pt 8A

After section 94—

insert—

‘Part 8A Appeals to Planning and Environment Court against particular decisions**‘94A Who may appeal**

- ‘(1) This section applies to the following persons—
 - (a) the owner of a place who is given, or is entitled to be given, an information notice under section 42K(3) about a decision of the council;
 - (b) a person who is given, or is entitled to be given, an information notice under section 42M(2) about a decision of the council;
 - (c) the owner of a place who is given, or is entitled to be given, an information notice under section 43J(3) about a decision of the council.
- ‘(2) The person may appeal to the Planning and Environment Court against the decision.

‘94B Grounds for appeal

- ‘(1) An appeal by a person mentioned in section 94A(1)(a) or (b) may only be made on the ground that the place the subject of the appeal does or does not satisfy the cultural heritage criteria.

- (2) An appeal by a person mentioned in section 94A(1)(c) may only be made on the ground that the place the subject of the appeal does or does not satisfy the archaeological criteria.

‘94C Starting appeal

‘An appeal must be started within 20 business days after—

- (a) if the person has been given an information notice about the decision—the day the person is given the notice; or
- (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.

‘94D Court process for appeal

‘The Planning Act, chapter 4, part 1, division 12, with any changes the Planning and Environment Court considers appropriate, applies to an appeal under this part.’

37 Amendment of s 95 (Assistance by local governments)

Section 95, ‘or the council’—

omit, insert—

‘or chief executive’.

38 Relocation and renumbering of s 96 (Non-application to Aboriginal or Torres Strait Islander places etc.)

Section 96—

relocate and renumber, in part 1, as section 2A.

39 Amendment of s 98 (Evidence)

- (1) Section 98(1)(a)—

omit, insert—

‘(a) in Queensland waters; or’.

- (2) Section 98(1)(c)—
renumber as section 98(1)(b).

40 Amendment of s 100 (Restoration orders)

- (1) Section 100(1), ‘against this Act’—
omit.
- (2) Section 100—
insert—
- ‘(4) In this section—
offence means—
- (a) an offence against this Act; or
 - (b) an offence against the Planning Act, section 4.3.1(1) or 4.3.3 in relation to development on a registered place.’.

41 Amendment of s 101 (Non-development order)

- (1) Section 101(1), ‘against this Act’—
omit.
- (2) Section 101—
insert—
- ‘(6) In this section—
offence means—
- (a) an offence against this Act; or
 - (b) an offence against the Planning Act, section 4.3.1(1) or 4.3.3 in relation to development on a registered place.’.

42 Insertion of new ss 103A and 103B

- After section 103—
insert—

‘103A Chief executive may make guidelines

- ‘(1) The chief executive may, after consultation with the council, make guidelines to provide guidance to persons about any of the following—
- (a) making an application under part 4;
 - (b) the administration of part 5, division 1, for the carrying out of development on a registered place;
 - (c) the giving of an exemption certificate under part 5, division 2;
 - (d) carrying out an archaeological investigation of a place;
 - (e) another matter relating to the administration of this Act.
- ‘(2) If the chief executive makes a guideline under this section, the chief executive must publish the guideline, as in effect from time to time, on the department’s website.

‘103B Recording of particular matters

- ‘(1) If—
- (a) a place is entered in the Queensland heritage register as a State heritage place or an archaeological place; or
 - (b) the chief executive, under section 50, enters into a heritage agreement that attaches to land; or
 - (c) the chief executive, under section 50(3), changes a heritage agreement to state that it attaches to the land the subject of the agreement;
- the chief executive must give the registrar notice of the entry or heritage agreement.
- ‘(2) The notice must include particulars of the land the subject of the entry or heritage agreement.
- ‘(3) The registrar must keep a record of the entry or heritage agreement.
- ‘(4) The registrar must keep the record in a way that a search of the register kept by the registrar under any Act relating to title to land will show the land—

- (a) is a place entered in the Queensland heritage register as a State heritage place or an archaeological place; or
 - (b) is the subject of a heritage agreement.
- ‘(5) If—
- (a) a State heritage place or an archaeological place is removed from the Queensland heritage register; or
 - (b) a heritage agreement that attaches to land ends;
- the chief executive must give the registrar notice of the removal or ending.
- ‘(6) The registrar must amend the records kept under this section to show the removal or ending.
- ‘(7) While a heritage agreement has effect for a place and is recorded by the registrar under this section, the agreement is binding on—
- (a) each person who is from time to time the owner of the place, whether or not the person signed the agreement or agreed to any change to the agreement; and
 - (b) to the extent the agreement affects the use of the place, the occupier of the place.
- ‘(8) In this section—
- registrar* means the registrar of titles or another person responsible for keeping a register for dealings in land.’.

43 Replacement of s 104 (Delegation by Minister)

Section 104—

omit, insert—

‘104 Delegation by Minister or chief executive

- ‘(1) The Minister may delegate the Minister’s functions under this Act to—
- (a) the chairperson of the council; or
 - (b) a local government; or
 - (c) an appropriately qualified public service officer.

-
- ‘(2) The chief executive may delegate the chief executive’s functions under this Act, other than a function under section 54A, 54E or 59(1), to an appropriately qualified public service officer.
- ‘(3) Also, the chief executive may delegate a function of the chief executive under part 5, division 2, other than a function under section 48, to an appropriately qualified person.
- ‘(4) In this section—
function includes power.

‘104A Approval of forms

‘The chief executive may approve forms for use under this Act.

‘104B Amendment to renumber

- ‘(1) On the commencement of this section, the provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the *Reprints Act 1992*, section 43.
- ‘(2) Subsection (1) applies to a provision of this Act enacted or otherwise affected (a *relevant provision*) by a provision of an amending Act enacted but uncommenced when subsection (1) is commenced (the *uncommenced provision*), with the following intent for the relevant provision—
- (a) if the number of the relevant provision would have changed under subsection (1) had the uncommenced provision commenced—
- (i) a number is allocated to the relevant provision as if the uncommenced provision had commenced; and
- (ii) when the uncommenced provision commences, the number of the relevant provision is amended by omitting it and inserting the number allocated to it under subparagraph (i);
- (b) if the relevant provision would have been omitted or relocated had the uncommenced provision commenced,

its number remains the same as it was before the commencement of subsection (1) until the omission or relocation takes effect.

- ‘(3) Without limiting the *Reprints Act 1992*, section 43(4), each reference in this Act, and each reference in another Act or a regulation stated in subsection (4) to a provision of this Act renumbered under subsection (1), is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.
- ‘(4) The following are stated for subsection (3)—
 - (a) *Integrated Planning Act 1997*;
 - (b) *Queensland Heritage Regulation 2003*;
 - (c) *Whistleblowers Protection Act 1994*.
- ‘(5) This section expires on the later of the following—
 - (a) the day after the commencement of the last numbering or renumbering of a provision done under the section;
 - (b) 30 June 2008.
- ‘(6) In this section—
amending Act means an Act that amends this Act.’.

44 Insertion of new pt 10, div 2

After section 107—

insert—

‘Division 2 Provisions for Queensland Heritage and Other Legislation Amendment Act 2007

‘108 Definitions for div 2

‘In this division—

assessor means a person appointed as an assessor under section 38 of the pre-amended Act.

commencement means the day on which the provision in which the term is used commences.

post-amended Act means this Act as in force after the commencement.

pre-amended Act means this Act as in force before the commencement.

register means the heritage register under the pre-amended Act.

‘109 Application under s 32

- ‘(1) This section applies to an application that—
- (a) was made under section 32(1) of the pre-amended Act; and
 - (b) on the commencement, had not been dealt with by the council under the section.
- ‘(2) The council must deal, or continue to deal, with the application under section 32(1) of the pre-amended Act as if the section had not been amended under the *Queensland Heritage and Other Legislation Amendment Act 2007*.

‘110 Place permanently entered in register taken to be State heritage place

- ‘(1) This section applies to a place that, immediately before the commencement, was entered in the register on a permanent basis.
- ‘(2) On the commencement, the place is taken to be a State heritage place under the post-amended Act.
- ‘(3) The chief executive must ensure a record of the place is included in the Queensland heritage register as soon as practicable after the commencement.

‘111 Dealing with particular application for entry of place in, or removal of place from, register

- ‘(1) This section applies to an application made under section 35 or 36 of the pre-amended Act to enter a place in, or remove a place from, the register if, immediately before the commencement—
- (a) for an application to enter the place in the register—the place was under consideration for entry, but was not provisionally entered, in the register; or
 - (b) for an application to remove the place from the register—the place—
 - (i) was entered in the register on a permanent basis; and
 - (ii) the application had not been decided; and
 - (iii) the council had not given any notices as required under section 36(4) of the pre-amended Act in relation to the application.
- ‘(2) The application is taken to be an application to enter the place in the Queensland heritage register as a State heritage place, or to remove the place from the Queensland heritage register, made to the chief executive under section 35 of the post-amended Act.
- ‘(3) For dealing with the application under the post-amended Act, the application is taken to have been received by the chief executive on the commencement.

‘112 Dealing with particular places under consideration for entry in, or removal from, register on council’s own initiative

- ‘(1) This section applies to a place that, immediately before the commencement, was under consideration on the council’s own initiative for entry in or removal from the register if—
- (a) for a place under consideration for entry in the register—the place has not been provisionally entered in the register; or

- (b) for a place under consideration for removal from the register—the council has not given any notices as required under section 36(4) of the pre-amended Act in relation to the place.
- ‘(2) On the commencement, the council’s consideration of the place for entry in or removal from the register under the pre-amended Act is taken to end.
- ‘(3) Subsection (2) does not limit a person’s or other entity’s right to apply, under the post-amended Act—
 - (a) for entry of the place in the Queensland heritage register as a State heritage place; or
 - (b) for removal of the place from the Queensland heritage register.

‘113 Continuing process for dealing with objection under pre-amended Act

- ‘(1) This section applies if—
 - (a) on the commencement, the council is considering—
 - (i) whether a place that is provisionally entered in the register should be permanently entered in the register; or
 - (ii) whether a place that is permanently entered in the register should be removed from the register; and
 - (b) in relation to the proposal to enter the place in or remove the place from the register, an objection has been made under section 37 of the pre-amended Act.
- ‘(2) If, on the commencement, the council has not referred the objection to an assessor—
 - (a) the council must, under section 39 of the pre-amended Act, refer the objection to an assessor; and
 - (b) the assessor must, under section 40 of the pre-amended Act, enquire into and report to the council on the objection.
- ‘(3) If, on the commencement, the council has referred the objection to an assessor, the assessor may, under section 40 of

the pre-amended Act, enquire into, or continue to enquire into, and report to the council on the objection.

- ‘(4) For dealing with an objection mentioned in this section—
- (a) there is to continue to be a panel of expert assessors as provided for under section 38 of the pre-amended Act; and
 - (b) the Minister may, under that section, appoint assessors to the panel; and
 - (c) sections 38, 39 and 40(1) to (3) of the pre-amended Act continue to apply in relation to the panel and the assessors as if the *Queensland Heritage and Other Legislation Amendment Act 2007*, section 17, had not commenced.

‘114 Dealing with assessor’s report on objection under pre-amended Act

- ‘(1) This section applies if, after the commencement and under section 40(3) of the pre-amended Act, an assessor gives the council a report on an objection mentioned in section 113 about a proposal—
- (a) to enter a place in the register on a permanent basis; or
 - (b) to remove a place from the register.
- ‘(2) The council must, within 20 business days after receiving the assessor’s report, consider the report and decide whether to proceed with the proposal.
- ‘(3) For a proposal to enter a place in the register on a permanent basis, the council may decide—
- (a) to enter the place, as originally proposed, in the Queensland heritage register as a State heritage place; or
 - (b) to enter the place, as varied from the original proposal, in the Queensland heritage register as a State heritage place; or
 - (c) not to enter the place in the Queensland heritage register.

- ‘(4) For a proposal to remove a place from the register, the council may decide—
- (a) to remove the place from the Queensland heritage register; or
 - (b) to vary the entry of the place in the Queensland heritage register; or
 - (c) to leave the place in the Queensland heritage register.
- ‘(5) Immediately after making a decision mentioned in subsection (3) or (4), the council must advise the chief executive of the decision, the reasons for the decision and the day it was made.
- ‘(6) Within 10 business days after receiving the advice, the chief executive must—
- (a) give public notice of the decision and the day it was made; and
 - (b) give notice of the decision and the reasons for it to—
 - (i) the owner of the place; and
 - (ii) if the owner is not the local government for the area in which the place is situated—the local government.
- ‘(7) If the decision is a decision mentioned in subsection (3)(a) or (b), or (4)(a) or (b), the notice given under subsection (6)(b) to the owner of the place must be accompanied by an information notice about the decision.
- ‘(8) The owner of a place who is given, or is entitled to be given, an information notice under subsection (7) for a decision may appeal against the decision under part 8A as if the owner were a person mentioned in section 94A(1)(a).
- ‘(9) The chief executive must ensure the entry of a place in, removal of a place from, or variation of an entry in, the Queensland heritage register is recorded in the register as soon as practicable after receiving the council’s advice under subsection (5).

‘115 Continuing appointment of assessors

- ‘(1) This section applies to a person who, immediately before the commencement, was an assessor.
- ‘(2) Despite the repeal of section 38 of the pre-amended Act, the person continues as an assessor—
 - (a) under section 38 of the pre-amended Act for the purposes of inquiring into, and reporting on, objections mentioned in section 113; and
 - (b) on the terms and conditions decided by the Minister.
- ‘(3) Subsection (2) applies to the person until 1 year after the commencement unless the person sooner stops being an assessor.

‘116 Appeals under pre-amended Act

- ‘(1) Subsection (2) applies if, before the commencement—
 - (a) a person has, under section 41 of the pre-amended Act, appealed to the Planning and Environment Court against a decision of the council; and
 - (b) the appeal has not been decided.
- ‘(2) The Planning and Environment Court may hear, or continue to hear, and decide the appeal.
- ‘(3) Subsection (4) applies if—
 - (a) immediately before the commencement a person could have appealed to the Planning and Environment Court under section 41 of the pre-amended Act against a decision of the council; and
 - (b) the person has not appealed before the commencement.
- ‘(4) The person may appeal, and the Planning and Environment Court may hear and decide the appeal.
- ‘(5) For subsections (2) and (4), section 41(5) to (7) of the pre-amended Act applies as if the *Queensland Heritage and Other Legislation Amendment Act 2007*, section 17, had not commenced.

‘117 Dealing with particular development applications under Planning Act

- ‘(1) This section applies to a development application under the Planning Act if, immediately before the commencement—
- (a) the council is the assessment manager or a referral agency under that Act for the application; and
 - (b) the council has not given the council’s decision or referral agency’s response under that Act for the application.
- ‘(2) On the commencement, the chief executive is taken to be the assessment manager or referral agency under the Planning Act for the development application.
- ‘(3) The chief executive must deal with the application under section 44 of the post-amended Act.

‘118 Application under s 46

- ‘(1) This section applies to an application for an exemption certificate made under section 46 of the pre-amended Act and not decided before the commencement.
- ‘(2) The application is taken to have been made to the chief executive under section 46 of the post-amended Act.
- ‘(3) The chief executive must deal with the application under the post-amended Act.
- ‘(4) For sections 46A(4) and 47(1) of the post-amended Act, the application is taken to have been received by the chief executive on the commencement.

‘119 Continuing exemption certificates

- ‘(1) This section applies to an exemption certificate that—
- (a) is in force immediately before the commencement; and
 - (b) was issued for development mentioned in section 46(5)(a), (b), (c), (e) or (f) of the pre-amended Act.
- ‘(2) The exemption certificate—

- (a) continues in force; and
- (b) is taken to be an exemption certificate given under part 5, division 2 of the post-amended Act; and
- (c) if the exemption certificate was issued for development mentioned in section 46(5)(a), (b), (c) or (f) of the pre-amended Act—the development is taken to be development that will not have a detrimental impact on the cultural heritage significance of the place to which it relates.

‘120 Provision about particular heritage agreements

- ‘(1) This section applies to a heritage agreement that—
 - (a) was entered into under the pre-amended Act; and
 - (b) is in force on the commencement.
- ‘(2) A record kept by the registrar of titles, under section 52(2) of the pre-amended Act, of a notification about the heritage agreement—
 - (a) must be kept in a way mentioned in section 103B(4); and
 - (b) for the purposes of section 103B(5) to (7)—is taken to be a record of the agreement under that section.

‘121 Places of cultural heritage significance for local government areas

- ‘(1) This section applies if, on the commencement, a place is identified in a local government’s local planning instrument as a place of cultural heritage significance for the local government’s area.
- ‘(2) On the commencement, the place is taken to be a local heritage place for the local government.
- ‘(3) The local government must ensure that, in relation to the place, the information mentioned in section 68C is included in its local heritage register.

- ‘(4) The local government must act under subsection (3) within 2 years after the commencement.
- ‘(5) Section 68M does not apply in relation to the entry of a place on a local government’s local heritage register under this section.
- ‘(6) In this section—
- local government* does not include a local government prescribed for section 68A under a regulation.
- local planning instrument* see the Planning Act, schedule 10.’.

45 Amendment of schedule (Dictionary)

- (1) Schedule, definitions, *Crown, cultural heritage significance, heritage register, maintenance work, minor repair work, object, other minor work, owner, place, protected object, registered place, territorial waters of the State* and *waters—omit.*
- (2) Schedule—
- insert—*
- ‘*appropriately qualified*, for the exercise of a power or performance of a function under this Act, includes having the qualifications, experience or standing appropriate to exercise the power or perform the function.
- Example of standing—*
- a person’s classification level in the public service
- approved form* means a form approved under section 104A.
- archaeological artefact—*
- 1 *Archaeological artefact* means any artefact that is evidence of an aspect of Queensland’s history, whether it is located in, on or below the surface of land.
 - 2 *Archaeological artefact* does not include a thing that is aboriginal cultural heritage under the *Aboriginal Cultural Heritage Act 2003* or Torres Strait Islander

cultural heritage under the *Torres Strait Islander Cultural Heritage Act 2003*.

archaeological criteria means the criteria for entry in the Queensland heritage register stated in section 43C.

archaeological investigation, of a place, means a physical investigation of the place carried out by an appropriately qualified person for the purpose of investigating, recording or conserving archaeological artefacts on the place.

archaeological place means a place entered on the Queensland heritage register as an archaeological place under part 4A.

archaeological submission see section 43D(2)(b)(iii).

assessor, for part 10, division 2, see section 108.

business day does not include a day between 26 December in a year and 1 January in the following year.

commencement, for part 10, division 2, see section 108.

cultural heritage criteria means the criteria for entry in the Queensland heritage register stated in section 34(1).

cultural heritage significance, of a place or feature of a place, means its aesthetic, architectural, historical, scientific, social, or other significance, to the present generation or past or future generations.

development approval means a development approval as defined under the Planning Act.

feature, in relation to a place, includes the following—

- (a) a building or structure, or part of a building or structure;
- (b) an artefact, including an archaeological artefact;
- (c) a precinct;
- (d) a natural or landscape feature.

heritage agreement means a heritage agreement entered into under this Act, whether before or after the commencement of this definition.

heritage recommendation see section 42A(1).

heritage submission see section 40(1).

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659, applies to the indictable offence.

information notice, about a decision, means a notice stating—

- (a) that the person to whom the notice is given may appeal to the Planning and Environment Court against the decision within 20 business days after receiving the notice; and
- (b) the ground for an appeal; and
- (c) how to appeal.

interfere with, for part 7, division 1, see section 55.

interim protection order see section 54A(1).

land includes Queensland waters and land covered by the waters.

local heritage place means a place entered in a local heritage register.

local heritage register see section 68B(1).

maintenance notice see section 54E(2).

owner—

- 1 An *owner* in relation to land, means—
 - (i) for freehold land—the registered owner; or
 - (ii) for land the subject of a mining interest—the person who holds the interest; or
 - (iii) for a road or other land under a local government's control—the local government; or
 - (iv) for other land held from the State under another Act under an interest less than fee simple and conferring a right to possession of the land—the person who holds the interest; or
 - (v) for unallocated State land under the *Land Act 1994*, land in a State forest or timber reserve under

the *Forestry Act 1959*, or other land under the control of the State—the State.

- 2 Also, a mortgagee of land is the *owner* of land if the mortgagee is in possession of the land.
- 3 The *owner* of an artefact that is not permanently attached to, or under, land means a person legally entitled to possession of the artefact.

personal information, of an applicant, means the applicant's name and address, or other information that may identify the applicant.

place—

- 1 *Place* means a defined or readily identifiable area of land, whether or not held under 2 or more titles or owners.
- 2 *Place* includes—
 - (i) any feature on land mentioned in item 1; and
 - (ii) any part of the immediate surrounds of a feature mentioned in subparagraph (i) that may be required for its conservation.

place of seizure see section 84C.

Planning Act means the *Integrated Planning Act 1997*.

Planning and Environment Court means the Planning and Environment Court under the Planning Act.

planning scheme has the meaning given by the Planning Act, section 2.1.1.

post-amended Act, for part 10, division 2, see section 108.

pre-amended Act, for part 10, division 2, see section 108.

Queensland heritage register means the register kept under part 3.

register, for part 10, division 2, see section 108.

registered place means a State heritage place, an archaeological place or a protected area.

State heritage place means a place entered in the Queensland heritage register as a State heritage place under part 4.

stop order see section 88(1).’.

- (3) Schedule, definition *aesthetic significance*, ‘object’—
omit, insert—
‘artefact’.
- (4) Schedule, definition *building*, ‘objects’—
omit, insert—
‘artefacts’.
- (5) Schedule, definition *development*, ‘*Integrated Planning Act 1997*’—
omit, insert—
‘Planning Act’.
- (6) Schedule, definition *exemption certificate*, ‘issued under section 46’—
omit, insert—
‘given under part 5, division 2’.
- (7) Schedule, definition *previous Act*, before ‘means’—
insert—
‘, for part 10, division 1.’.
- (8) Schedule, definition *protected area*, ‘part 7’—
omit, insert—
‘part 7A’.
- (9) Schedule, definition *public notice*, paragraphs (b) and (c)—
omit, insert—
‘(b) in a newspaper circulating generally in the area in which the place or artefact to which the notice relates is situated.’.

(2) Section 4.3.1(3)(b)—

omit, insert—

‘(b) on a Queensland heritage place or local heritage place.’.

49 Amendment of s 4.3.6 (General exemption for emergency development use)

Section 4.3.6(1)(a), after ‘tidal works’—

insert—

‘or building work to which section 4.3.6B applies’.

50 Amendment of s 4.3.6A (Coastal emergency exemption for operational work that is tidal works)

Section 4.3.6A(6)—

omit.

51 Insertion of new s 4.3.6B

After section 4.3.6A—

insert—

‘4.3.6B Exemption for building work on Queensland heritage place

‘(1) This section applies to building work (the *emergency building work*) if—

(a) the work is carried out on a Queensland heritage place; and

(b) other than for this section, a development permit would have been required to carry out the work; and

(c) it is necessary to carry out the work because of an emergency endangering—

(i) the life or health of a person; or

(ii) the structural safety of a building.

‘(2) Sections 4.3.1, 4.3.3, 4.3.4 and 4.3.5 do not apply to a person who carries out the emergency building work if—

- (a) before starting the work and if practicable, the person obtains the advice of a registered professional engineer about the work; and
 - (b) the person takes all reasonable steps—
 - (i) to ensure the work is reversible; or
 - (ii) if the work is not reversible—to limit the impact of the work on the cultural heritage significance of the Queensland heritage place; and
 - (c) as soon as reasonably practicable after starting the work, the person—
 - (i) makes a development application for any development permit that would otherwise be required for the work; and
 - (ii) gives the assessment manager for the application written notice of the work.
- ‘(3) However, subsection (2) does not apply if the person is required by an enforcement notice or order to stop carrying out the emergency building work.
- ‘(4) Also, subsection (2) ceases to apply if the development application mentioned in subsection (2)(c) is refused.
- ‘(5) If, under subsection (4), subsection (2) ceases to apply, the person must remove the emergency building work as soon as practicable.
- Maximum penalty—1665 penalty units.’.

52 Amendment of sch 8 (Assessable development and self-assessable development)

- (1) Schedule 8, part 1, table 5, item 2, all words before paragraph (c)—

omit, insert—

‘Development on Queensland heritage place	
2	All aspects of development on a Queensland heritage place, other than development— (a) for which an exemption certificate under the <i>Queensland Heritage Act 1992</i> has been issued; or (b) that, under section 49B of that Act, is liturgical development; or’.

(2) Schedule 8, part 1, table 5—

insert—

‘Development on local heritage place	
2A	All aspects of development on a local heritage place, other than development mentioned in schedule 9.’.

53 Amendment of sch 8A (Assessment manager for development applications)

(1) Schedule 8A, table 3, item 7—

omit, insert—

‘Development on Queensland heritage place		
7	If tables 1 and 2 do not apply and the application is for— (a) assessable development on a Queensland heritage place; and (b) no other assessable development.	Chief executive administering the <i>Queensland Heritage Act 1992</i>
Development on local heritage place		
7A	If tables 1 and 2 do not apply and the application is for— (a) assessable development on a local heritage place; and (b) no other assessable development.	The local government for the place’.

(2) Schedule 8A, table 4, item 1(a)(iv)—

omit, insert—

‘(iv) assessable development on a Queensland heritage place; and’.

54 Amendment of sch 10 (Dictionary)

(1) Schedule 10, definition *emergency work*—

omit.

- (2) Schedule 10—

insert—

‘local heritage place means a local heritage place under the *Queensland Heritage Act 1992*.

Queensland heritage place means a registered place under the *Queensland Heritage Act 1992*.

registered professional engineer means a registered professional engineer under the *Professional Engineers Act 2002* or a person registered as a professional engineer under an Act of another State.’.

Part 4 Minor and consequential amendments

55 Acts amended in schedule

- (1) The schedule amends the Acts it mentions.
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

Schedule **Minor and consequential
amendments**

sections 3 and 55

Geothermal Exploration Act 2004

- 1** **Section 87(2)(c)(viii), ‘heritage register’—**
omit, insert—
‘Queensland heritage register’.

Queensland Heritage Act 1992

- 1** **Section 14, ‘section 10(4)’—**
omit, insert—
‘section 10(5)’.
- 2** **Part 3, heading, after ‘The’—**
insert—
‘Queensland’.
- 3** **Part 4, heading—**
omit, insert—

‘Part 4 **Matters about registration of
State heritage places in
Queensland heritage register**

Schedule (continued)

‘Division 1 Criteria for entry in register as State heritage place’.**4 Section 54, heading, after ‘agreement’—***insert—***‘—Planning and Environment Court order’.****5 Part 7, heading, ‘objects and archaeological areas’—***omit, insert—***‘artefacts’.****6 Part 7, division 3, heading—***omit, insert—***‘Part 7A Protected areas****‘Division 1 Declaration of, and entry to, protected areas’.****7 Sections 64(3)(c), (d) and (e) and 70(1)(a), ‘objects’—***omit, insert—***‘artefacts’.****8 Part 7A (as renumbered under this Act), division 4, heading—***omit, insert—***‘Division 2 Appeals’.**

Schedule (continued)

9 Section 70(1)(b)(ii), ‘Integrated Planning Act 1997—
omit, insert—
‘Planning Act’.

10 Section 80(1)(a), ‘Integrated Planning Act 1997—
omit, insert—
‘Planning Act’.

11 Part 8, division 2, subdivision 3, heading,
‘investigators’—
omit, insert—
‘authorised persons’.

12 Part 10, heading—
omit, insert—

‘Part 10 Transitional provisions

**‘Division 1 Provisions for Queensland Heritage
and Other Legislation Amendment
Act 2003’.**

Valuation of Land Act 1944

1 Section 14(5)(d), ‘1992, part 6’—
omit, insert—
‘1992’.

Schedule (continued)

Whistleblowers Protection Act 1994

1 Schedule 2, entry for Queensland Heritage Act 1992—
omit, insert—

‘Queensland Heritage Act 1992

- Section 61 (Offence to destroy protected area)
- Section 89 (Contravention of stop order)
- Section 100(2) (Restoration orders)’.