



Queensland

# Queensland Heritage Regulation 2015

## Subordinate Legislation 2015 No. 107

made under the

*Queensland Heritage Act 1992*  
*State Penalties Enforcement Act 1999*  
*Sustainable Planning Act 2009*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Queensland Heritage Regulation 2015*.

### **2 Commencement**

This regulation commences on 1 September 2015.

## **Part 2 Provisions about Queensland heritage places and local heritage places**

### **3 Prescribed details for report on proposed development by the State—Act, s 71**

For section 71(3) of the Act, the details are the following—

- (a) the address of the Queensland heritage place or other information that adequately identifies the location of the place;
- (b) any reference number given to the place in the Queensland heritage register;
- (c) a statement that complies with any relevant guideline made under section 173 of the Act that deals with the impact of proposed development on the cultural heritage significance of the place;

*Editor's note—*

Any guideline made under section 173 of the Act is available on the department's website. See section 173(3) of the Act.

- (d) the relevant contents of any reports, plans, assessments or other documents that are referred to in, or support, the statement mentioned in paragraph (c);

[s 4]

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*Examples—*

an engineering report, a conservation management plan, an archaeological management plan

- (e) photographs, site plans, drawings or other documents showing the proposed development in relation to the features of the place that contribute to its cultural heritage significance.

#### **4 Matters Minister must consider—Act, s 83**

- (1) This section prescribes, for section 83(3) of the Act, the matters the Minister must consider in being satisfied that a local government has appropriate procedures in place for exercising a power under section 84 of the Act in relation to the local government.
- (2) The matters the Minister must consider are the following—
  - (a) how the local government becomes satisfied a place is of cultural heritage significance for its local government area, including, for example—
    - (i) the criteria the local government uses to assess the significance of the place; and
    - (ii) whether the local government employs appropriately qualified staff or engages appropriately qualified consultants or contractors to help assess whether the place is of cultural heritage significance;
  - (b) whether the local government has a repair and maintenance notice policy, as described in subsection (3), that it will comply with in giving a repair and maintenance notice under section 84 of the Act.
- (3) A repair and maintenance notice policy explains—
  - (a) how the local government will be informed about a local heritage place being in need of essential repair or maintenance work, including, for example, through a report from a member of the public or a local government employee; and

- 
- (b) whether the local government has any guidance material in relation to repair and maintenance notices for owners of local heritage places; and
  - (c) the kinds of steps, depending on the circumstances of the case, the decision-maker for a local heritage place will usually take under section 84(3) of the Act to consult with the owner of a local heritage place; and
  - (d) how the decision-maker decides whether it is necessary to carry out essential repair or maintenance work on a local heritage place to protect the place from damage or deterioration caused by weather, fire, vandalism or insects; and
  - (e) how the decision-maker considers alternatives to issuing a repair and maintenance notice; and
  - (f) how the decision-maker gives a repair and maintenance notice to the owner of a local heritage place; and
  - (g) how the carrying out of essential repair or maintenance work required by a repair and maintenance notice will be approved or permitted, including, for example, through an exemption certificate or a development approval; and
  - (h) the system the decision-maker has in place to monitor compliance with a repair and maintenance notice given to the owner of a local heritage place; and
  - (i) the measures the local government takes to ensure it does not give a repair and maintenance notice in relation to a local heritage place that is also a State heritage place; and

*Note—*

Under section 84 of the Act, the chief executive is the decision-maker for the giving of a repair and maintenance notice in relation to a State heritage place.

- (j) the measures the local government has in place to ensure it gives a report to the chief executive as required under section 85 of the Act.

[s 5]

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(4) In this section—

*decision-maker*, for a local heritage place, means the decision-maker for the local heritage place as provided for in section 84(7) of the Act.

*essential repair or maintenance work* see section 84(7) of the Act.

## 5 Declaration of protected areas—Act, s 103

(1) The area mentioned in schedule 1AA, item 1 of the expired regulation is declared to no longer be a protected area.

(2) The area mentioned in schedule 1—

(a) continues as a protected area; and

(b) ceases to be a protected area 3 years after the commencement.

(3) In this section—

*expired regulation* means the *Queensland Heritage Regulation 2003* as in force immediately before the commencement.

## 6 Recommending declaration of protected areas—Act, s 103

(1) If the Minister considers it may be helpful in the administration of part 10 of the Act to do so, the Minister may agree, on terms stated by the Minister, to receive from a person a recommendation that an area containing a place of cultural heritage significance be declared to be a protected area.

(2) Without limiting subsection (1), the Minister may require that the recommendation—

(a) contain all of the following information—

(i) the name and address of the person;



[s 8]

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## **8 Fees**

The fees mentioned in schedule 3 are prescribed under the provisions of the Act mentioned in the schedule.

# **Part 4 Consequential and other amendments**

## **Division 1 Amendment of State Penalties Enforcement Regulation 2014**

### **9 Regulation amended**

This division amends the *State Penalties Enforcement Regulation 2014*.

### **10 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

- (1) Schedule 1, entry for the *Queensland Heritage Act 1992*, entries for sections 76 and 87(6)—

*omit, insert—*

|         |  |    |    |
|---------|--|----|----|
| s 76    | in the circumstances in paragraph (a) of the penalty ..... | 15 | 75 |
| s 84(6) | in the circumstances in paragraph (a) of the penalty ..... | 5  | 75 |

- (2) Schedule 1, entry for the *Queensland Heritage Act 1992*, entry for section 91(1), 's 91(1)'—

*omit, insert—*

s 91



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## Division 2                      Amendment of Sustainable Planning Regulation 2009

### 11            Regulation amended

This division amends the *Sustainable Planning Regulation 2009*.

### 12            Amendment of sch 3 (Assessable development, self-assessable development and type of assessment)

- (1) Schedule 3, part 1, table 5, item 2, column 2, paragraph (a), after ‘issued’—

*insert—*

by the chief executive of the department in which that Act is administered

- (2) Schedule 3, part 1, table 5, item 3, column 2—

*insert—*

- (2) In this item—

***local heritage place*** includes a place that is identified as a place of cultural heritage significance in a local government’s planning scheme.

- (3) Schedule 3, part 1, table 5, item 3, column 2—

*insert—*

- (e) if the place is not a Queensland heritage place—development for which an exemption certificate under the *Queensland Heritage Act 1992* has been issued by a local government

[s 13]

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**13 Amendment of sch 5 (Applicable codes, laws, policies and prescribed matters for particular development)**

Schedule 5, part 1, table 5, item 5, column 2, paragraph (a), '2003'—

*omit, insert—*

2015

**14 Amendment of sch 7 (Referral agencies and their jurisdictions)**

Schedule 7, table 1, item 13, column 3, paragraph (a), '2003'—

*omit, insert—*

2015

**15 Amendment of sch 26 (Dictionary)**

Schedule 26, definition *cultural heritage significance*, after 'for'—  
*insert—*

schedule 3, part 1, table 5, item 3 and

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## Schedule 1      Protected area

### section 5

The part of lot 17 on crown plan DE844097 within the following boundary—

- from latitude 25°11'21.962" south, longitude 139°48'4.545" east
- along the boundary of Durrie Station to latitude 25°6'22.493" south, longitude 139°48'28.867" east
- along the boundary of Durrie Station to latitude 25°7'0.406" south, longitude 139°55'50.353" east
- along an imaginary line between latitude 25°7'0.406" south, longitude 139°55'50.353" east and latitude 25°11'56.454" south, longitude 139°55'22.360" east
- along an imaginary line between latitude 25°11'56.454" south, longitude 139°55'22.360" east and latitude 25°11'21.962" south, longitude 139°48'4.545" east.

*Editor's note—*

A map showing the approximate location of the protected area is available for inspection at the department's head office at 400 George Street and on the department's website.

*Note—*

The latitudes and longitudes mentioned in this item are worked out using the system called 'Geocentric Datum of Australia 1994' or 'GDA94'.

## **Schedule 2      Code for IDAS**

section 7

### **Part 1                      Preliminary**

#### **1                      Application of code**

This code applies to all development on a local heritage place identified as a place of cultural heritage significance on a local government's local heritage register, unless—

- (a) the place is also a State heritage place; or
- (b) an exemption certificate issued by the local government applies to the place; or
- (c) the local government's planning scheme applies, adopts or incorporates the local heritage register under section 123 of the Act.

#### **2                      Purpose of code**

- (1) The purpose of this code is to provide for the conservation of local heritage places by—
  - (a) preventing the demolition or removal of local heritage places, unless there is no prudent and feasible alternative to the demolition or removal; and
  - (b) maintaining or encouraging, as far as practicable, the appropriate use of local heritage places; and
  - (c) protecting, as far as practicable, the materials and setting of local heritage places; and
  - (d) ensuring, as far as practicable, development on local heritage places is compatible with the cultural heritage significance of the places.
- (2) In considering whether there is no prudent and feasible alternative to the demolition or removal of a local heritage

place, the assessment manager under the Planning Act for the development must have regard to—

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

### 3 Compliance with code

- (1) This code is complied with for development on a local heritage place if each specific outcome stated in column 1 of the table in part 2, and applying to the development, is achieved.
- (2) A specific outcome mentioned in the table, column 1, item S.3, S.4, S.5 or S.6 of the table is achieved if the probable solution stated in column 2 of the table for achieving the specific outcome is complied with.

## Part 2 Specific outcomes and probable solutions

Table

| Column 1   | Column 2          |
|--|-------------------|
| Specific outcome   | Probable solution |
| <b>Material change of use of premises</b>  |                   |
| S.1 The material change of use is compatible with the conservation and management of the cultural heritage significance of the local heritage place. |                   |

## Schedule 2

| Column 1   | Column 2  |
|--|---|
| Specific outcome   | Probable solution   |
| <b>Reconfiguring a lot</b>   |   |
| <p>S.2 Reconfiguration does not—</p> <ul style="list-style-type: none"> <li>(a) reduce public access to the place; or</li> <li>(b) obscure or destroy any pattern of historic subdivisions, the landscape settings or the scale and consistency of urban precincts relating to the place.</li> </ul> |   |
| <b>Carrying out building work or operational work</b>  |   |
| <p>S.3 Development conserves the features and values of the local heritage place that contribute to its cultural heritage significance.</p>  | <p>P.3 Development—</p> <ul style="list-style-type: none"> <li>(a) does not alter, remove or conceal significant features of the place; or</li> <li>(b) is minor, and is necessary to maintain a significant use for the place.</li> </ul>  |
| <p>S.4 Changes to the local heritage place are appropriately managed and documented.</p>   | <p>P.4 Development is compatible with a conservation management plan prepared in accordance with the The Burra Charter (The Australia ICOMOS Charter for Places of Cultural Significance, 2013).</p> <p>An archival quality photographic record is made of the features of the place that are destroyed because of the development.</p> |
| <p>S.5 Development does not adversely affect the character, setting or appearance of the local heritage place.</p>   | <p>P.5 The scale, location and design of the development is compatible with the character, setting and appearance of the local heritage place.</p> <p>The development is unobtrusive and can not readily be seen from surrounding streets or other public places.</p>   |

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| <b>Column 1</b>  | <b>Column 2</b>  |
|--|--|
| <b>Specific outcome</b>  | <b>Probable solution</b>   |
| S.6 Excavation or other earthworks do not have a detrimental impact on archaeological sites. | P.6 The impact of excavation is minor and limited to parts of the local heritage place that have been disturbed by previous excavation.<br><br>An archaeological investigation is carried out for development involving a high level of surface or subsurface disturbance. |

## Schedule 3 Fees

section 8

|  | \$     |
|--|--------|
| 1 Certified copy of an entry in the Queensland heritage register (Act, s 33(1)(a)) . . . . .       | 38.60  |
| 2 Certificate about whether a place or area (Act, s 33(1)(b))—                                     |        |
| (a) is a State heritage place or a protected area; or  |        |
| (b) is the subject of a heritage agreement; or   |        |
| (c) is the subject of an application to have the place entered in or removed from the register; or |        |
| (d) is an excluded place . . . . .   | 38.60  |
| <i>Note—</i>   |        |
| A certificate mentioned in item 2 is commonly known as a ‘certificate of affect’.                  |        |
| 3 Application for a permit to enter a protected area (Act, s 105(2)(d)). . . . .                   | 154.80 |

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### ENDNOTES

- 1 Made by the Governor in Council on 27 August 2015.
- 2 Notified on the Queensland legislation website on 28 August 2015.
- 3 The administering agency is the Department of Environment and Heritage Protection.

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