

TRANSPORT, HOUSING AND LOCAL GOVERNMENT COMMITTEE

Report No. 55 on the

Queensland Heritage and Other Legislation Amendment Bill 2014

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 9 September 2014, the Honourable Andrew Powell MP, Minister for Environment and Heritage Protection, introduced the Queensland Heritage and Other Legislation Amendment Bill 2014 (the Bill) into the Legislative Assembly.

The Bill was subsequently referred to the Transport, Housing and Local Government Committee (the Committee) for consideration and report to the Parliament by 22 October 2014.

On 22 October 2014, the Committee tabled its report (No. 55) about the Bill (the Report).

The Queensland Government response to the Committee's recommendations as outlined in the Report is provided below.

RESPONSE TO RECOMMENDATIONS:

The Queensland Government thanks the Committee for its detailed consideration of the Bill and its recommendations.

Recommendation 1 - The Committee recommends the Queensland Heritage and Other Legislation Amendment Bill 2014 be passed.

Queensland Government response:

No response required.

Recommendation 2 - The Committee recommends the Minister for Environment and Heritage Protection amend the Queensland Heritage and Other Legislation Bill 2014 to enable reconsideration of a decision by the Queensland Heritage Council not to remove a place from the heritage register, during the five year moratorium period ONLY in circumstances where significant new information comes to light.

Queensland Government response:

The Government **does not support** the recommendation.

The transparency and comprehensiveness of the assessment process through which a heritage application of any kind will go, culminating in a considered and informed

decision by the Queensland Heritage Council (the Council) that takes account of public and stakeholder submissions containing a range of views on heritage significance, will mean there is virtually no chance substantial evidence can be missed. The new, heightened requirements for applications provided for in the Bill, as well as the capacity for an owner to elect to make a heritage response on the Department of Environment and Heritage Protection's recommendation (whether it relates to entering a place in the register or not removing it), will only improve the focus of this process and the soundness of the Council's decision.

The alternative of inserting a fair and transparent legislative scheme whereby substantial new evidence would trigger a lifting of the five-year moratorium period was fully investigated and ultimately not pursued in the Bill because the additional provisions introduced were not warranted by the very small number of applications that are remade between one and five years after a Council decision. This is true of applications proposing entry of places in the register as well as those proposing removal of places from it.

The increased moratorium period is triggered by a decision of the Council so will only apply to places entered in the Queensland heritage register after commencement of the amended Act or following an initial refusal of a removal application. In the first instance, owners would have a right to appeal in the Planning and Environment Court the decision to enter their property in the heritage register. If a state-registered place is destroyed (whether by fire, natural disaster or as a result of approved development) there is a fast-track approach to having it removed from the register.

Recommendation 3 - The Committee recommends that the Minister for Environment and Heritage Protection amend the Queensland Heritage and Other Legislation Bill 2014 to reintroduce the word 'detrimental' into amended sections 72(2)(iv) and 72(3)(b).

Queensland Government response:

The Government **supports** the recommendation.

The Government will amend *Clause 37* of the Queensland Heritage and Other Legislation Amendment Bill 2014 to reintroduce the word 'detrimental' in amended sections 72(2)(iv) and 72(3)(b).

Recommendation 4 - The Committee recommends that the regulation provided for in section 83(2) of the Queensland Heritage and Other Legislation Bill 2014 clearly establish rules about the circumstances in which a local government can use the power to issue an essential repair and maintenance notice.

Queensland Government response:

The Government **supports** the recommendation.

The Government will amend *Clause 46* and new section 83 of the Queensland Heritage and Other Legislation Amendment Bill 2014 to allow for the matters the Minister must be satisfied are covered in the procedures a local government has in place to themselves

be prescribed in the regulation. These matters would be prescribed first before local governments are prescribed to use the power.

Recommendation 5 - The Committee recommends that the Minister for Environment and Heritage Protection amend the *Queensland Heritage Act 1992* to ensure that World War II aircraft and ships wrecked in Queensland waters and the historic underwater articles associated with them are protected upon commencement of the proposed amendments to the *Queensland Heritage Act 1992*.

Queensland Government response:

The Government **does not support** the recommendation.

The *Queensland Heritage Act 1992* currently protects historic shipwrecks from interference and defines how long these wrecks must have been in Queensland waters as being at least 75 years. This was purposefully aligned to the timeframe set out in the Australian Government's *Historic Shipwrecks Act 1976*, for which the Queensland Government has a role as delegate. Since the 18th century, more than 1400 ships are believed to have been wrecked or abandoned along the Queensland coastline, on fringing reefs and inland waters. The location of fewer than 12% of these wrecks has been established and the Government is continuing to work to improve this statistic.

The 75th anniversary of the start of World War II has just passed and the end of 2016 will witness the same anniversary pass for the War in the Pacific, when Queensland became the focus of an unprecedented defence build-up. The Bill establishes a matching 75 year timeframe for underwater wrecked aircraft (and the articles associated with both these aircraft and ships) to allow time to raise awareness in the specialist communities and agencies that are most likely to encounter underwater wrecks.

The Government seeks to avoid the potential confusion created by having protection cover wrecks of different types and ages depending on the legislative jurisdiction and when the precise location of many wrecks is unknown. As the Bill otherwise clarifies, there is scope for ship or aircraft wrecks in Queensland waters for less than 75 years to be considered for entry in the Queensland heritage register and thereby protected.

Recommendation 6 - The Committee recommends that the Minister for Environment and Heritage Protection consult with the Minister for State Development, Infrastructure and Planning and the Minister for Local Government, Community Recovery and Resilience to investigate options for introducing appeal rights regarding a decision to enter a place into a local government heritage register or planning scheme.

Queensland Government response:

The Government **supports** the recommendation.

The Minister for Environment and Heritage Protection will consult with both the Ministers for State Development, Infrastructure and Planning and Local Government, Community Recovery and Resilience to investigate options for owners appealing a decision to enter a place in a local government heritage register or planning scheme.

Recommendation 7 - The Committee recommends that the Minister for Environment and Heritage Protection consult with the Minister for State Development, Infrastructure and Planning on the draft Planning and Development Bill regarding the removal of unnecessary duplication from the development assessment process for the owners and managers of heritage places.

Queensland Government response:

The Government **supports** the recommendation.

The Minister for Environment and Heritage Protection will consult with the Minister for State Development, Infrastructure and Planning regarding the removal of unnecessary duplication from the development assessment process for the owners and managers of heritage places.

The Government also undertakes to continue consultation on this issue with the Queensland Division of the Property Council of Australia and local government through the Local Government Association of Queensland.

Recommendation 8 - The Committee recommends that the Minister for Environment and Heritage Protection ensure that the Department of Environment and Heritage Protection consult with the Department of State Development, Infrastructure and Planning about implementing the Cairns Regional Council's proposal to include a similar administrative change (as the one proposed in *Clause 64* of the Queensland Heritage and Other Legislation Amendment Bill 2014 on how to make a minor change) into the 'Making and Amending Local Planning Instruments' statutory guideline.

Queensland Government response:

The Government **supports** the recommendation.

The Minister for Environment and Heritage Protection will ensure the Department of State Development, Infrastructure and Planning is consulted about updating the statutory guideline 'Making and Amending Local Planning Instruments' in relation to minor changes in details about places of local heritage significance identified in planning schemes.

Recommendation 9 - The Committee recommends that the Minister for Environment and Heritage Protection ensure that the Department for Environment and Heritage Protection consult with the Department of State Development, Infrastructure and Planning in relation to the potential for charging of fees for local exemption certificates.

Queensland Government response:

The Government **supports** the recommendation.

The Minister for Environment and Heritage Protection will ensure the potential for charging fees for local exemption certificates is investigated with the Department of State Development, Infrastructure and Planning.

Recommendation 10 - The Committee recommends that the Minister for Environment and Heritage Protection amends proposed new section 199(1)(b) in the Queensland Heritage and Other Legislation Amendment Bill 2014 so that it refers to section 112(1)(a).

Queensland Government response:

The Government **supports** the recommendation.

The Government will amend *Clause 80* of the Queensland Heritage and Other Legislation Amendment Bill 2014 to ensure the correct reference in new section 199(1)(b) is to section 112(1)(a).

Recommendation 11 - The Committee recommends that the Minister for Environment and Heritage Protection ensure that the Department for Environment and Heritage Protection consult with the Department of State Development, Infrastructure and Planning regarding the definition of a local heritage place in the *Sustainable Planning Act 2009*.

Queensland Government response:

The Government **supports** the recommendation.

The Minister for Environment and Heritage Protection will ensure the department consults with the Department of State Development, Infrastructure and Planning regarding the definition of a local heritage place in the *Sustainable Planning Act 2009* and/or the legislation that replaces it.



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Date: 29.10.14

Member: Powell

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	Incorporated, by leave		Remainder incorporated, by leave
Clerk at the Table: L. C.			