

Queensland



**QUEENSLAND HERITAGE  
AND OTHER LEGISLATION  
AMENDMENT ACT 2003**

**Act No. 32 of 2003**



# Queensland



## QUEENSLAND HERITAGE AND OTHER LEGISLATION AMENDMENT ACT 2003

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Queensland



**Queensland Heritage and Other Legislation  
Amendment Act 2003**

**Act No. 32 of 2003**

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

*[Assented to 23 May 2003]*

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**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 2003*.

### **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 sch**

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

### **4 Amendment of s 3 (Objects of this Act)**

(1) Section 3(1)(e), ‘relics and other’—

*omit*.

(2) Section 3(2)(b), ‘preservation’—

*omit, insert—*

‘conservation’.

### **5 Amendment of s 4 (Definitions)**

(1) Section 4, ‘In this Act—’—

*omit, insert—*

---

‘The dictionary in the schedule defines particular words used in this Act.’.

(2) Section 4, definitions “building”, “development”, “protected relic” and “restricted zone”—

*omit.*

(3) Section 4—

*insert—*

‘ **“authorised person”** means a person appointed under section 54.

**“building”** includes furniture, fittings and other objects—

- (a) associated with the building; and
- (b) that contribute to the building’s cultural heritage significance.

**“development”** means development as defined under the *Integrated Planning Act 1997*.

**“emergency work”**—

1. “Emergency work” means reversible work that is necessary to give temporary support, shelter or security to a registered place, a protected area or protected object—
  - (a) because it has been, or is likely to be, damaged by fire or natural disaster; or
  - (b) because of accidental or intentional damage.
2. “Emergency work” does not include demolition.

**“excluded work”**, for a registered place—

1. “Excluded work” means—
  - (a) maintenance work; or
  - (b) minor repair work; or
  - (c) minor work (other than minor repair work) that—
    - (i) will not cause detriment to the cultural heritage significance of the place; and
    - (ii) is not of a significant scale; and
    - (iii) is reversible.
2. “Excluded work” does not include emergency work.

**“exemption certificate”** means a certificate issued under section 35.

**“maintenance work”**—

1. “Maintenance work” means work performed for the protective care of a registered place, including, for example, the protective care of the materials, features, contents and setting comprising the following—
  - (a) fences;
  - (b) gardens and grounds;
  - (c) roads and paths;
  - (d) roof and drainage systems;
  - (e) services and utilities.
2. “Maintenance work” also includes painting work in a colour conforming with an existing colour scheme at the registered place.

**“member”** means a member of the council.

**“minor repair work”** means work of a minor nature—

- (a) involving repairs to the materials, features, contents and setting that comprise a registered place; and
- (b) using the same types of materials and the same construction methods as were originally used on the registered place.

**“notice”** means written notice.

**“personal details requirement”** see section 57L.

**“protected object”** means an object declared, or provisionally declared, under section 46 to be a protected object.’.

(4) Section 4, definitions, as amended—

*relocate* to the schedule as inserted by this Act.

## 6 Replacement of pt 2 (Administration)

Part 2—

*omit, insert*—

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## **‘PART 2—QUEENSLAND HERITAGE COUNCIL**

### *‘Division 1—Establishment and functions*

#### **‘6 Establishment of council**

‘(1) The Queensland Heritage Council, formerly established under this Act, is continued in existence under the name Queensland Heritage Council.

‘(2) The council—

- (a) is a body corporate; and
- (b) may sue and be sued in its corporate name.

#### **‘7 Council’s relationship with the State**

‘The council does not represent the State.

#### **‘8 Functions of council**

‘(1) The council has the following functions—

- (a) to advise the Minister on matters relating to Queensland’s cultural heritage and in particular on the measures necessary to conserve Queensland’s cultural heritage for the benefit of the present community and future generations;
- (b) to administer the heritage register as required under this Act;
- (c) to encourage public interest in, and understanding of, issues relevant to the conservation of Queensland’s cultural heritage;
- (d) to encourage and assist the appropriate management of places and objects of cultural heritage significance;
- (e) to keep appropriate records, and encourage others to keep appropriate records, of places and objects of cultural heritage significance;
- (f) to cooperate and collaborate with federal, State and local authorities in the conservation of places and objects of cultural heritage significance;

(g) to undertake any other functions assigned to the council under this Act or by the Minister.

‘(2) In performing its functions, the council must act independently, impartially and in the public interest.

## ‘9 Delegation by council

‘(1) The council may delegate its functions under this Act to—

- (a) a member; or
- (b) a committee of the council consisting of appropriately qualified persons, 1 of whom must be a member; or
- (c) a local government; or
- (d) an appropriately qualified person.

‘(2) However, the council may not delegate its function under this Act to enter a place in, or remove a place from, the heritage register.

‘(3) In this section—

“**appropriately qualified person**” means a person with the qualifications, experience or standing appropriate to perform the function.

## *‘Division 2—Membership*

## ‘10 Membership of council

‘The council consists of the following members—

- (a) a representative, appointed by the Governor in Council, of each of the following entities—
  - (i) the National Trust of Queensland;
  - (ii) the Local Government Association of Queensland (Incorporated);
  - (iii) the Queensland Council of Unions;
  - (iv) an organisation representing the interests of property owners and managers in Queensland;

- (v) an organisation representing the interests of rural industries in Queensland;
- (b) 7 persons, appointed by the Governor in Council, with appropriate knowledge, expertise and interest in heritage conservation.

### **‘11 Chairperson and deputy chairperson of council**

‘(1) The Governor in Council must appoint a member to be the chairperson, and another member to be the deputy chairperson, of the council.

‘(2) A person may be appointed the chairperson or deputy chairperson at the same time the person is appointed a member.

‘(3) A person who is appointed as chairperson or deputy chairperson holds office as chairperson or deputy chairperson for the term decided by the Governor in Council, but stops holding office as chairperson or deputy chairperson before the term ends if the person sooner ceases to be a member.

‘(4) The office of chairperson or deputy chairperson becomes vacant if the person holding the office resigns the office by signed notice of resignation given to the Minister.

‘(5) However, a member resigning the office of chairperson or deputy chairperson may continue to be a member.

‘(6) The deputy chairperson must act as chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

### **‘12 Term of appointment**

‘A member must be appointed for a term of not more than 3 years.

### **‘13 Disqualification from membership**

‘A person can not become, or continue as, a member if the person is, or has been—

- (a) convicted of an indictable offence, whether on indictment or summarily; or
- (b) convicted of an offence against this Act.

#### **‘14 Vacation of office**

‘(1) A member is taken to have vacated office if the member—

- (a) resigns his or her position on the council by signed notice of resignation given to the Minister; or
- (b) can not continue as a member under section 13; or
- (c) is absent without—
  - (i) the council’s permission from 3 consecutive council meetings of which due notice has been given; or
  - (ii) the Minister’s approval under section 16.

‘(2) In this section—

“**meeting**” means a meeting with a quorum present.

#### **‘15 When notice of resignation takes effect**

‘A notice of resignation under section 11(4) or 14(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, at the later time.

#### **‘16 Leave of absence for a member**

‘(1) The Minister may approve a leave of absence for a member of more than 3 months.

‘(2) The Minister may appoint another person to act in the office of the member while the member is absent on the approved leave.

‘(3) If the member is the deputy chairperson, the Minister may appoint another member to act in the deputy chairperson’s office while the deputy chairperson is absent on the approved leave.



### **‘17 Effect of vacancy in membership of council**

‘(1) Subsection (2) applies despite section 10.

‘(2) The performance of a function by the council is not affected merely because of a vacancy in the council membership.

### **‘18 Remuneration of members**

‘A member is entitled to be paid the fees and allowances decided by the Governor in Council.

## ***‘Division 3—Council business***

### **‘19 Conduct of business**

‘Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.

### **‘19A Times and places of meetings**

‘(1) The council must meet at least 10 times a year.

‘(2) Council meetings are to be held when and where the chairperson decides.

‘(3) However, the chairperson must call a council meeting if asked, in writing, to do so by the Minister or at least 6 members.

‘(4) Notice of when and where a council meeting must be held, and of the business for the meeting, must be given to each member at least 5 business days before the day for the meeting.

### **‘19B Quorum**

‘A quorum for the council is 6 members.

### **‘19C Presiding at meetings**

‘(1) The chairperson must preside at all council meetings at which the chairperson is present.

‘(2) If the chairperson is absent from a council meeting, but the deputy chairperson is present, the deputy chairperson must preside.

‘(3) If the chairperson and deputy chairperson are both absent from a council meeting or the offices are vacant, a member chosen by the members present must preside.

### **‘19D Conduct of meetings**

‘(1) A question at a council meeting is decided by a majority of the votes of the members present.

‘(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

‘(3) A member present at the meeting who abstains from voting is taken to have voted in the negative.

‘(4) The council may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

*Example—*

Teleconferencing.

‘(5) A member who takes part in a council meeting under subsection (4) is taken to be present at the meeting.

‘(6) A resolution is validly made by the council, even if it is not passed at a council meeting, if—

- (a) a majority of the council members gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the council.

### **‘19E Minutes**

‘(1) The council must keep—

- (a) minutes of its meetings; and
- (b) a record of any resolutions made under section 19D(6).

‘(2) Subsection (3) applies if a resolution is passed at a council meeting.

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‘(3) If asked by a member who voted against the passing of the resolution, the council must record in the minutes of the meeting that the member voted against the resolution.

#### *‘Division 4—Council committees*

##### **‘19F Committees**

‘(1) The council may establish committees of the council for effectively and efficiently performing its functions.

‘(2) A committee may include a person who is not a member.

‘(3) The council must decide the terms of reference of a committee.

‘(4) The functions of a committee are to—

- (a) advise and make recommendations to the council about matters, within the scope of the council’s functions, referred by the council to the committee; and
- (b) exercise powers delegated to it by the council.<sup>1</sup>

‘(5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the council.

‘(6) The council may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

##### **‘19G Remuneration of committee members**

‘(1) A committee member is entitled to be paid the fees and allowances decided by the chief executive.

‘(2) The fees and allowances paid under subsection (1) must not be more than the fees and allowances payable to a member.

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<sup>1</sup> See section 9 for the council’s power of delegation.

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***Division 5—Disclosure of interests by members and committee members***

**19H Disclosure of interests of members**

‘(1) This section applies to a member (the “**interested person**”) if—

- (a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the council; and
- (b) the interest could conflict with the proper performance of the person’s duties about the consideration of the matter.

‘(2) As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a council meeting.

‘(3) Unless the council otherwise directs, the interested person must not—

- (a) be present when the council considers the matter; or
- (b) take part in a decision of the council about the matter.

‘(4) The interested person must not be present when the council is considering whether to give a direction under subsection (3).

‘(5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—

- (a) be present when the council is considering whether to give a direction under subsection (3) about the interested person; or
- (b) take part in making the decision about giving the direction.

‘(6) Subsection (7) applies if—

- (a) because of this section, a member is not present at a meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present.

‘(7) The remaining members present are a quorum for considering or deciding the matter, or for considering or deciding whether to give the direction, at the meeting.

‘(8) A disclosure under subsection (2) must be recorded in the council’s minutes.

---

### **‘19I Disclosure of interests of committee members**

**‘(1)** This section applies to a committee member (the **“interested person”**) if—

- (a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the committee; and
- (b) the interest could conflict with the proper performance of the person’s duties about the consideration of the matter.

**‘(2)** As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a committee meeting.

**‘(3)** Unless the committee otherwise directs, the interested person must not—

- (a) be present when the committee considers the matter; or
- (b) take part in a decision of the committee about the matter.

**‘(4)** The interested person must not be present when the committee is considering whether to give a direction under subsection (3).

**‘(5)** If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—

- (a) be present when the committee is considering whether to give a direction under subsection (3) about the interested person; or
- (b) take part in making the decision about giving the direction.

**‘(6)** Subsection (7) applies if—

- (a) because of this section, a committee member is not present at a meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the committee member were present.

**‘(7)** The remaining committee members present are a quorum for considering or deciding the matter, or for considering or deciding whether to give the direction, at the committee meeting.

**‘(8)** A disclosure under subsection (2) must be recorded in the committee’s minutes.

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***‘Division 6—Other provisions about the council***

**‘19J Annual report**

‘(1) The council must, by 31 October in each year, give the Minister a written report on the administration of this Act during the financial year that ended on 30 June in the year.

‘(2) The report must include a statement of any donations received under section 67A and of their application.

‘(3) As soon as practicable, but within 14 sitting days after receiving the report, the Minister must table the report in the Legislative Assembly.

**‘19K Excluded matter for Corporations legislation**

‘The council is declared to be an excluded matter for the Corporations Act, section 5F,<sup>2</sup> in relation to the following provisions of the Corporations Act—

- (a) parts 2D.1 and 2D.6;
- (b) chapters 2K and 2L;
- (c) parts 5.7, 5.7B, 5.9 and 5B.2.’.

**7 Insertion of new s 22A**

After section 22—

*insert—*

**‘22A Changing entries in the heritage register**

‘(1) The council may correct or update a permanent entry in the heritage register for a registered place if the correction or updating—

- (a) relates only to the address or real property description of the place; or
- (b) merely adds an informative note to the entry.

---

<sup>2</sup> Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

‘(2) The agreement of the owner of the registered place is not required for a correction or updating under subsection (1).

‘(3) The council may, with the written agreement of the owner of a registered place, change a permanent entry in the heritage register for the place if the change is a minor change.’

## **8 Amendment of s 23 (Criteria for entry in the register)**

Section 23—

*insert—*

‘(4) A place may be entered in the heritage register even if part of the place does not fully satisfy a criterion in subsection (1) but only if it forms part of a streetscape that satisfies a criterion in subsection (1) or is adjacent to a registered place and exhibits the characteristics of the registered place and failure to enter the place would reduce the overall cultural heritage significance of the streetscape or the registered place.’

## **9 Amendment of s 26 (Objections)**

Section 26(4)—

*omit, insert—*

‘(4) An objection may be withdrawn at any time.’

## **10 Amendment of s 27 (Panel of assessors)**

Section 27(6)—

*omit, insert—*

‘(6) A person who is a member of the council or is engaged in remunerated work for the council, other than work as an assessor, must not be appointed to the panel of assessors.

‘(7) If a person who is a member of the panel of assessors is appointed a member of the council, the person ceases to be a member of the panel from the day the person is appointed to the council until 2 months after the day the person ceases to be a member of the council.

‘(8) If a person who is a member of the panel of assessors undertakes to do remunerated work for the council, other than work as an assessor, the

person ceases to be a member of the panel from the day the person starts the work until 2 months after the day the work is completed.’.

## **11 Replacement of s 28 (Reference of objection to assessor)**

Section 28—

*omit, insert—*

### **‘28 Referring objection to assessor**

‘(1) This section applies if an objection is made to the council’s proposal to enter a place in the heritage register on a permanent basis or to remove a place from the heritage register.

‘(2) The council must, within 10 business days after the last day for receiving objections, or within any longer time the Minister may allow, select an assessor from the panel of assessors and refer the objection to the assessor.

‘(3) If the objection is withdrawn, the assessor must immediately stop assessing and reporting on the objection.’.

## **12 Amendment of s 30 (Entry in and removal from register)**

Section 30(1) to (3)—

*omit, insert—*

‘(1) If no objection is made to the proposed entry of a place in the heritage register on a permanent basis, or the proposed removal of a place from the heritage register, the council may—

- (a) permanently enter the place in the register; or
- (b) remove the place from the register.

‘(2) If an objection has been made to the proposed entry of a place in the heritage register on a permanent basis, the council may, after considering the assessor’s report—

- (a) permanently enter the place, as originally proposed, in the register; or
- (b) permanently enter the place, as varied from the original proposal, in the register; or
- (c) remove the provisional entry of the place from the register.



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‘(3) If an objection has been made to the proposed removal of a place from the heritage register, the council may, after considering the assessor’s report—

- (a) remove the place from the register; or
- (b) leave the entry of the place in the register.’.

### **13 Amendment of s 32 (Certificate of immunity)**

Section 32(1), after ‘The owner of a place’—

*insert—*

‘, or another person with the written agreement of the owner.’.

### **14 Replacement of pt 5 (Development in registered places)**

Part 5—

*omit, insert—*

## **‘PART 5—DEVELOPMENT IN REGISTERED PLACES**

### *‘Division 1—Assessing development applications*

### **‘33 Criteria for assessing development applications under the Integrated Planning Act 1997**

‘(1) If, under the *Integrated Planning Act 1997*, the council is the assessment manager or a referral agency for a development application, the council must assess the application against the objects of this Act.

‘(2) If the council is satisfied the effect of approving the development would be to destroy or substantially reduce the cultural heritage significance of a registered place, the council must, if it is satisfied there is a prudent and feasible alternative to carrying out the development—

- (a) if the council is the assessment manager for the application—refuse the application; or
- (b) if the council is a concurrence agency for the application—tell the assessment manager to refuse the application.

---

‘(3) In deciding if there is a prudent and feasible alternative to carrying out the development, the council must have regard to—

- (a) safety, health and economic considerations; and
- (b) any other matters the council considers relevant.

### **‘34 Development by the State**

‘(1) This section applies if the State proposes to carry out development in relation to a registered place.

‘(2) The chief executive of the department or agency proposing the development must give the council a report on the proposed development.

‘(3) The report must contain the details prescribed under a regulation.

‘(4) If the council is satisfied the development would substantially affect the cultural heritage significance of the registered place, the council must publish a public notice stating the following—

- (a) details of the development;
- (b) that written submissions may be made about the development;
- (c) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.

‘(5) The day stated under subsection (4)(c) must not be earlier than 15 business days after the day the notice is published.

‘(6) The council must consider all submissions made about the development and recommend to the Minister proposing the development that—

- (a) the development may be carried out; or
- (b) the development may be carried out subject to stated conditions or modifications; or
- (c) the development should not be carried out.

‘(7) If the council is satisfied the effect of carrying out the development would be to destroy or substantially reduce the cultural heritage significance of the place, the council may only recommend the development may be carried out if it is satisfied there is no prudent and feasible alternative to carrying out the development.

---

‘(8) In deciding if there is a prudent and feasible alternative to carrying out the development, the council must have regard to—

- (a) safety, health and economic considerations; and
- (b) any other matters the council considers relevant.

‘(9) The Minister proposing the development must consider the council’s recommendation and decide whether to accept or reject it.

‘(10) If the development was publicly notified under subsection (4), the Minister proposing the development must also give public notice of the decision under subsection (9) a reasonable time before the development starts.

### *‘Division 2—Exemption certificates*

#### **‘35 Application for exemption certificate**

‘(1) The owner of a registered place may apply to the council for an exemption certificate to carry out on the place development mentioned in subsection (4).

‘(2) The application must be supported by enough information to enable the council to decide the application.

‘(3) The council may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

‘(4) An exemption certificate may be issued for development that—

- (a) is excluded work; or
- (b) is genuinely required for a place of worship for liturgical purposes; or
- (c) is permitted under a heritage agreement; or
- (d) would have no impact on the cultural heritage significance of the place.

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**‘36 Deciding application for exemption certificate**

‘(1) The council must decide the application within 20 business days after the day the council receives the application.

‘(2) If the council approves the application, with or without conditions, the council must, as soon as practicable after approving the application, give the applicant an exemption certificate.

‘(3) If the council refuses the application or approves it with conditions, the council must, as soon as practicable, give the applicant a notice stating the reasons for the refusal or the conditions.

**‘37 Council may give certificate of exemption without application**

‘The council may, at any time and without the owner having applied under section 35, give the owner of a registered place an exemption certificate to carry out on the place development mentioned in section 35(4).

**‘38 Exemption certificate for liturgical purposes**

‘For an application for an exemption certificate for development mentioned in section 35(4)(b) to be successful—

- (a) an official, authorised by a religious organisation, must give the council a certificate stating that the development is genuinely required for liturgical purposes; and
- (b) the council must be satisfied the development is genuinely required for liturgical purposes; and
- (c) the development must not be the substantial or total demolition of a place of worship.’.

**15 Amendment of pt 6 hdg (Heritage agreements and exemptions)**

Part 6 heading, ‘AND EXEMPTIONS’—

*omit.*

**16 Amendment of s 40 (Provisions of heritage agreement)**

Section 40(2)(g)—

*omit, insert—*

‘(g) specify development that may be carried out in the registered place for which an exemption certificate will be issued.’.

## **17 Replacement of pt 7 (Protection of cultural relics)**

Part 7—

*omit, insert—*

### **‘PART 7—DISCOVERY AND PROTECTION OF OBJECTS AND AREAS**

#### *‘Division 1—Studies and discoveries*

#### **‘44 Study must be reported**

‘(1) A person who proposes to study land or the territorial waters of the State for the purpose of identifying objects or places that may be of cultural heritage significance must give the chief executive a notice about the study.

‘(2) The notice must state—

- (a) the purpose of the study; and
- (b) the area proposed to be studied; and
- (c) the methodology of the study; and
- (d) when the study will be carried out; and
- (e) the names of the persons who will carry out the study and their qualifications; and
- (f) the arrangements for the storage and conservation of objects recovered, if this is intended by the study.

‘(3) A person must not carry out a study of the land or the territorial waters of the State for the purpose of identifying objects or places that may be of cultural heritage significance unless the chief executive has approved the person to carry out the study.

Maximum penalty—300 penalty units.

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‘(4) When the study has been completed, the person must, within 40 business days after the study has been completed, give the chief executive a report stating all of the following—

- (a) whether the purpose of the study was achieved;
- (b) how the purpose of the study was achieved;
- (c) the area studied;
- (d) an assessment of the cultural heritage significance of the area studied;
- (e) the methodology used for the study;
- (f) when the study was carried out;
- (g) details of all findings and observations;
- (h) any appropriate recommendations for the protection of objects or any area of cultural heritage significance found in the study.

Maximum penalty for subsection (4)—300 penalty units.

‘(5) The chief executive may extend the time by which the report may be given under subsection (4).

#### **‘45 Discovery must be reported**

‘A person who discovers any of the following that may be of cultural heritage significance must report the discovery to the Minister as soon as practicable after the discovery is made—

- (a) an object situated on or under the surface of the land;
- (b) the remains of a ship or some other object in the territorial waters of the State.

Maximum penalty—50 penalty units.

### *‘Division 2—Protected objects*

#### **‘46 Declaration of protected object**

‘(1) This section applies if the Minister is satisfied any of the following may be of cultural heritage significance—

- 
- (a) an object situated on, under or recovered from the surface of the land;
  - (b) the remains of a ship or some other object in, or recovered from, the territorial waters of the State.

‘(2) The Minister may, by gazette notice, provisionally declare the object or remains to be a protected object.

‘(3) The notice remains in force until whichever of the following first happens—

- (a) the commencement of a regulation made under subsection (5);
- (b) the end of 2 months.

‘(4) The notice is subordinate legislation.

‘(5) A regulation may declare the object or remains to be a protected object.

#### **‘47 Offence to interfere with, damage or dispose of protected object**

‘(1) A person must not, without the chief executive’s written consent or unless the person has a reasonable excuse—

- (a) knowingly interfere with a protected object; or
- (b) dispose of a protected object; or
- (c) remove a protected object from waters in which, or land on or under which, it is situated.

Maximum penalty—1 000 penalty units.

‘(2) In this section—

“**interfere with**” includes the following—

- (a) damage;
- (b) destroy.

#### **‘48 Unlawful possession of protected object**

‘(1) Unless a person has the written approval of the chief executive or another lawful excuse, the person must not have in the person’s possession a protected object if the person knows or ought reasonably to know the object is a protected object.

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Maximum penalty—100 penalty units.

‘(2) In this section—

“**possession**” includes the following—

- (a) custody;
- (b) control.

### *‘Division 3—Protected areas*

#### **‘49 Declaration of protected areas**

‘A regulation may declare an area containing protected objects or a place of cultural heritage significance to be a protected area.

#### **‘50 Offence to destroy protected area**

‘(1) A person must not enter or interfere with a protected area unless the person—

- (a) is acting under a permit to enter the protected area; or
- (b) otherwise has a reasonable excuse.

Maximum penalty—1 000 penalty units.

‘(2) In this section—

“**interfere with**” includes the following—

- (a) damage;
- (b) destroy;
- (c) excavate.

#### **‘51 Applying for permit to enter a protected area**

‘(1) A person may apply for a permit to enter a protected area.

‘(2) The application must be—

- (a) made to the chief executive in the approved form; and



- 
- (b) supported by enough information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

### **‘52 Additional information may be required**

‘The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

### **‘53 Approving an application for a permit to enter a protected area**

‘(1) If the chief executive is satisfied the application should be approved, the chief executive must—

- (a) approve the application, with or without conditions; and
- (b) within 10 business days after approving the application, give the applicant a permit to enter the protected area.

‘(2) The permit applies for the period stated in it.

‘(3) The conditions may, for example—

- (a) require that operations after entry be supervised by a person with appropriate qualifications and experience stated in the condition; or
- (b) require that the operations after entry be carried out as required by stated professional standards; or
- (c) make provision for the way in which objects of possible cultural heritage significance uncovered in the course of the operations must be dealt with; or
- (d) require the holder of the permit to pay stated fees, or fees calculated under a stated scale, for the evaluation, cataloguing and curation of objects uncovered during the operations; or
- (e) as far as circumstances permit, require the objects to be kept and preserved in the Queensland Museum.

‘(4) A person must not contravene a condition of a permit.

Maximum penalty for subsection (4)—1 000 penalty units.

### ‘53A Refusing an application for a permit to enter a protected area

‘(1) If the chief executive is not satisfied the application should be approved, the chief executive must—

- (a) refuse the application; and
- (b) within 10 business days after deciding the application should not be approved, give the applicant written notice of the refusal.

‘(2) The chief executive may refuse the application if the chief executive is satisfied the applicant—

- (a) does not have the necessary expertise or experience to be given the permit; or
- (b) does not have a sufficient reason to enter the area; or
- (c) is not a suitable person to hold the permit.

*Example of unsuitability—*

The applicant has been convicted of an offence against this Act, another Act dealing with cultural heritage or a similar law of another State, or has held a similar permit that has been cancelled under this Act, another Act dealing with cultural heritage or a similar law of another State.

‘(3) Subsection (2) does not limit the grounds on which the chief executive may refuse the application.

### ‘53B Chief executive may cancel a permit to enter a protected area

‘The chief executive may cancel a permit to enter a protected area on the following grounds—

- (a) the conditions of the protected area have changed;
- (b) it has become unsafe to enter or remain in the protected area;
- (c) the permit holder has not complied with a condition of the permit or a requirement of this Act;
- (d) the holder has been convicted of an offence against this Act;

- (e) the permit was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by the holder.

### **‘53C Procedure for cancelling a permit to enter a protected area**

‘(1) If the chief executive is satisfied a permit to enter a protected area should be cancelled, the chief executive must give the permit holder a notice inviting the permit holder to show cause why the permit should not be cancelled.

‘(2) The notice must state—

- (a) the facts and circumstances forming the basis for the chief executive’s belief that the permit should be cancelled; and
- (b) that representations may be made about the proposed cancellation; and
- (c) how the representations may be made; and
- (d) where the representations may be made or sent; and
- (e) a day and time by which the representations must be made.

‘(3) The day stated in the notice must be at least 20 business days after the notice is given.

‘(4) If, after considering any submission about the proposed cancellation, the chief executive is still satisfied the permit should be cancelled, the chief executive must decide to cancel the permit.

‘(5) The chief executive must give the permit holder written notice of the decision within 10 business days after the decision is made.

‘(6) The cancellation takes effect on—

- (a) if the applicant does not appeal against the decision—the day the period for appeals ends; or
- (b) if the applicant appeals against the decision but withdraws the appeal—the day the appeal is withdrawn; or
- (c) if the applicant appeals against the decision and the appeal is dismissed—the day the appeal is ended.

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***Division 4—Miscellaneous***

**‘53D Appeals**

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

- (a) refuses a person’s application for a permit to enter a protected area; or
- (b) grants a person’s application for a permit to enter a protected area, subject to conditions; or
- (c) cancels a person’s permit to enter a protected area; or
- (d) refuses to approve under section 44, a person to carry out a study.

‘(2) The person may, within 20 business days after receiving the permit or the notice of the chief executive’s refusal or cancellation, appeal the chief executive’s action to the Planning and Environment Court.

‘(3) However, if the appeal is against the cancellation of a permit to enter a protected area, and the cancellation is on the ground that the person has been convicted of an offence against this Act, the appeal may be made within 20 business days after—

- (a) the day the period for appeals against the conviction ends; or
- (b) if an appeal is made against the conviction—the day the appeal is ended.

‘(4) Subsection (3) applies only to the extent it provides a later time for making an appeal than subsection (2) provides.

‘(5) The *Integrated Planning Act 1997*, chapter 4, part 1, division 12, with any changes the court considers appropriate, applies to the appeal.<sup>3</sup>’

**18 Replacement of pt 8, div 1 (Authorised persons)**

Part 8, division 1—

*omit, insert—*

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3 *Integrated Planning Act 1997*, chapter 4 (Appeals, offences and enforcement), part 1 (Planning and Environment Court), division 12 (Court process for appeals)

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***Division 1—Authorised persons***

**‘54 Appointment and qualifications**

‘(1) The chief executive may appoint a public service officer or employee as an authorised person.

‘(2) However, the officer or employee may be appointed as an authorised person only if the chief executive is satisfied the officer or employee is qualified for appointment because the person has the necessary expertise or experience.

‘(3) Subsection (2) does not limit the issues the chief executive may consider when deciding whether to appoint an officer or employee as an authorised person.

**‘55 Functions of authorised persons**

‘(1) An authorised person has the following functions—

- (a) to inspect places, or objects in a place, for the purpose of deciding or recording the cultural heritage significance of the places or objects in the place;
- (b) to conduct investigations and inspections to monitor and enforce compliance with this Act.

‘(2) For performing an authorised person’s functions under this Act, an authorised person has the powers given under this Act.

‘(3) An authorised person is subject to the directions of the chief executive in exercising the powers.

**‘56 Appointment conditions and limit on powers**

‘(1) An authorised person holds office on any conditions stated in—

- (a) the officer’s instrument of appointment; or
- (b) a signed notice given to the officer; or
- (c) a regulation.

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‘(2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person’s powers under this Act.

‘(3) In this section—

“**signed notice**” means a notice signed by the chief executive.

### **‘57 Issue of identity card**

‘(1) The chief executive must issue an identity card to each authorised person.

‘(2) The identity card must—

- (a) contain a recent photo of the person; and
- (b) contain a copy of the person’s signature; and
- (c) identify the person as an authorised person under this Act; and
- (d) state an expiry date for the card.

‘(3) This section does not prevent the giving of a single identity card to a person for this Act and other purposes.

### **‘57A Production or display of identity card**

‘(1) In exercising a power under this Act in relation to a person, an authorised person must—

- (a) produce the authorised person’s identity card for the person’s inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

‘(2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person’s inspection at the first reasonable opportunity.

‘(3) For subsection (1), an authorised person does not exercise a power in relation to a person only because the authorised person has entered a place as mentioned in section 57E(1)(b) or (2).

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**‘57B When authorised person ceases to hold office**

‘(1) An authorised person ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the authorised person ceases to hold office;
- (c) the authorised person’s resignation under section 57C takes effect.

‘(2) Subsection (1) does not limit the ways an authorised person may cease to hold office.

‘(3) In this section—

“**condition of office**” means a condition on which the authorised person holds office.

**‘57C Resignation**

‘(1) An authorised person may resign by signed notice given to the chief executive.

‘(2) However, if holding office as an authorised person is a condition of the authorised person holding another office, the authorised person may not resign as an authorised person without resigning from the other office.

**‘57D Return of identity card**

‘A person who ceases to be an authorised person must return the person’s identity card to the chief executive within 21 days after ceasing to be an authorised person unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

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***‘Division 1A—Powers of authorised persons***

***‘Subdivision 1—Entry of places***

**‘57E Authorised person’s power to enter places**

‘(1) An authorised person may enter a place<sup>4</sup> if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant; or
- (d) it is a place of business and is—
  - (i) open for carrying on the business; or
  - (ii) otherwise open for entry.

‘(2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier’s consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

‘(3) For subsection (1)(d), a place of business does not include a part of the place where a person resides.

***‘Subdivision 2—Procedure for entry***

**‘57F Entry with consent**

‘(1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place under section 57E(1)(a).

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<sup>4</sup> See the schedule for the definition of “place” for this Act.



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‘(2) Before asking for the consent, the authorised person must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

‘(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

‘(4) The acknowledgment must state—

- (a) the occupier has been told—
  - (i) the purpose of the entry; and
  - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the authorised person consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

‘(5) If the occupier signs the acknowledgment, the authorised person must immediately give a copy to the occupier.

‘(6) If—

- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
- (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

### **‘57G Application for warrant**

‘(1) An authorised person may apply to a magistrate for a warrant for a place.

‘(2) The application must be sworn and state the grounds on which the warrant is sought.

‘(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

**‘57H Issue of warrant**

‘(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and
- (b) the evidence is at the place, or, within the next 7 days, may be at the place.

‘(2) The warrant must state—

- (a) that a stated authorised person may, with necessary and reasonable help and force—
  - (i) enter the place and any other place necessary for entry; and
  - (ii) exercise the authorised person’s powers under this part; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

**‘57I Special warrants**

‘(1) An authorised person may apply for a warrant (a “**special warrant**”) by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the authorised person’s remote location.

‘(2) Before applying for the special warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

‘(3) The authorised person may apply for the special warrant before the application is sworn.

‘(4) After issuing the special warrant, the magistrate must immediately fax a copy (a “**facsimile warrant**”) to the authorised person if it is reasonably practicable to fax the copy.

‘(5) If it is not reasonably practicable to fax a copy to the authorised person—

- (a) the magistrate must tell the authorised person—
  - (i) what the terms of the special warrant are; and
  - (ii) the date and time the special warrant is issued; and
- (b) the authorised person must complete a form of warrant (a “**warrant form**”) and write on it—
  - (i) the magistrate’s name; and
  - (ii) the date and time the magistrate issued the special warrant; and
  - (iii) the terms of the special warrant.

‘(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers stated in the special warrant issued.

‘(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

- (a) the sworn application; and
- (b) if the authorised person completed a warrant form—the completed warrant form.

‘(8) On receiving the documents, the magistrate must attach them to the special warrant.

‘(9) If—

- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
- (b) the warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

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**‘57J Warrants—procedure before entry**

‘(1) This section applies if an authorised person named in a warrant issued under this part for a place is intending to enter the place under the warrant.

‘(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person’s identity card or other document evidencing the authorised person’s appointment;
- (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form mentioned in section 57I(6), a copy of the facsimile warrant or warrant form;
- (c) tell the person the authorised person is permitted by the warrant to enter the place;
- (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

‘(3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

***‘Subdivision 3—General powers of investigators on entry to places*****‘57K General powers for places**

‘(1) An authorised person who enters a place under subdivision 2 may exercise any of the following powers—

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in the place;
- (c) take extracts from, and make copies of, any document in the place;
- (d) take into the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this division;

- (e) require a person in the place to give the authorised person reasonable information or help and provide reasonable facilities to exercise the powers mentioned in paragraphs (a) to (d).

*Examples for paragraph (e)—*

1. Giving information about how to access electronic systems at the place.
2. Provision of a photocopier for copying a document

‘(2) When making a requirement mentioned in subsection (1)(e), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

‘(3) The person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty for subsection (3)—100 penalty units.

#### **‘57L Power to require name and address**

‘(1) An authorised person may require another person to state the person’s name and residential or business address if the authorised person—

- (a) finds the other person committing, or about to commit, an offence against this Act; or
- (b) finds the other person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect the other person has just committed an offence against this Act.

‘(2) When making the requirement, the authorised person must give the other person an offence warning.

‘(3) The authorised person may also require the other person to give evidence of the correctness of the stated name or required address if, in the circumstances, it would be reasonable to expect the other person to—

- (a) be in possession of evidence of the correctness of the stated name or address; or
- (b) otherwise be able to give the evidence.

‘(4) A requirement under this section is called a “**personal details requirement**”.

‘(5) In this section—

“**offence warning**” means a warning that, without reasonable excuse, it is an offence for the person to whom the direction or requirement is given, or of whom it is made, not to comply with it.

#### *‘Subdivision 4—Miscellaneous provisions*

#### **‘57M Authorised persons may use help and force in exercise of powers**

‘(1) An authorised person may exercise a power under this division with the help that is reasonable in the circumstances.

‘(2) Without limiting subsection (1), a person engaged by the council may help the authorised person exercise powers under this division.

*Examples of persons who may help authorised persons—*

1. Locksmith.
2. Computer technician.

‘(3) Also, an authorised person may exercise a power under this division using the force that is reasonable in the circumstances.

#### **‘57N Notice of damage**

‘(1) This section applies if—

- (a) an authorised person damages property when exercising or purporting to exercise a power under this division; or
- (b) a person (the “**other person**”) acting under the direction of an authorised person damages property.

‘(2) The authorised person must promptly give written notice of particulars of the damage to the person who appears to the authorised person to be the owner of the property.

‘(3) If the authorised person believes the damage was caused by a latent defect in the property or circumstances beyond the control of the authorised person or other person, the authorised person may state it in the notice.

‘(4) If, for any reason, it is impracticable to give the notice to the person mentioned in subsection (2), the authorised person must leave the notice in

a conspicuous position and in a reasonably secure way where the damage happened.

‘(5) This section does not apply to damage the authorised person reasonably believes is trivial.

‘(6) In this section—

“owner”, of property, includes the person in possession or control of it.

### **‘570 Compensation**

‘(1) A person may claim from the State the cost of repairing or replacing property damaged because of the exercise or purported exercise of a power under this division.

‘(2) The cost may be claimed and ordered to be paid in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount claimed; or
- (b) for an offence against this Act brought against the person claiming the amount.

‘(3) A court may order an amount be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘(4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.’.

## **19 Insertion of new pt 8, div 3**

Part 8, after division 2—

*insert—*

### ***‘Division 3—General offences***

#### **‘59A False or misleading statements**

‘(1) A person must not state anything to an authorised person that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

‘(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, ‘false or misleading’.

### **‘59B False or misleading documents**

‘(1) A person must not give an authorised person a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

‘(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the authorised person, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

‘(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, ‘false or misleading’.

### **‘59C Obstructing and impersonating authorised persons**

‘(1) A person must not obstruct an authorised person in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

‘(2) If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

- (a) it is an offence to obstruct the authorised person, unless the person has a reasonable excuse; and
- (b) the authorised person considers the person’s conduct an obstruction.

‘(3) A person must not pretend to be an authorised person.

Maximum penalty—100 penalty units.



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‘(4) In this section—

“obstruct” includes assault, hinder and threaten, and attempt to obstruct.

#### **‘59D Failure to comply with personal details requirement**

‘(1) A person of whom a personal details requirement is made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) For subsection (1), a person has a reasonable excuse if—

- (a) the requirement is given because the authorised person giving it suspected the person to whom the requirement was given has committed an offence against this Act; and
- (b) the person to whom the requirement is given is not proved to have committed the offence.

#### **‘59E Executive officers must ensure corporation complies with Act**

‘(1) The executive officers of a corporation must ensure the corporation complies with this Act.

‘(2) If a corporation commits an offence against a provision of this Act, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

‘(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

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‘(5) In this section—

“**executive officer**”, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person’s position is given the name of executive officer.’.

## 20 Insertion of new s 67A

After section 67—

*insert—*

### ‘67A Donations towards the objects of this Act

‘(1) The Minister may accept donations of money to assist the objects of this Act.

‘(2) The Minister must ensure—

- (a) proper accounts are kept of donations made under subsection (1); and
- (b) the donations are used only for the purpose of conserving Queensland’s cultural heritage.’.

## 21 Insertion of new s 68A

After section 68—

*insert—*

### ‘68A Numbering and renumbering of Act

‘In the next reprint of this Act, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*.’.

## 22 Schedule (Transitional provisions)

Schedule

*omit, insert—*

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**‘SCHEDULE**

**‘DICTIONARY**

section 4’.

**PART 3—AMENDMENT OF CULTURAL RECORD  
(LANDSCAPES QUEENSLAND AND QUEENSLAND  
ESTATE) ACT 1987**

**23 Act amended in pt 3**

This part amends the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*.

**24 Insertion of new s 2**

After section 1—

*insert—*

**‘2 Application of Act**

‘This Act applies to Landscapes Queensland and the Queensland Estate only to the extent they are indigenous.’.

**PART 4—AMENDMENT OF INTEGRATED PLANNING  
ACT 1997**

**25 Act amended in pt 4**

This part amends the *Integrated Planning Act 1997*.

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**26 Amendment of s 1.3.5 (Definitions for terms used in “development”)**

Section 1.3.5, definition “building work”—

*omit, insert—*

‘“building work”—

1. “Building work” means—
  - (a) building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building or other structure; or
  - (b) work regulated under the *Standard Building Regulation 1993*; or
  - (c) excavating or filling—
    - (i) for, or incidental to, the activities mentioned in paragraph (a); or
    - (ii) that may adversely affect the stability of a building or other structure, whether on the land on which the building or other structure is situated or on adjoining land; or
  - (d) supporting (whether vertically or laterally) land for activities mentioned in paragraph (a).
2. “Building work”, for administering IDAS under the *Queensland Heritage Act 1992*, includes any of the following—
  - (a) painting or plastering that substantially alters the appearance of the place;
  - (b) renovations, alterations or additions to the place;
  - (c) excavations, disturbances or changes to landscape or natural features of land that substantially alters the appearance of the place;
  - (d) work on furniture, fittings and other objects—
    - (i) associated with the place; and
    - (ii) that contributes to the place’s cultural heritage significance.

3. “Building work”, for administering IDAS under the *Queensland Heritage Act 1992*, does not include development for which an exemption certificate has been issued under that Act.’

**27 Amendment of s 4.3.1 (Carrying out assessable development without permit)**

Section 4.3.1(3)—

*omit, insert—*

‘(3) Despite subsection (1), the maximum penalty is 17 000 penalty units if the assessable development is—

- (a) the demolition of a building identified in a planning scheme as a building of cultural heritage significance; or
- (b) on a registered place under the *Queensland Heritage Act 1992*.’

**28 Amendment of sch 8 (Assessable, self-assessable and exempt development)**

Schedule 8, part 1—

*insert—*

‘2. All development carried out on a registered place under the *Queensland Heritage Act 1992*, other than development—

- (a) for which an exemption certificate under that Act has been issued; or
- (b) that is emergency work or excluded work under that Act; or
- (c) carried out by the State.’

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## **PART 5—AMENDMENT OF INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2001**

### **29 Act amended in pt 5**

This part amends the *Integrated Planning and Other Legislation Amendment Act 2001*.

### **30 Amendment of s 84 (Replacement of sch 8 (Assessable, self-assessable and exempt development))**

Section 84, replacement schedule 8, part 1—

*insert—*

‘7. All development carried out on a registered place under the *Queensland Heritage Act 1992*, other than development—

- (a) for which an exemption certificate under that Act has been issued; or
- (b) that is emergency work or excluded work under that Act; or
- (c) carried out by the State.’

### **31 Amendment of s 85 (Replacement of sch 10 (Dictionary))**

Section 85, replacement schedule 10, definition “building work”—

*omit, insert—*

‘**“building work”**—

1. “Building work” means building work, as defined under the *Building Act 1975*.
2. “Building work”, for administering IDAS under the *Queensland Heritage Act 1992*, includes any of the following—
  - (a) painting or plastering that substantially alters the appearance of the place;
  - (b) renovations, alterations or additions to the place;

- 
- (c) excavations, disturbances or changes to landscape or natural features of land that substantially alters the appearance of the place;
  - (d) work on furniture, fittings and other objects—
    - (i) associated with the place; and
    - (ii) that contributes to the place’s cultural heritage significance.
3. “Building work”, for administering IDAS under the *Queensland Heritage Act 1992*, does not include development for which an exemption certificate has been issued under that Act.’.

## PART 6—AMENDMENT OF MINERAL RESOURCES ACT 1989

### 32 Act amended in pt 6

This part amends the *Mineral Resources Act 1989*.

### 33 Amendment of s 319 (Effect on planning provisions)

(1) Section 319(1), ‘The’—

*omit, insert—*

‘Subject to subsection (1A), the’.

(2) Section 319—

*insert—*

‘(1A) For administering IDAS under the *Queensland Heritage Act 1992*, the *Integrated Planning Act 1997* applies to a registered place under the *Queensland Heritage Act 1992*, even if the use of the place is authorised under this Act.’.

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**PART 7—AMENDMENT OF TRANSPORT  
INFRASTRUCTURE ACT 1994**

**34 Act amended in pt 7**

This part amends the *Transport Infrastructure Act 1994*.

**35 Omission of s 133 (Application of Queensland Heritage Act)**

Section 133—

*omit.*



**SCHEDULE****MINOR AMENDMENTS OF QUEENSLAND HERITAGE  
ACT 1992**

section 3(2)

**1 Section 20(2)—***insert—*

‘(d) orders made or granted under the *Integrated Planning Act 1997* relating to registered places.’.

**2 Section 20(4)(a)(ii)—***omit, insert—*

‘(ii) by survey information that enables its boundaries to be clearly and accurately ascertained; or

(iii) by a suitable plan; and’.

**3 Section 20(4)(d), before ‘heritage’—***insert—*

‘cultural’.

**4 Section 22(1)(b), ‘the provisions of’—***omit.***5 Sections 26(2), 29(4) and 30(5), ‘30 days’—***omit, insert—*

‘20 business days’.

## SCHEDULE (continued)

**6 Section 29(2), ‘thinks fit’—***omit, insert—*

‘considers appropriate’.

**7 Sections 29(3)(b) and 58(3)(b), ‘60 days’—***omit, insert—*

‘40 business days’.

**8 Section 29(4), after ‘assessor’s report,’—***insert—*

‘consider the report and’.

**9 Section 30(5), after ‘If the owner of a place’—***insert—*

‘, having objected under this part,’.

**10 Section 32(5), (6) and (8), ‘an application under this section’—***omit, insert—*

‘the application’.

**11 Section 63(1)(b)—***omit.*

## SCHEDULE (continued)

**12 Section 68, heading—**

*omit, insert—*

**‘68 Regulation-making power’.**