

Monday, 30 March 2026

Department of Environment, Tourism, Science and Innovation
GPO Box 2454, Brisbane, Queensland, Australia, 4001
Via email: HeritageFeedback@detsi.qld.gov.au

APPENDIX A AIA SUBMISSION – DEVELOPING A NEW QUEENSLAND HERITAGE STRATEGY

Date	27 March 2026
Prepared by	Australian Institute of Architects, Queensland Chapter – Heritage Committee

Introduction

The Royal Australian Institute of Architects (Queensland Chapter) Heritage Committee supports the intent of the proposed reforms to the Queensland Heritage Act 1992, particularly in strengthening the legislative framework, improving enforcement, and delivering a more effective and contemporary heritage system.

The Committee considers that the key focus areas identified in the consultation—being legislative reform, heritage register processes, enforcement and compliance, local heritage identification, and stakeholder engagement—are appropriate and reflect the primary issues currently affecting the operation of the Act.

In the Committee’s view, these issues are interconnected and are best addressed through targeted legislative refinement rather than fundamental restructuring of the Act. Many of the identified challenges—such as limitations of the Queensland Heritage Register, delays in decision-making, gaps in enforcement, and inconsistencies in local heritage processes—can be addressed through specific amendments to the Act.

Accordingly, the Committee has undertaken a detailed review of the consultation material and provides targeted responses to each item. Where relevant, the Committee has also proposed specific amendments to the Act, including indicative drafting, to demonstrate how these issues may be addressed in practice.

The Committee also recommends that the current reform process build directly on the prior work of the Queensland Heritage Advisory Panel (QHAP), which identified a comprehensive suite of legislative and administrative improvements, including specific recommendations relating to interim protection, enforcement powers, register processes, and implementation timeframes. These matters remain highly relevant to the present review and should not be revisited in isolation.

Rather, the QHAP work provides an established evidence base and a coordinated framework for reform that should be integrated into this amendment process to ensure continuity, efficiency and alignment with previously identified priorities.

There is a large body of research that the Department has funded, particularly in the late 1990s and early 2000s, and many of the focus areas would benefit from a review of these documents, particularly where gaps in the listings are to be investigated, or heritage tourism such as:

- Mining Heritage trails by the Department 1999
- Queensland Heritage Trails by the Department c 2003

- Religious Places in Queensland – an Historical Context Study by Cultural Heritage Strategies 2003
- Queensland Cultural Heritage Places – a Context Study by Thom Blake 2005
- WW11 – NQ by Howard Pearce 2009

Improving stewardship of heritage places needs to consider the private owners of heritage places. It is their education and access to grant funding that will enable them to understand and apply best practice in changes and conservation. In the 2000s, the Department funded a quarterly magazine that was distributed to all owners of State heritage places. This magazine provided best practice examples which assisted heritage owners in their own custodianship. The Committee recommends that these magazines be reintroduced and additionally that an information pack be provided to new owners of State heritage places.

To further enhance governance and outreach, assistance to Local Government Areas should be supported as many Councils do not have a list of local heritage places and if they do, many do not have an effective overlay or set of policies to guide changes and conservation. By assisting the LGAs, the reach into diverse communities across the State will be strengthened.

These responses collectively address the focus areas and are intended to improve the clarity, consistency and effectiveness of the Act while retaining its underlying structure and intent.

The Committee's position is that the Act remains fundamentally sound but requires refinement to ensure that it operates as an effective, contemporary and fit-for-purpose statutory framework for the conservation of Queensland's cultural heritage.

Sincerely,



Peter Gardiner
Queensland Chapter President
Australian Institute of Architects



Luke Pendergast
Queensland Chair
Australian Institute of Architects Heritage Committee

AIA Queensland Chapter Heritage Committee: AIA Submission Appendix A

Position 1: Objects of the Act

The Committee supports the proposed expansion and clarification of the Objects of the Act in section 2. The current drafting establishes an appropriate high-level intent but does not sufficiently articulate the mechanisms required to achieve effective conservation outcomes in a contemporary context.

In particular, the Committee supports amendments that:

- more clearly recognise the role of adaptive reuse as a central component of heritage conservation.
- reinforce the importance of achieving high standards of conservation practice; and
- provide clearer guidance to decision-makers on how the objects are to be applied in practice.

The Committee considers it appropriate that the Objects of the Act acknowledge the roles of key stakeholders, including local government, as well as the broader economic, cultural and community benefits associated with heritage conservation.

However, it is important that any amendments remain principles-based and do not introduce unnecessary complexity or prescriptive requirements that may limit the flexible application of the Act.

The Committee also supports strengthening the Objects to provide clearer statutory direction for decision-making, noting that recent court decisions have demonstrated a tendency toward narrow interpretation of heritage significance based strictly on register entries. A more explicit articulation of the intent of the Act will assist in ensuring that the legislation is applied in a manner consistent with its broader conservation objectives.

Overall, the proposed amendments to section 2 are supported, subject to ensuring that they:

- maintain clarity and simplicity.
- reinforce the central role of conservation of cultural heritage significance; and
- provide practical guidance for consistent application across State and local contexts in both public and private ownership.

Position 2: Queensland Heritage Council Processes

The Committee supports the intent to modernise the composition and operation of the Queensland Heritage Council (QHC), including a move toward a skills-based membership model and a more efficient structure.

A reduced Council size, supported by clearly defined fields of expertise, is appropriate and is likely to improve efficiency and decision-making. The reduced size will need to take account of conflicts of interest and absenteeism, that often reduces the number of attendees at any meeting. The Committee supports retaining representation from key stakeholder organisations, including the National Trust of Australia (Queensland) and the Local Government Association of Queensland.

The Committee considers that the proposed skills matrix should be expanded to explicitly include representation from owners or custodians of heritage places. Inclusion of a member with direct experience as an owner would provide practical insight into the operational, financial and regulatory realities of heritage management, and would assist in ensuring that decisions are grounded in real-world outcomes.

In relation to conflict-of-interest provisions under sections 27 and 28 of the Act, the Committee supports streamlining and modernisation of these processes. However, it is important that reforms do not unnecessarily exclude experienced practitioners from participation. In a relatively small professional field, many suitably qualified individuals will have prior involvement in heritage matters.

The Committee considers that conflicts of interest can be appropriately managed through transparent disclosure and recusal processes, supported by a clear code of conduct, rather than through overly restrictive eligibility settings. Overly rigid conflict provisions risk reducing the available pool of expertise and diminishing the quality of decision-making.

Suggested Legislative Amendments

2.1. Amendment to Section 10 – Membership of the QHC

Amend **Part 2, Section 10** to include the following:

“(d) at least 1 member who has demonstrated experience as an owner, occupier or custodian of a place entered in the Queensland Heritage Register or a local heritage register.”

Insert within the section outlining required skills and expertise:

“The Minister must ensure that, collectively, members of the Council possess expertise across the following areas:

- (a) heritage conservation and management.*
- (b) architecture and the built environment.*
- (c) history and cultural heritage.*
- (d) planning or development assessment.*
- (e) economic or property matters; and*
- (f) ownership, management or stewardship of heritage places.”*

2.2. Amendment to Sections 27 and 28 – Conflict of Interest

Amend **Sections 27 and 28** to include:

“A member is not taken to have a disqualifying conflict of interest merely because the member has prior professional involvement in heritage-related matters, provided that—

- (a) the interest is disclosed in accordance with this Act; and*
- (b) the member does not participate in decisions where a direct and material conflict exists.”*

Insert an additional clarification:

“Conflict of interest is to be managed through disclosure and recusal, having regard to the need to retain access to relevant expertise.”

2.3. Definition – Direct and Material Conflict of Interest

Insert within **Schedule (Dictionary)** of the Act:

“A direct and material conflict of interest exists where a member has an interest that:

(a) arises from a current financial, proprietary or legal relationship with a person, entity or place that is the subject of a matter before the Council; and

(b) is of such a nature that a reasonable person would conclude the interest could improperly influence, or reasonably be perceived to influence, the member's participation in the decision; and

(c) is specific to the matter under consideration, and not merely general professional experience, prior involvement in unrelated matters, or an interest shared broadly with a class of persons."

Include a clarifying note within **Sections 27–28**:

"For the avoidance of doubt, a direct and material conflict of interest does not include:

(a) prior professional involvement in heritage matters unrelated to the specific place or application under consideration; or

(b) general expertise, advocacy, or professional practice in the heritage field."

2.4 Summary Position

The Committee supports reform of QHC processes, provided that the Act:

- adopts a skills-based and efficient membership structure;
- includes representation from heritage place owners or custodians; and
- implements balanced conflict of interest provisions that enable access to expert knowledge while maintaining transparency and integrity.

Position 3: State Heritage Register Processes

The Committee supports improvements to the operation of the Queensland Heritage Register, particularly measures that increase its accuracy, representativeness and usability as a statutory decision-making tool.

The Committee strongly supports retaining open standing for nominations. The ability for any person to nominate a place is a fundamental safeguard within the Act and should not be limited.

The Committee also supports a more strategic and proactive approach to nominations, including thematic studies and gap analyses led by the State. These processes should complement, rather than replace, open standing nominations.

A key issue is the currency and completeness of register entries. Many entries do not adequately define the extent of cultural heritage significance, which has led to constrained statutory interpretation. The Act should be amended to enable regular updating of entries, including statements of significance and identification of significant elements.

The current requirement for owner agreement to amend an entry (other than for minor changes) is a significant constraint and should be revised. However, this should be balanced with a clear and fair process where owners object to proposed amendments.

Suggested Legislative Amendments

3.1. Retention of Open Standing — Part 4 (Sections 32–33)

Retain current provisions allowing any person to apply for entry in the Queensland Heritage Register.

3.2. Strategic Listing Framework – New Provision in Part 4

Insert:

“The chief executive may undertake thematic studies, gap analyses or other strategic assessments to identify places that may be of State cultural heritage significance and may initiate applications for entry in the Queensland Heritage Register.”

3.3. Amendment to Section 34 – Updating Register Entries (including owner objection process)

Replace relevant portions of **Section 34** with:

“The Council may amend an entry in the Queensland Heritage Register, including the statement of significance, description, or boundary of a place, if satisfied the amendment is necessary to ensure the accuracy, completeness or currency of the register.

(1) The Council must give notice of a proposed amendment to the owner and invite submissions within a stated period.

(2) If the owner objects to the proposed amendment, the Council must:

(a) consider the owner’s submission; and

(b) be satisfied, having regard to all relevant evidence, that the amendment is justified in the public interest.

(3) The Council may proceed with the amendment despite owner objection if satisfied that:

(a) the amendment reflects the cultural heritage significance of the place; and

(b) the amendment is necessary to ensure the effective operation of the Act.

(4) The Council must give reasons for its decision.”

This approach retains procedural fairness while removing an effective veto.

3.4. Definition – Minor Amendment (clarification within Section 34 or Schedule)

Insert:

“A minor amendment means an amendment that does not materially alter the cultural heritage significance of the place and includes—

(a) correction of factual errors;

(b) clarification of existing statements;

(c) formatting or structural updates to align with current register standards; and

(d) identification of features or elements already implicitly recognised in the statement of significance.

A minor amendment does not include—

(a) the addition of new aspects of cultural heritage significance;

(b) substantive changes to the description of significance; or

(c) changes to the boundary of the place that alter its extent.”

3.5. Periodic Review Requirement – New Section in Part 4

Insert:

“The chief executive must establish and maintain a program for the periodic review of entries in the Queensland Heritage Register to ensure that information is accurate, current and fit for statutory decision-making purposes.”

3.6. Clarification of Evidentiary Basis — New Provision

Insert:

“In assessing the cultural heritage significance of a place, decision-makers may have regard to the full Queensland Heritage Register entry, and any other relevant evidence.”

3.7 Summary Position

The Committee supports reform of the State Heritage Register processes, provided that the Act:

- retains open standing for nominations.
- enables strategic and proactive listing.
- allows register entries to be updated without undue constraint.
- introduces a clear and fair process where owners object to amendments; and
- ensures the register functions as an accurate and effective statutory tool.

Position 4: Temporary protection for potential State heritage places

The Committee supports the proposed amendment to the Heritage Act to allow temporary protection notices to be issued for potential state heritage places. Example heritage places highlighted in the discussion paper, and others, demonstrate the importance of temporary protections given the number of places of potential significance yet to be entered into the state heritage register.

Bringing QLD in line with other states, regarding temporary protections, is further cause for support of this amendment.

The proposed time periods for the temporary protection notice need to be considered to make sure these are sufficient for the QLD Heritage Council to make well substantiated decision. The proposed maximum time of 80 days may not be adequate.

The committee supports making temporary decision notices a chief executive responsibility, rather than a ministerial responsibility. The committee proposes this to avoid political influence in decision making, given that temporary protection notices will be issued when competing interests concerning a heritage place are present.

Position 5: Identification of local places

5.1. Local heritage – Part 11 of the Heritage Act

The requirement for Local Government to identify places in its local government area is important to be retained, but the lack of enforcement has not motivated those LGAs without registers to comply. The loss of places not yet identified by local government represents a substantial risk to the loss of significant places across the State.

The 2020 DETSI Guideline for Identifying and assessing places of local heritage significance introduced an abbreviated list of only 5 criteria which has added to the confusion around local listing.

The Committee supports reform of local heritage identification and protection processes, provided that the Act:

Maintains **Part 11 of the Heritage Act**;

- Introduces enforcement for local government to identify and register places of cultural heritage significance;

- further, LGAs should also be enforced to amend their planning schemes to include policies and performance outcomes for adaptive re-use and conservation of the places on their register; and
- Re-write the 2020 DETSI Guideline for Identifying and assessing places of local heritage significance to include the same 8 criteria as used in the assessment State heritage places.

Position 6: Temporary protection for local heritage places

The Committee supports the proposed amendment to the Heritage Act to allow temporary protection notices to be issued for potential local heritage places. Example heritage places highlighted in the discussion paper, and others, demonstrate the importance of temporary protections given the number of places of potential significance yet to be entered in local heritage registers, especially LGAs with fewer resources.

Implementation of this proposed change will need to be supported by the implementation of legislative proposal 5. Local governments who are actively maintaining a register of local heritage places will be better positioned to identify instances when temporary protection notices are required.

Position 7: Enforcement and Compliance

The Committee strongly supports reform of the enforcement and compliance provisions of the Queensland Heritage Act 1992. The current framework is widely understood to be ineffective in addressing deterioration, neglect and intentional damage to heritage places, and is materially weaker than comparable legislation in other jurisdictions.

In particular, the limitation of repair and maintenance powers to “minor work” and to a narrow range of causes (e.g. weather, fire, vandalism, insects) significantly constrains the ability of the State and local governments to intervene in a meaningful way. Recent case examples have demonstrated that, in practice, other legislation (such as the Building Act 1975) is often relied upon to achieve outcomes that should properly sit within the Heritage Act.

The Committee supports the introduction of a modern enforcement framework that enables early, proportionate and effective intervention to protect heritage places, including the ability to require substantive works where necessary.

Suggested Legislative Amendments

7.1. General Duty of Care – New Provision (Part 9 or new Part)

Insert:

“An owner of a place entered in the Queensland Heritage Register or a local heritage register must take reasonable steps to maintain the place in a condition that prevents deterioration of its cultural heritage significance.”

This establishes a baseline obligation consistent with other jurisdictions.

7.2. Expanded Repair and Maintenance Powers – Amendment to existing provisions (Part 9)

Replace limitations on “minor work” with:

“A repair and maintenance notice may require any works reasonably necessary to stabilise, conserve or prevent deterioration of a heritage place, including major works where justified.”

Amend scope:

“A notice may be given where a place is at risk of deterioration for any reason, including neglect, structural failure, or lack of maintenance.”

7.3. Delegation and Local Government Powers — Amendment

Amend provisions to allow delegation:

“The chief executive may delegate the power to issue a repair and maintenance notice to an appropriately qualified officer.”

Extend to local governments:

“A prescribed local government may issue repair and maintenance notices for local heritage places.”

7.4. Show Cause and Enforcement Process — New Provision

Insert a structured process:

“Before giving a repair and maintenance notice, the administering authority must issue a show cause notice stating—

- (a) the proposed action;*
- (b) the reasons for the action; and*
- (c) a reasonable period for response.*

After considering any submission, the authority may issue a repair and maintenance notice.”

This aligns with contemporary regulatory practice.

7.5. Ability to Undertake Works and Recover Costs — New Provision

Insert:

“If an owner fails to comply with a repair and maintenance notice, the administering authority may carry out the works and recover the reasonable cost as a debt.”

7.6. Offence for Neglect — New Provision

Insert:

“A person must not, by act or omission, cause or permit a heritage place to deteriorate to the extent that its cultural heritage significance is materially reduced.”

7.7 Summary Position

The Committee supports a substantial strengthening of enforcement provisions to ensure that the Act can:

- require proactive maintenance of heritage places;
- enable meaningful intervention where places are at risk;
- provide a clear and enforceable compliance pathway; and
- operate as a contemporary regulatory framework comparable to other jurisdictions.

Without these reforms, the Act will continue to rely on external legislation to achieve basic conservation outcomes, undermining its effectiveness as the State’s primary heritage protection framework.

Position 8: Miscellaneous amendments

The committee supports proposed miscellaneous amendments to streamline and modernise legislative provisions, including removal of the “liturgical purposes” development exemption section

Clarification of cultural heritage significance

Relevant provision: s31(3)(e)

Issue: The Act requires a Statement of Significance but does not define whether it is exhaustive.

Amendment (insert new provision, e.g. s31A):

“31A Meaning of cultural heritage significance

(1) Cultural heritage significance of a place is primarily identified in the Queensland heritage register entry, including the statement of significance.

(2) Cultural heritage significance may also be understood having regard to the place’s physical fabric, history, use and context.”

Recognition of contributory elements

Relevant provisions: s31, s35

Issue: No statutory recognition of contributory elements.

Amendment (insert new provision, e.g. s35A):

“35A Contributory elements

A place may include elements that contribute to its cultural heritage significance, whether each element is expressly identified in the statement of significance.”

Interpretive framework for decision-making

Relevant provision: Not currently provided

Issue: No statutory guidance on interpretation.

Amendment (insert new provision, e.g. s8B):

“8B Interpretation of cultural heritage significance

In interpreting the cultural heritage significance of a place, a decision-maker may have regard to—

(a) the statement of significance.

(b) the description and history of the place in the register.

(c) expert evidence.

(d) the physical characteristics and context of the place.

(2) Expert evidence may be used to clarify, but not contradict, the cultural heritage significance identified in the register.”

Position 9: State heritage trigger for development – State Code 14

The assessment benchmarks in State Code 14 are minimal provisions for the protection of Queensland cultural heritage in its built fabric, and analysis may reveal, that the Code is not as effective as intended. Rather than introducing prescriptive outcomes, the assessment pathway should be amended.

The State Assessment and Referral Agency (SARA) currently has responsibility for assessing Development Applications and SARA does not hold the professional heritage expertise to make these assessments. The heritage branch within the Department of Environment, Tourism, Science and Innovation (DETSI) holds the required expertise, but under previous planning reforms was downgraded to Technical Advice only to SARA.

DETSI should be reinstated as Assessment Manager for Development applications on State heritage places.

SDAP 14 could be strengthened with the requirement that, where major development of a state heritage place is requested, a detailed fabric assessment, accompanied by a Heritage Impact Assessment report prepared by a full International Member of Australia ICOMOS, should be submitted.

Other reforms that have also contributed to the diminution of best practice outcomes in Queensland's heritage is the implementation of Priority Development Areas (PDAs) and Ministerial Infrastructure Designations (MIDs) all of which allow applicants to avoid detail scrutiny of proposed adaptive re-use and conservation proposals in Queensland.

Lastly, effective stewardship of heritage should be demonstrated by example, showcasing best practice outcomes for State-owned heritage buildings.