

# Delivering a fresh start for Queensland's heritage

Discussion paper



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## **Acknowledgement of Country**

We acknowledge Aboriginal peoples and Torres Strait Islander peoples as the Traditional Owners and custodians of the land. We recognise their connection to land, sea and community, and pay our respects to Elders past and present. We recognise the continuing contributions of First Nations peoples to Queensland's rich heritage, and we are committed to preserving and celebrating the knowledge, stories, and practices that have been passed down through generations.

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Front cover image: Emerald Railway Station

# Minister's message

**Heritage is our legacy. It represents the stories, memories, connections, and collective experiences that shape Queensland and our communities. Our heritage deserves to be protected, celebrated, and shared, ensuring these stories are told for generations to come.**

But to do that well, we need to do it together. And that starts with a conversation.

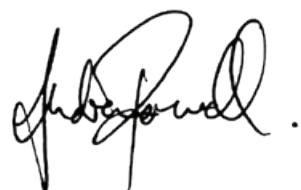
Queensland has some of the oldest heritage protection legislation in Australia, and in over 30 years, it has barely changed. Meanwhile, the landscape in which heritage exists has evolved significantly. Increasingly, we see tensions between community expectations and the perception that heritage protection stifles development and growth. This has placed heritage at the centre of many high-profile, often public and divisive discussions.

Queensland's rich heritage is not just about preservation, it's a valuable asset that can drive economic development. From tourism to job creation, and from traditional skills in conservation and restoration to innovative design and adaptive reuse, our heritage fabric is deeply interwoven across the economy. It has the potential to blend the old with the new, creating opportunities that benefit all Queenslanders.

A decade ago, the Queensland Heritage Strategy set the foundation for protecting our heritage. In 2025, it's time for a fresh start. We need stronger stewardship and a modern, fit-for-purpose framework that ensures heritage and development can complement each other, rather than compete. We want to make sure heritage protection is embraced for its potential to enrich our communities and economy.

This is where you come in. Your insights and ideas are vital to shaping a framework that protects Queensland's heritage while supporting growth and innovation. Together, we can create a future where our heritage is celebrated, preserved, and integrated into the fabric of modern Queensland.

Thank you for being part of this important conversation.



**The Honourable Andrew Powell MP**

Minister for the Environment and Tourism  
Minister for Science and Innovation









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# Introduction

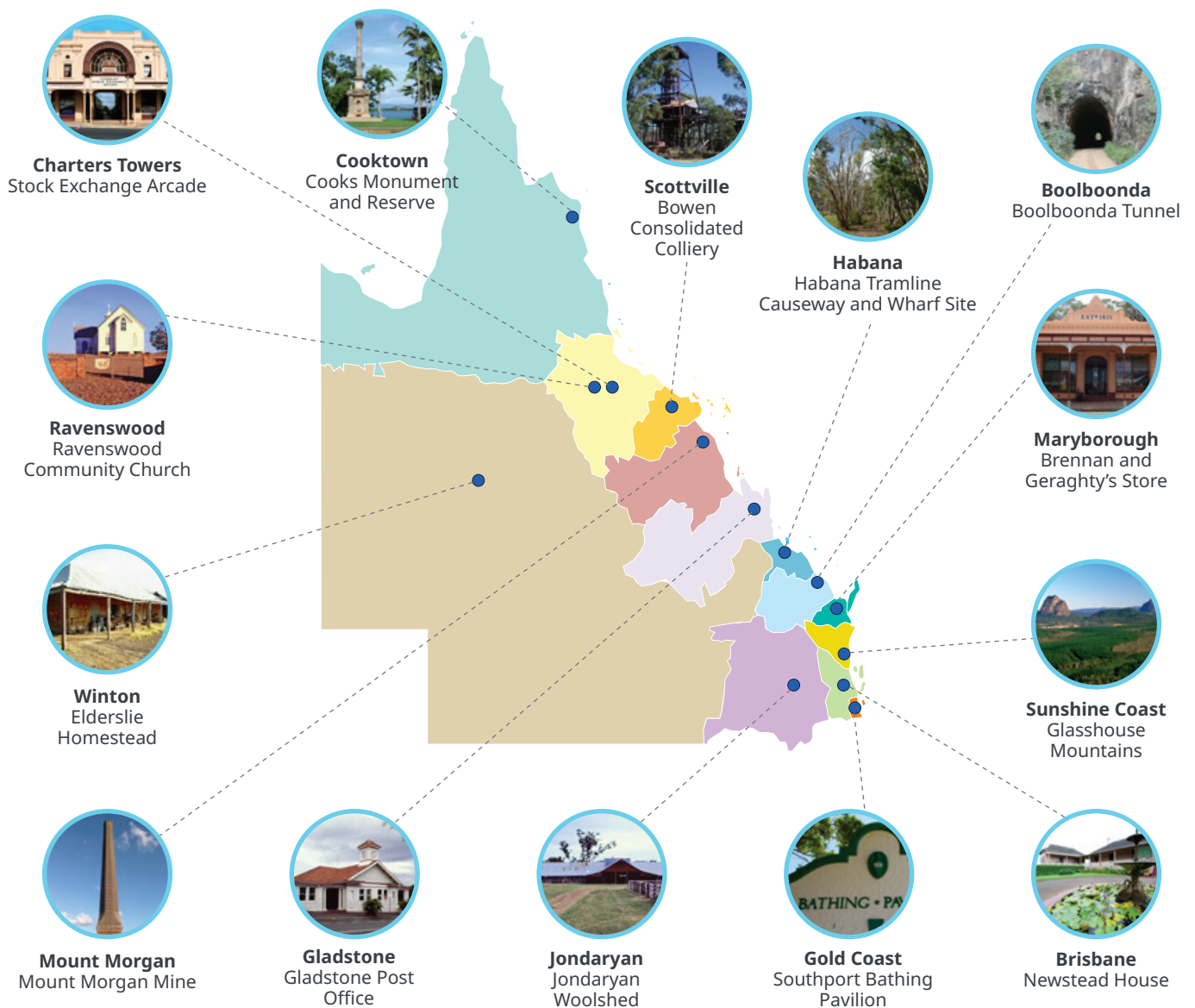
The Queensland Government is providing a fresh start for heritage with a new strategy to ensure the places, things and stories that have shaped our state can continue to be enjoyed for generations to come.

Done well, protecting our heritage will support the state and local economies. In particular, heritage tourism has the potential to directly and indirectly boost the economies of regional and remote Queensland towns. There is also enormous potential to activate public buildings, turning them into community hubs, commercial spaces or places of innovation and learning. A new approach to heritage can complement sustainable development aspirations and work with planning and building frameworks so that these aspirations can co-exist.

We are seeking feedback across five focus areas:

1. Making heritage accessible
2. Improving stewardship
3. Celebrating heritage
4. Optimising benefits of heritage
5. Enhancing governance

## Examples of heritage places





# Queensland's heritage

Our heritage includes buildings and structures, archaeological sites and artefacts, parks and trees, objects, and ship and aircraft wrecks. These include iconic public places such as Queensland's Parliament House and the Queensland Performing Arts Centre, places of worship, education, healthcare, accommodation and transport, and private homes. Each place tells a story about the history of the State and its place in making Queensland and our communities what they are today.

Protecting our heritage ensures that these stories are not lost for Queensland's future.

Queensland currently has almost 1,800 places listed in the Queensland Heritage Register. Government and community buildings make up the largest number of individual places in the heritage register. There are also many listings for dwellings, worshipping and religious institutions, places for marketing and retail, commemorating significant events, using natural resources and using rail.

However, there are significant gaps in listings in the register, in terms of types of heritage place and from a regional perspective.

## Types of listings on the Queensland Heritage Register

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**1,798 State places**

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 **257**  
Residential

**261**   
Business  
and Commercial

 **109**  
Farming

**449**   
Government  
and Community

 **250**  
Parks, Landscapes  
and Recreation

 **164**  
Places of  
Worship

**175**   
Transport,  
Communications  
and Infrastructure

 **102**  
Industry  
and Mining

**31**   
Archaeological

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**8,494 local places across all council areas**

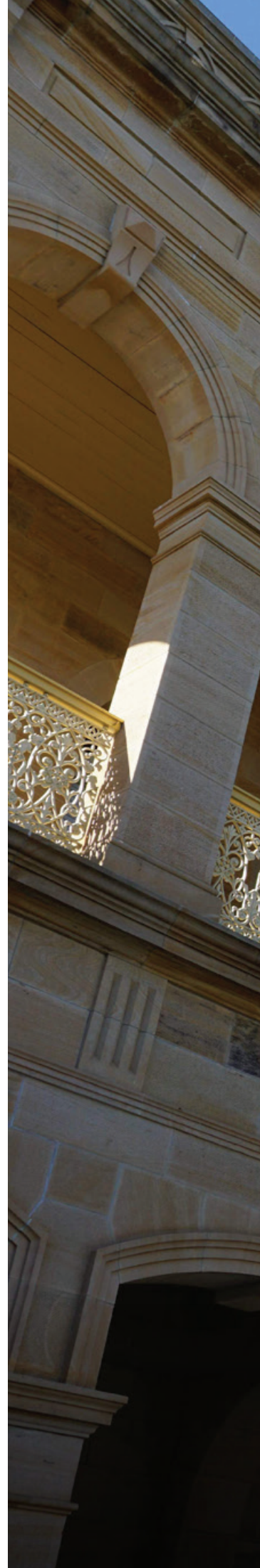
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# Focus areas

## 1. Making heritage accessible

For heritage to truly reflect Queensland's past, it must encompass the vast and unique fabric of our State's stories and experiences. We need to identify and improve our recognition of, and connection with, the diverse cultures, stories, practices and traditions that have shaped Queensland into the State it is today. This includes Aboriginal and Torres Strait Islander heritage and the heritage of people who have, and who continue to, migrate to Queensland. All have contributed traditions, culture and ideas, as well as the architecture we see around us.

To make heritage truly accessible, we can consider new and different types of heritage, and how we present it, so that it might resonate more deeply with diverse communities. By reducing these barriers, we can provide everyone access and connect different cultures and heritages together.





## Share your thoughts on...

- Why is heritage important to you and to Queensland?
- How can we better present our heritage so that it resonates more deeply with diverse communities?
- Are there things we should consider heritage, that we don't already?

## 2. Improving stewardship

The Queensland Heritage Act was introduced in 1992 to protect heritage places from neglect and damage. The Act aims to conserve Queensland's cultural heritage for the community and future generations. It establishes the Queensland Heritage Register (a list of significant heritage places) and the Queensland Heritage Council, which oversees heritage matters.

While the register has almost 1,800 entries, it does not reflect all the diversity of heritage places in Queensland. There is a need to consider what the register should look like into the future, how it can be used better and how it can provide a better representation across the State and across sectors.

Additionally, the Act's application processes, compliance and protection powers need to be modernised to ensure we have the right tools and processes in place to steward Queensland's heritage.

There is also an opportunity to clarify obligations and streamline processes, as well as provide more opportunities for local governments to determine how they protect and manage local heritage places.

We are proposing to progress policy and legislative changes. If you are interested in learning more detail about these proposed regulatory options so you can provide feedback, please see Appendix A.







## Share your thoughts on...

- What do you see as the main challenges for improving heritage stewardship in Queensland?
- Do you think the proposed Act amendments (see Appendix A and B) provide a modernised and streamlined approach to heritage stewardship?
- Do you support the proposed amendments? Please tell us why or why not?
- How can government create better alignment between heritage and planning systems?
- What actions could improve the way we approach heritage stewardship?

### 3. Celebrating heritage

We know heritage contributes to culture, wellbeing, sustainability, tourism and the economy. Articulating and promoting these benefits can broaden understanding about heritage and allow its value to be better understood and considered in government and commercial decisions.

Strengthening our heritage stewardship would also allow heritage to provide economic benefit for communities, from realising heritage tourism opportunities, linking heritage trails with existing experiences such as food and wine trails and nature/outdoor activities, to reusing and activating existing buildings for different purposes. Both physical on-ground and virtual heritage trails would help keep the connection between people and places alive and create 'destination experiences' for locals and visitors alike. There are well-established events that help us celebrate and understand our heritage, including the National Trust's Open House program and heritage fairs, as well as local events that bring to life local heritage.





## Share your thoughts on...

- How can activating heritage places, for more interactive and connected tourism, be supported?
- How else should we look to celebrate Queensland's heritage?



## 4. Optimising benefits of heritage

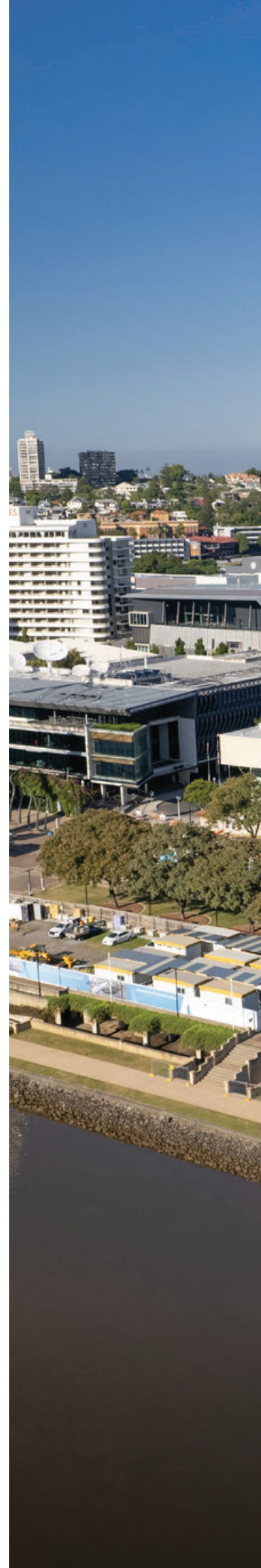
As the places we live and work in have evolved over time to respond to the needs and circumstances of successive generations, tensions have arisen between what is often seen as the competing priorities of retaining heritage and the need for new development.

Good planning and urban design can ease this tension and lead to innovative, well-designed solutions that respect the heritage and character of an area while delivering new homes and services. It doesn't have to be one or the other, it can and should be both.

With the right tools, heritage stewardship can thrive with planning and the drivers for increased housing and community space. Retaining heritage helps improve urban amenity and people's sense of place. Changes to how heritage is considered in local and strategic planning could help us do this better.

Adapting heritage places to make them more sustainable can be challenging, however, considering adaptive reuse and activation of heritage buildings can enable heritage to play a useful and enriching role in community life into the future.

Potentially one of the biggest untapped opportunities is realising the benefits of heritage tourism. Successful heritage tourism needs leadership, involvement and collaboration across governments and the private sector. This will improve heritage tourism's ability to support employment and economic opportunities and create vibrant and resilient communities.





## Share your thoughts on...

- How can public heritage buildings be activated to better meet the needs of communities?
- What do you see as the most exciting opportunities for the future of heritage in Queensland?



## 5. Enhancing governance

The previous Queensland Heritage Strategy was released 10 years ago. In developing a new strategy, we are seeking to incorporate principles that would guide how heritage is managed.

Principles that could be considered include:

- maintaining the diverse and dynamic nature of heritage is critical to understanding who we are and where we came from
- recognising everyone has a role in heritage stewardship and protection
- acknowledging heritage is not static – change, adaptive reuse and innovation are important to ensuring heritage remains relevant
- ensuring that community voices and stories need to be heard and help with understanding heritage significance.





## Share your thoughts on...

- What timeframe should a new Queensland Heritage Strategy cover?
- What principles should guide a new Queensland Heritage strategy?



# Have your say

We are seeking feedback on developing a new heritage strategy for Queensland.

Please consider the questions posed in the focus areas and share your thoughts via the following:

- **Email your submission:**  
Submissions can be emailed to [HeritageFeedback@detsi.qld.gov.au](mailto:HeritageFeedback@detsi.qld.gov.au)
- **Answer questions online:**  
You can also provide feedback via [www.detsi.qld.gov.au/consultation](http://www.detsi.qld.gov.au/consultation)

**Consultation closes 5pm on Tuesday 31 March 2026.**

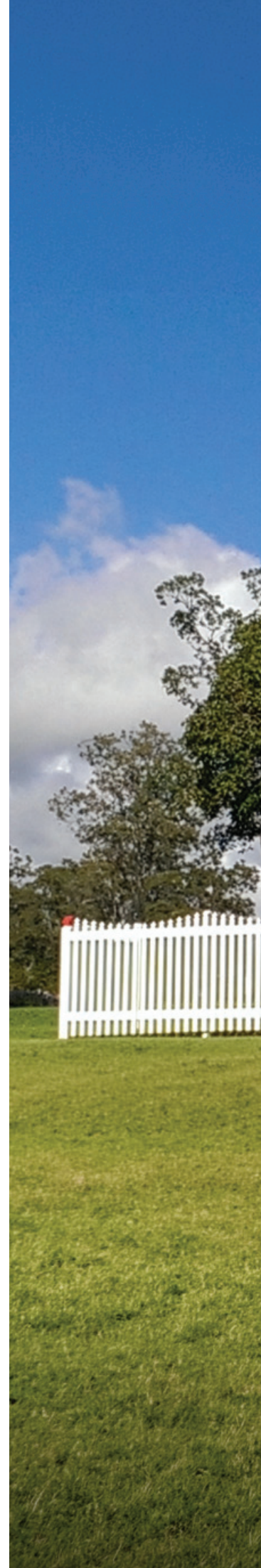
If you have any questions about the consultation process, please contact us:

**[HeritageFeedback@detsi.qld.gov.au](mailto:HeritageFeedback@detsi.qld.gov.au)**

## *Confidentiality*

*In the interest of transparency and to promote informed discussion, we would prefer submissions to be made publicly available wherever this is reasonable. If confidentiality is preferable, this should be clearly noted on the front page of the submission.*

*While the Queensland Government will endeavour to identify and protect material claimed as confidential, exempt information and information of which the disclosure would be contrary to the public interest (within the meaning of the Right to Information Act 2009), it cannot guarantee that submissions will not be made publicly available. There is a possibility that the department may be required to reveal confidential information as a result of a right to information request.*









# Appendix A

## Modernising Queensland's heritage legislation

The Heritage Act was introduced in 1992 and many of the provisions are now 34 years old. While there have been some amendments over this time, the Heritage Act now does not meet the benchmark for contemporary drafting standards and is lacking in its ability to effect contemporary heritage stewardship.

Through the Heritage Act, the Queensland Government protects the cultural heritage of Queensland. This takes the form of places, archaeology and artefacts.

Several objectives of government action are proposed to guide the modernisation of the Heritage Act. These are:

- **Objective 1:** streamline and clarify processes so that heritage protection is more accessible and easier for members of the public, State and local governments and owners of heritage places.
- **Objective 2:** provide a modern and fit-for-purpose legislative framework that meets the needs of heritage protection now and into the future.
- **Objective 3:** update the heritage framework to complement sustainable development aspirations so that these aspirations can co-exist.
- **Objective 4:** elevate the communication and knowledge of the importance of protecting and managing heritage places and artefacts for future generations.

The Heritage Act is also falling behind similar legislation in other jurisdictions in its ability to provide appropriate protections.

**Table 1 provides a summary of benchmarking for heritage register entries against heritage legislation in other jurisdictions.**

	NSW	Vic	SA	Tas	WA	NT	ACT	Cth	Qld
<b>Public application/nomination</b>	x	✓	✓	✓	✓	✓	✓	✓	✓
<b>Obligation to consider</b>	x	x	✓	x	x	✓	x	x	✓
<b>Owner/public submissions</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Owner right to response</b>	x	x	x	x	x	x	x	x	✓
<b>Recommendation/preliminary listing</b>	Heritage Council	Chief executive	Heritage Council	Heritage Council	Heritage Council	Heritage Council	Heritage Council	Heritage Council	Chief executive
<b>Final decision</b>	Minister	Heritage Council	Heritage Council	Heritage Council	Minister	Minister	Heritage Council	Minister	Heritage Council
<b>Amend entry without owner consent</b>	✓	✓	✓	✓	✓	✓	✓	✓	x

Enforcement provisions of the Heritage Act have not kept pace with those contained in other Queensland legislation.

**Table 2 provides a summary of the benchmarking of enforcement provisions in other relevant Queensland legislation.**

	EP Act	Planning Act	Building Act	QH Act
General enviro duty/duty to maintain	✓	×	✓	×
Chief Exec (CE) notice for major repairs/work	✓	✓	✓	×
CE notice unlimited requirements	✓	✓	✓	×
CE notice enforced despite reasonable excuse	✓	✓	✓	×
CE enter, do works and recover costs	✓	✓	✓	×
Interlocutory and flexible Court orders	✓	✓	✓	×

## Options for delivering the objectives of government action

This paper looks at three options for delivering on the stated objectives of government action.

### Option 1: Status quo

- Continue existing arrangements aimed at protecting heritage places.
- No new framework, streamlining or modernisation is undertaken.

### Option 2: Non-legislative arrangements

- A new whole-of-government policy framework is developed to support the legislation.
- Reliance on strengthened guidance materials, voluntary arrangements and education and awareness.

### Option 3: Reform legislative framework

- Amend or rewrite the *Queensland Heritage Act 1992* to strengthen, streamline and modernise heritage protection and management in Queensland by:
  - » updating the objects of the Act to provide greater clarity and guidance concerning application of the Act
  - » introducing the principle of a general heritage duty of care, including to maintain and keep in good repair
  - » contemporising the membership of the Queensland Heritage Council by reducing its size to 9 and providing more flexible criteria for appointments to the Council
  - » replacing the current State register application process with a new streamlined community nomination process that is based on priority heritage themes
  - » introducing temporary notices so that the chief executive or the Minister may temporarily deem a place to be a State heritage place until the Queensland Heritage Council decides whether to permanently enter the place in the Queensland Heritage Register
  - » streamlining and strengthening repair and maintenance by introducing show cause processes
  - » expanding damage provisions to include the ability to issue a notice to a third-party to rectify damage.
- Subsequent amendments will be required for the Queensland Heritage Regulation 2015 to align with amendments to the Act.

## Preferred option

The preferred option is Option 3, amendments to or rewrite of the Heritage Act with subsequent amendment to the Heritage Regulation. This option provides necessary streamlining and modernisation of the legislation, provides greater flexibility, accessibility and transparency and considers local government needs in managing local heritage places.

The proposals also serve to modernise the legislative framework, providing enhanced stewardship arrangements for heritage places, protected areas and archaeological, ship and aircraft wreck artefacts in Queensland. Government action is also proposed to address local government concerns relating to protection of local heritage places.



## Impact analysis

The table below outlines the potential impacts (costs and benefits) to various parties of implementing Option 3.

Impacted party	Costs	Benefits
Community members	<ul style="list-style-type: none"><li>• No direct costs</li></ul>	<ul style="list-style-type: none"><li>• Greater accessibility to heritage register processes</li><li>• Reduced costs in making a nomination to the heritage register</li><li>• Better connection to and understanding of heritage protection</li></ul>
Local government	<ul style="list-style-type: none"><li>• No direct additional costs</li></ul>	<ul style="list-style-type: none"><li>• Provides local governments with greater autonomy over decisions concerning local heritage places</li></ul>
State government	<ul style="list-style-type: none"><li>• No direct additional costs</li></ul>	<ul style="list-style-type: none"><li>• Modernised and fit-for-purpose legislative framework</li><li>• More efficient process for entering places on the heritage register</li><li>• Ability to maintain a more accurate heritage register</li><li>• Ability to activate temporary protections</li></ul>
Queensland Heritage Council	<ul style="list-style-type: none"><li>• No direct additional costs</li></ul>	<ul style="list-style-type: none"><li>• More efficient decision-making processes</li></ul>

## Identification of the problem

Much of the Heritage Act has not been systematically reviewed since it commenced in 1992. As such, the provisions have become more outmoded and out-of-step with modern heritage protection and management approaches. Many provisions of the Heritage Act also no longer align with modern drafting conventions.

The Department of the Environment, Tourism, Science and Innovation (DETSI) has responsibilities to administer a diverse range of Acts. Better alignment of the Heritage Act provisions with other similar and relevant Acts such as the *Planning Act 2016*, aids standardisation of administrative processes and improves efficiency.

Feedback is sought on the key areas for change (**Appendix B**) that aim to modernise and streamline the stewardship of heritage places in Queensland, to ensure that a fit-for-purpose legislative approach is provided.

A review of the triggers used by the State Assessment and Referral Agency (SARA) under the State Development Assessment Provisions (SDAP) is also proposed. State Code 14 relates to the consideration of Queensland heritage matters. Feedback is sought through this process on whether any reform to the heritage trigger is required.

### Share your thoughts on...

- Do you think the proposed legislative amendments (see Appendix A and B) provide a modernised and streamlined approach to heritage stewardship?
- Do you support the proposed amendments? Please tell us why or why not?
- Are there ways that the objectives of government action – including modernising and streamlining the legislation – could be achieved?
- What support, for example, guidelines, might be needed to transition these policy proposals into practice?
- Are there other amendments or issues with the Heritage Act that we should investigate? Please let us know your issues and proposed solutions.
- Do you have any feedback on State Code 14: Queensland heritage? Are there opportunities to refine or streamline the trigger?

# Appendix B

## Legislative reform proposals

### Administrative improvements

#### 1. Objects of the Act

##### *Current arrangements*

Subsection 2(1) of the Heritage Act states that the object of the Act is to provide for the conservation of Queensland's cultural heritage for the benefit of the community and future generations. Subsection (2) outlines how the object is to be achieved. Subsection (3) states that the entities involved in administration of the Heritage Act should seek to achieve retention of cultural heritage significance for the sustainable benefit of the community.

##### *Issues*

Mechanisms that have proven to be effective in achieving conservation of Queensland's cultural heritage, are not expressed in subsection (2). For example, local government plays a vital role in protecting local heritage places. The role played by key stakeholders for promotion of cultural heritage, like the tourism, arts and education sectors is not acknowledged. Collaboration between these sectors, the Queensland Heritage Council (QHC), DETSI and other Queensland Government entities is vital to achieving strong stewardship and protection of Queensland's cultural heritage.

The role of the QHC in providing strategic advice to the Minister, and to educate and communicate with the community, is not well expressed in section 2 of the Heritage Act.

#### **Legislative proposal 1 (Section 2)**

It is proposed to amend the Heritage Act's objects to include references to protection and conservation of the State's heritage places, adaptive and sustainable reuse of places, and high standards of heritage conservation. Amendments will also provide more guidance for decision-makers, industry and the community about application of, and achieving, the 'Objects of the Act.'

It is proposed to introduce an overarching principle of a general heritage duty of care, that provides for a duty to maintain and keep in good repair State and local heritage places.

#### 2. Queensland Heritage Council processes

##### *Current arrangements*

Section 10 of the Heritage Act provides for the QHC to have 12 members. There must be five organisation representatives and seven members that have appropriate knowledge and expertise. Three of the organisation representatives must be from specific organisations—the National Trust of Australia (Queensland), the Local Government Association of Queensland and the Queensland Council of Unions.

##### *Issues*

The QHC processes require modernisation to improve efficiency, transparency, and the quality of stakeholder engagement. The criteria for member representation on the QHC are inflexible and do not always ensure the QHC has the necessary skills and expertise. The resultant 12-member size of the QHC is large in comparison to heritage councils in other jurisdictions, which tend to be around nine members. Correspondingly, the larger number of council members comes with increased costs as each council member receives a remuneration fee.

A smaller membership, and moving to a field, skills and expertise-based approach, should also help to expand the pool of potential members. However, a smaller number of members also increases the risk for there to be possible conflicts of interest as many potential members are likely to have had dealings with matters under consideration or people involved in applications.

Sections 27 and 28 cover conflict of interest processes for members of the QHC and QHC Committees. Legislative reforms are proposed that aim to contemporise and streamline these provisions while maintaining strong governance. The QHC's code of conduct also provides an opportunity to provide more guidance for conflict of interest processes.

#### **Legislative proposal 2 (Part 2, section 10, sections 27 and 28)**

##### **For section 10:**

It is proposed to amend the Heritage Act to reduce the number of QHC members to nine and move to a skills and expertise basis for nominations.

It is also proposed to retain representative membership from National Trust of Australia (Queensland) and Local Government Association of Queensland nominations as both organisations have considerable interest in heritage outcomes.

The proposed list identifies the required field, skills or expertise for members, including one or more of the following areas:

- Aboriginal and Torres Strait Islander history
- archaeology
- architecture
- built environment
- economic development
- heritage conservation and management
- history
- legal
- property development
- rural interests and
- urban and regional planning.

##### **For sections 27 and 28:**

These sections deal with conflict of interest processes for QHC and Committee members. It is proposed to contemporise these sections to reflect modern processes.

### **3. State Heritage Register processes**

#### ***Current arrangements***

The heritage register was established under the Heritage Act to record and protect places of cultural heritage significance to the State of Queensland. Part 4 of the Heritage Act outlines the process for entering a place in the heritage register. Section 31 prescribes the content of the heritage register.

The heritage register process requires the chief executive (or delegate) to assess an application and recommend to the QHC whether a place should be entered in the heritage register.

Applications to enter a place in the heritage register are "open standing", meaning that any person can lodge an application at any time.



DETSI has undertaken gap analyses that identify place types under-represented in the heritage register. It identified that 10 of Queensland's 17 regions are underrepresented on the register, with four of these 10 significantly underrepresented. Analyses also identify that there are gaps in the number of post-World War Two heritage sites represented across Queensland.

The heritage register was established in 1992, with many entries on the register being in place since this time. Many entries have not been updated since their inclusion despite development occurring on the heritage places.

Section 34 of the Heritage Act outlines the process for amending heritage register entries. The section requires agreement from the property owner to amend an entry, unless the changes are minor.

### **Issues**

Open standing applications can be motivated by public outcry or media attention, often in response to proposed demolition or other development that may harm the heritage values of a place. Reactive applications create greater uncertainty for property owners and developers, who may have invested time and money in a development proposal.

Further, there are 4 out of 17 regions in Queensland that are significantly under-represented on the register, and key gaps in heritage types. Systematic identification of potential State heritage places through an at-least annual community nomination theme process would address this issue. In the event that there are sites identified that are unique, but not captured in the annual theme process, it is still proposed to retain the chief executive's power to nominate an entry in the heritage register. Feedback is sought through this consultation paper on themes which the government could prioritise in future nomination processes.

Outdated heritage register entries lead to inaccuracies in statements of significance, descriptions and histories. Maintaining accurate and current information is essential for the heritage register to be a reliable record of heritage places, and for proper assessment of development applications. The State Development Assessment Provisions under the Planning Act require development to be assessed based on the statement of significance in the heritage register entry. If the statement of significance is out of date, it may not be possible to assess the true impact of a new development proposal on a State heritage place.

If a property owner declines to agree to a major change, the heritage register entry cannot be amended and will remain out-of-date.

## **Legislative proposal 3 (s34 and Part 4)**

### **Part 4:**

It is proposed to repeal the current application driven register process and replace it with a community nomination process that allows the chief executive to identify priority heritage themes (as identified by analyses of register gaps).

It is also proposed to simplify the type and amount of information needed to make a nomination. The chief executive would be able to publish nominations received from the public, and a list of the places selected to be assessed as recommendations by the chief executive for consideration by the QHC.

The chief executive would then be able to make and publish a priority assessment list, to help inform heritage recommendations to the QHC.

Other provisions of the repealed Part 4, concerning chief executive recommendation, QHC decisions and submission processes remain the same as current but with updated drafting.

### **Section 34:**

It is proposed to amend section 34 to provide a clearer pathway to major changes to register entries by providing that the chief executive prepares a report for QHC consideration if the owner does not consent to the change.

A decision-making process that mirrors the decision-making process for an applicant-driven register entry is also proposed, meaning that the chief executive will make a heritage recommendation to the QHC for a decision about the proposed change.

## 4. Temporary protection

### *Current arrangements*

Currently there is no temporary protection measure in the Heritage Act. Temporary protection when applied to heritage places means a temporary entry or listing of a place that is under threat, requiring assessment of development proposals against cultural heritage criteria, until a final decision can be made to enter or list the place.

The lack of a temporary protection measure means that any development application under the Planning Act lodged before a final determination of the QHC whether to enter a place in the heritage register, will be assessed under the Planning Act without regard to State heritage significance. The full heritage register process takes on average about five months. Demolition or other development can proceed even if the development application is approved after the place is entered in the heritage register.

Every other Australian State or Territory has some form of temporary protection for State heritage places. In the ACT and South Australia temporary protection applies to all current development applications. In NSW, Victoria, Tasmania, Western Australia and the Northern Territory the protection applies to all current development applications and to any work which has been given a development approval if it has not been carried out.

### *Issues*

Queensland is the only state in Australia without provisions to provide temporary protection for places that are likely to have State heritage significance and that may be in danger of destruction due to development.

Temporary protection is critical to safeguarding at-risk sites during the application and assessment process. Without temporary protection of potential heritage places, they are vulnerable to damage or destruction before formal protections can be applied.

The lack of temporary protection in Queensland means that demolition or other development can proceed even if the development application is approved after the place is entered in the heritage register. Middenbury in Toowong and the Mount Crosby Pumping Station are two examples of State heritage places where development approvals were given after the places were entered into the heritage register, without consideration of their State cultural heritage significance.

While the Heritage Act provides a mechanism for a stop order to be issued to prevent an activity from being undertaken, they cannot fill the role of a temporary protection notice. Stop orders only stop work temporarily (for a maximum 60 business days).

The Heritage Act also prevents a stop order being given for a Queensland heritage place if the work or activity is authorised by a development approval. This means that development approved under a development application made before a place is entered in the heritage register cannot be halted, even though heritage impacts have not been considered.

### **Legislative proposal 4 (New section)**

It is proposed to amend the Heritage Act to provide that the chief executive or the Minister may issue a temporary protection notice where a place is likely to meet the cultural significance criteria (s35) and could be detrimentally impacted by development. Feedback is sought on whether this should be a chief executive or Ministerial decision.

The proposed amendment will provide that temporary protection has the effect of entering a place on the State heritage register or until a Queensland Heritage Council decision is made (a maximum 80 days). This means the heritage values of a place under a temporary protection notice must be considered if a development application is made.

The proposed amendment allows for an owner to make a submission about a recommendation to enter the place in the register.



# Local heritage

## 5. Identification of local places

### *Current arrangements*

Local heritage places can be identified in a planning scheme under the Planning Act or in a local heritage register under the Heritage Act.

Planning scheme amendments take on average around two years (for a major amendment). New local register entries under the Heritage Act are faster, around five months, but listings under the Heritage Act are used by only a minority of local governments, so are not ordinary practice for all councils.

From 2020 to 2024, of 39 Queensland Heritage Register applications for new places, the QHC decided that 12 places did not meet the threshold for State significance and were therefore not entered into the heritage register. Despite the potential for local heritage significance, 10 of the 12 places did not have local heritage listings.

### *Issues*

There are a range of issues with Queensland's system for identifying local heritage places. These include that:

- there is no statutory process for community nominations of places
- confusion about the different procedures for identifying and assessing places
- under-representation of places in registers or planning schemes.

DETSI, in collaboration with the Local Government Association of Queensland (LGAQ), undertook a survey of local governments between December 2022 and March 2023. A series of consultation workshops were held at the Local Government Heritage Conference on 22 and 23 March 2023 hosted by Fraser Coast Regional Council and organised jointly by the Queensland Government and LGAQ. The workshops allowed for more detailed information building on survey responses.

The survey and workshops confirmed use by local governments of processes in planning schemes and under the Heritage Act to identify local heritage places. Processes to add places to a register or planning scheme were predominantly council-led but community nominations were also important—72% of survey respondents stated they had received community nominations.

There was strong support for “a defined local heritage place nomination process”. The feedback indicates a degree of uncertainty about the different processes that are available by amendment of planning schemes and through the Heritage Act. The practical consequence of a slow or inefficient heritage listing process is loss of valuable cultural heritage. Potential local heritage places may be demolished or damaged because impacts on cultural heritage significance are only assessed if a place has a heritage listing.

Slow or inefficient processes for local heritage listings increase the number of reactive nominations. If potential local heritage places have not been identified, they may only be proposed for listing by community members when there is a perceived threat, such as a development application for demolition.

Community members often react by nominating places with only local heritage significance for State listing or may request stop orders that can only apply to places with potential State significance. This consumes time and resources for little benefit.

### **Legislative proposal 5 (s112A and B) and Part 11**

It is proposed to remove the local heritage register under Part 11 of the Heritage Act and make administrative changes to accelerate the process for making local places under a planning scheme.

It is proposed to remove sections 112A and 112B and replace with a new process where the chief executive of DETSI may refer a nomination to a local government. This would be where nomination does not meet the threshold of State heritage.

It is proposed that the chief executive would need to provide the reasons for the referral, including that the chief executive considers a referred place may be of cultural heritage significance for a local government area.

## 6. Temporary protection

### *Current arrangements*

There is currently no temporary protection for places a local government wishes to put in a local heritage register under the Heritage Act. Temporary local planning instruments (TLPs) under the Planning Act are available for places intended to be identified in a planning scheme. Approval of the Minister for State Development, Infrastructure and Planning is required and there must be a serious risk of adverse consequences. A TLP can be backdated, but only to the date the local government resolves at a public meeting to send the TLP to the Minister.

### *Issues*

However, to enable local governments to make localised decisions regarding temporary protections, it is proposed to introduce the ability for a local government to make a local temporary protection order for a potential heritage place in the local government's area. The local temporary protection order is intended to provide sufficient time for an investigation as to whether the place has local heritage significance and should be identified in the local government's planning scheme.

### **Case Study: "Linden Lea"**

Linden Lea, Toowong, was a house designed by architect Horace Driver in English Revival style. It was built in 1938 for the Webster family, who ran a successful biscuit and cake manufacturing company.

In 2017, Linden Lea's owners made an application for demolition of the residence. This was refused by Brisbane City Council. The matter was taken to the Planning and Environment Court, which in 2018 found there were no grounds to refuse the application under the planning provisions then in effect and ordered approval of the demolition.

An appeal against this decision to the Court of Appeal was dismissed in 2019, and the demolition approval was granted in April 2019.

An application for the entry of Linden Lea in the QHR was received on 17 February 2021. Demolition work began on the site of Linden Lea on 25 February 2021. The heritage applicants requested a stop order against the demolition on 26 February 2021. The court order approving its demolition could not be overridden by heritage listing, and the request for the stop order was refused. Linden Lea was demolished on 5 March 2021.

The heritage register application continued. On 30 April 2021, the Queensland Heritage Council decided not to enter the place in the Queensland Heritage Register. The demolition of Linden Lea attracted substantial public and media attention. The community's expectation was that a State heritage application would stop development, pending its heritage assessment. Also, the community believed that through the stop order provisions, the Minister could step in and override the approved demolition. Linden Lea's fate highlighted the contrast between the public's perception of heritage, and how heritage provisions currently function in Queensland.



### **Legislative proposal 6**

It is proposed to amend the Heritage Act to create a mechanism for local governments to be able to issue a temporary protection order for a local place through a resolution of council. The notice will be similar to that proposed for the State.

It is proposed that the local government's temporary protection order would remain in force for 12 months unless revoked or a council decision was made to include the place as part of the local government's planning scheme.

It is proposed that the local government would be able to make one additional 12 month local temporary protection order.



# Enforcement (State and local heritage)

## 7. Repair and maintenance

### *Current arrangements*

Repair and maintenance notices under Part 8 of the Heritage Act give the State and local governments powers to require owners to undertake essential works to prevent damage or deterioration of a listed place. There are three Court orders available under the Heritage Act: restoration; non-development; or education and public benefit.



Currently, Queensland does not legislate a general, positive responsibility for owners of State or local heritage places to maintain, repair or take reasonable care of their properties. Several other States (NSW, Victoria and South Australia) have requirements for owners to maintain or keep State heritage register places in good condition. In Queensland other cultural heritage Acts, the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Island Cultural Heritage Act 2003*, impose a duty of care requiring individuals to take all reasonable and practicable measures to ensure there is no harm to cultural heritage. There is no offence in the Heritage Act for deliberate or wilful damage to a State heritage place.

### *Issues*

There are weaknesses in enforcement for State and local heritage places under the Heritage Act. It is recommended to strengthen the powers to provide better protection of a heritage place.

Repair and maintenance notices have several major defects. The scope of the notices is limited to minor works, which prevents enforcement when significant repairs are needed. Notices can only address damage caused by weather, fire, vandalism or insects. Repair and maintenance notices can only be given to prevent damage as opposed to addressing prior neglect. All other States and Territories, other than Victoria, enable enforcement for addressing prior neglect.

No matter the condition of a heritage listed place, if a repair and maintenance notice is given and owners decide not to comply, DETSI cannot undertake repair works without first obtaining a Court conviction and order of the Court. This is a lengthy and inefficient process and leaves heritage places at risk of further deterioration. Without a Court order, DETSI can only issue the owner a fine, which provides no benefit to the heritage place.

The Heritage Act only allows local government to give repair and maintenance notices if prescribed by regulation. Currently Brisbane City Council is the only local government prescribed in the regulation. The requirement for prescription creates a barrier to wider use of the notices by local governments. The power to give repair and maintenance notices cannot be delegated, which creates an additional administrative burden. This is inconsistent with other Queensland legislation such as the *Building Act 1975* where the issue of enforcement notices for repairs can be delegated.

The narrow range of available Court orders restricts the effectiveness of enforcement action. In contrast, equivalent legislation such as the Planning Act and Environmental Protection Act gives Courts a wide discretion to make orders, they consider to be appropriate.

The lack of a general duty of care means there are no incentives for owners under the Heritage Act if they fail to carry out routine maintenance of a heritage place. Neglect becomes a viable and low-risk option if the owner wants to allow the building to deteriorate. The Broadway Hotel is an example of a State heritage place that deteriorated after inaction by the owners.

An offence for damage would also be needed for circumstances where there is either wilful damage by an owner, or if another person deliberately damages a place.

In summary, the current enforcement framework in the Heritage Act is inadequate, as it provides only a narrow range of tools to address non-compliance which are often insufficient to prevent or rectify damage to heritage places. Legislative changes are therefore needed to modernise the enforcement framework and ensure powers under the Heritage Act are comparable with other relevant Queensland legislation as well as heritage frameworks in other Australian State jurisdictions.

## Case Study: Broadway Hotel (QHR No: 600354)

The Broadway Hotel is a three storey Victorian “Boom period” building, constructed in 1889–90, on the corner of Logan Road and Balaclava Street in Woolloongabba. The Hotel is a State heritage place, entered in the Queensland Heritage Register in 1992. The octagonal corner turret, arches and decorative parapets have presented an imposing presence to the street, but the building ceased use as a hotel and has been vacant since a fire in 2010. A fire in 2018 destroyed the roof and made the external walls unstable. Within a few days, the Minister made a stop order under the Heritage Act to prevent demolition of the undamaged sections of the building. However, major repairs including façade propping were necessary.

The limitations of the Heritage Act became apparent, as repair and maintenance notices can only be made for minor works. DETSI and Brisbane City Council consulted closely on compliance action. In November 2018, Brisbane City Council issued a show cause notice and in February 2019, an enforcement notice under section 248 of the *Building Act 1975* requiring the owner to carry out the façade propping. The owner appealed against the order in the Development Tribunal, but Brisbane City Council was successful, and the order was affirmed. The owner completed the façade propping in September 2020.



### Legislative proposal 7

It is proposed to amend the Heritage Act to introduce the principle of a general heritage duty of care (Objects), including for repair and maintenance. It is not proposed to attach an offence to this duty, however if the decision-maker (chief executive of DETSI or chief executive officer of a local government) is satisfied that specific criteria are met with regard to the building, a show cause notice may be issued.

Criteria, which may include the building being in disrepair, attach to the place not as an inaction of the owner.

It is proposed that the show cause notice would provide a timeframe for a response and is a precursor to issuing a repair and maintenance notice if needed. As part of the notice, the owner may also be required to enter into a conservation management plan for the place. Before making a decision to issue repair and maintenance notice, procedural fairness and consideration of any representations from the owner would be required.

Proposed amendments would also introduce the ability for the chief executive to seek cost recovery for works that may be undertaken as a result of owner non-compliance with a repair and maintenance notice.

It is proposed that local governments will be provided with greater ability to issue repair and maintenance notices for local heritage places.



## 8. Miscellaneous amendments

### *Current arrangements and issues*

Current drafting of the Heritage Act does not meet contemporary legislative drafting standards, with a number of provisions being duplicative, ambiguous, overly complex and out-dated.

For example, land-based and underwater archaeology are managed differently under current provisions. The level of protection for archaeological artefacts does not currently match the level of protection that is given to artefacts under section 91 (shipwrecks, aircraft wrecks and associated articles).

Further, the decision-maker cannot extend the time for an exemption certificate application for the applicant to make a submission about approval or conditions for the certificate. It is proposed to address this oversight in the legislation.

### **Legislative proposal 8**

Miscellaneous amendments to the Heritage Act are proposed that will help streamline and modernise legislative provisions. The proposed amendments include:

- Combining provisions for protection of artefacts in a single section and simplify the definitions for archaeological artefacts.
- Simplifying the process for entering a protected area on the heritage register and provide that a protected area may only apply to State land, not private land.
- Providing for a Native Title holder to be able to enter a listed protected area without requiring a permit.
- Contemporising the language by removing references to, for example, 'publication in a newspaper'; 'copies to be available at DETSI or local government's head office'.
- Introducing a new provision after section 74 to introduce procedural fairness for the applicant in relation to an exemption certificate.
- Removing the liturgical purposes development exemption (sections 77-79).



## 9. State heritage trigger for development – State Code 14

### *Current arrangements*

The State becomes involved in assessing development applications if it affects a state interest. A state interest can apply to state heritage places or other matters such as state transport corridors or the clearing of certain vegetation.

The State Assessment and Referral Agency (SARA) has responsibility for this function and uses criteria from the State Development Assessment Provisions (SDAP).

The SDAP defines the State's interest in development assessment and provides assessment benchmarks for the assessment of development applications involving SARA to ensure delivery of a coordinated, whole-of-government approach to the State's assessment of development applications.

The SDAP is a performance-based code that regulates specific outcomes, rather than regulating development through prescription. Applicants are required to address criteria to demonstrate the way in which development manages impacts on a matter of state interest. State Code 14 of the SDAP covers Queensland heritage.

The purpose of this code is to ensure development on or adjoining a Queensland heritage place conserves its cultural heritage significance for the benefit of the community and future generations.

Specifically, this code seeks to ensure development on a Queensland heritage place protects the identified elements of the Queensland heritage place that are of cultural heritage significance. The code seeks to achieve this by:

- substantially reducing unavoidable impacts
- promoting the preservation of identified elements of the Queensland heritage place that are of cultural heritage significance
- where practical, restoring the identified elements of the Queensland heritage place that are of cultural heritage significance
- aligning with the ongoing conservation management of the Queensland heritage place where adaptation is proposed.

To ensure currency and effective stewardship of Queensland's heritage, the Queensland Government is reviewing the Queensland heritage trigger (State Code 14).

As a result of some of the proposed legislative reforms, the review will look at whether the current purpose, concerning development on or adjoining a Queensland heritage place (State heritage place) is still relevant, whether the performance outcomes remain current and ensure the definitions align with proposed changes in legislation. Feedback is sought to help inform the review.





▼ Burke and Wills Dig Tree, Thargomindah  
Image courtesy of Tourism and Events Queensland





