

Queensland Heritage Regulation 2015

Explanatory notes for SL 2015 No. 107

made under the

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

General Outline

Short title

Queensland Heritage Regulation 2015

Authorising law

Sections 33(1), 71(3), 83(3), 103, 105(2)(d), 121 and 178 of the *Queensland Heritage Act 1992*
Section 22(1)(b) of the *Statutory Instruments Act 1992*
Section 165 of the *State Penalties Enforcement Act 1999*
Sections 232(1), 232(3), 251(a), 254(1) and 763 of the *Sustainable Planning Act 2009*

Policy objectives and the reasons for them

The overarching policy objective of the *Queensland Heritage Regulation 2015* (the Regulation) is to support the efficient and effective operation of the *Queensland Heritage Act 1992* (Heritage Act). The object of the Heritage Act is to provide for the conservation of Queensland's cultural heritage for the community and future generations. This is to be achieved in a number of ways, including by: establishment of the Queensland Heritage Council (Heritage Council), keeping a register of places and areas of State heritage significance called the Queensland heritage register, requiring the discovery of archaeological and underwater cultural heritage artefacts to be reported, and providing for local governments to identify and manage places of local cultural heritage significance.

Under Part 7 of the *Statutory Instruments Act 1992*, the Queensland Heritage Regulation 2003 (2003 Regulation) is subordinate legislation subject to automatic expiry. Although the 2003 Regulation was due to expire at midnight on 31 August 2014, it has been exempted from expiry for one year because in early 2014 the Heritage Act was under review.

On 7 November 2014, a key outcome of the review, the *Queensland Heritage and Other Legislation Amendment Act 2014* (QHOLAA 2014), received royal assent. Its remaining provisions, chiefly affecting the Heritage Act, are to commence by Proclamation on 1 September 2015. In part, these amendments bear on what is prescribed in any regulation made under the Heritage Act.

The commencement of the remaining provisions of QHOLAA 2014 and making the Regulation means it is necessary to make a number of minor and consequential amendments to the State Penalties Enforcement Regulation 2014 (SPER 2014) and the Sustainable Planning Regulation 2009 (SPR 2009).

The Regulation replaces the 2003 Regulation, achieving consistency with the changes in the Heritage Act made by QHOLAA 2014 and the outcomes of its review. It aids the operation and administration of the Heritage Act in ways proportionate to the matters under consideration. The Regulation is to commence on 1 September 2015 together with the remaining provisions of QHOLAA 2014.

Achievement of policy objectives

The Regulation replaces the expiring 2003 Regulation, supporting effective and efficient operation of the Heritage Act as amended by QHOLAA 2014 by a number of means.

The Regulation prescribes the details to be contained in a report presented to the Heritage Council under section 71 of the Heritage Act by a Queensland Government agency or department proposing development of a place on the Queensland heritage register. The details are an update of the details prescribed in the 2003 Regulation, which have not been significantly altered during its lifetime.

The Regulation prescribes for section 83(3) of the Heritage Act the matters the responsible Minister must consider in being satisfied a local government has appropriate policy and procedures in place to be prescribed to issue repair and maintenance notices to the owners of local heritage places. This requirement does not feature in the 2003 Regulation and is introduced with QHOLAA 2014.

The Regulation declares the Burke and Wills Expedition Plant Camp in Western Queensland a protected area under section 103 of the Heritage Act for a period of three years. The same area is declared in the 2003 Regulation, and has been since December 2008. Until a long-term plan is devised and implemented, re-declaration will continue protection of this historically significant archaeological place, which is associated with the Burke and Wills Expedition of 1860-61 that crossed the continent from south to north. The Regulation also sets out what information should be included in a recommendation to the Minister responsible for the Heritage Act about a protected area declaration made under section 103 of the Heritage Act. This information is updated from that which appears in the 2003 Regulation, and its inclusion relies on section 178 of the Heritage Act and section 22(1)(b) of the *Statutory Instruments Act 1992* in being ‘necessary or convenient to be prescribed for carrying out or giving effect to the authorising law or other law.’

The Regulation prescribes an Integrated Development Assessment System (IDAS) code for use by some local governments with local heritage places on local heritage registers as

provided for in section 121 of the Heritage Act. The new code represents a transfer of the one that appears in the 2003 Regulation with some minor variations made to align it with the Queensland Planning Provisions and the drafting instructions about code writing.

The Regulation prescribes various fees for services associated with the Heritage Act that remain the same as those in the 2003 Regulation. These fees have been subject to the annual review required under Queensland Government policy and then indexed by the approved government indexation factor. The revised amounts commenced on 1 July 2015.

Expiry of the 2003 Regulation means the expiry without replacement of a number of its provisions. Those for certificate of immunity applications are not replaced as the authorising provision in the Heritage Act is removed by QHOLAA 2014 (refer to sections 13, 29 and 30 of QHOLAA 2014). Those related to 12 prescribed local governments not being required to keep a local heritage register under Part 11 of the Heritage Act are not replaced as QHOLAA 2014 again removes the authorising provision (refer to section 56). The transitional provisions for QHOLAA 2014 (section 198) establish that the local governments featured in the expiring Schedule 1 of the 2003 Regulation are taken to comply with Part 11 as amended by QHOLAA 2014.

The declaration of the protected area described in item 1 of Schedule 1AA of the 2003 Regulation is ended by the Regulation. No re-declaration is provided for this area, which covers wreckage from the nearby wreck of the SS Marloo. Since September 1914, when the Marloo was wrecked, the 1891 steamer has gradually been broken apart by the action of the sea, and parts of the upper deck have shifted and become buried in the intertidal zone of Orchid Beach on Fraser Island. Since 2002 when the protected area was declared, it has been determined that this wreckage is protected under the *Historic Shipwrecks Act 1976* (Cwlth) (Shipwrecks Act) as a relic of the Marloo.

Excavation of the wreckage site would be extremely costly and it is ultimately destructive to expose the material buried there without planning extensive conservation works. Should evidence come to light that the buried material belongs to another historic shipwreck, it is nonetheless protected from interference by the Heritage Act. The entry for the Marloo in the Australian National Shipwreck Database, which is kept under the Shipwrecks Act and made available online, will be updated to identify that this wreckage is known to exist buried under the sand about 1km to the north-west of the wreck site.

The minor and consequential amendments in the part of Schedule 1 of the SPER 2014 associated with the Heritage Act update references to three infringement notice offences to ensure they appropriately reflect changes effected by QHOLAA 2014 while still conforming to the requirements of the authorising law.

The minor and consequential amendments in the SPR 2009 provide for a trigger for exemptions certificates to be issued for places of local heritage significance by local governments, unless the places are also on the Queensland heritage register and state-level exemption certificate provisions would apply.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Heritage Act.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The review of the Heritage Act undertaken in 2014 and the amendments that resulted from this process mean the Regulation is required to support certain aspects of the Act's operation. Remake of the regulation was therefore the only alternative considered.

Benefits and costs of implementation

The benefits of the Regulation are those associated with clear, consistent information being provided to the Heritage Council and the Minister responsible for the Heritage Act to support sound decisions being made. Continuing the Plant Camp protected area declaration for a further three years will control access to the site until a more appropriate plan for its future can be developed. Ending the declaration for the wreckage from the SS Marloo does not change the protection otherwise afforded the material.

The costs of implementing the Regulation will be met from existing resources.

Consistency with fundamental legislative principles

The Regulation has been drafted having regard for the fundamental legislative principles defined in section 4 of the *Legislative Standards Act 1992* and is consistent with them.

Consultation

The Office of Best Practice Regulation was consulted and confirmed that a Regulatory Impact Statement is not required for the Regulation.

The 2014 review of the Heritage Act centred on release of a discussion paper about which 51 submissions were received: three from individuals, nine from community organisations, 11 from industry consultants, ten from industry organisations, 13 from local governments and the Local Government Association of Queensland, and five from government organisations. Targeted consultation with a range of groups and organisation occurred and is detailed in the explanatory notes for bill for QHOLAA 2014. Responses received informed development of QHOLAA 2014 and have been considered in development of the Regulation.

In response to the report on the bill for QHOLAA 2014 tabled in Parliament by the Transport, Housing and Local Government Committee, the requirement established with section 83(3) was included in amendments during consideration in detail. This relates to prescribing the matters the Minister responsible for the Heritage Act must consider in relation to particular local governments seeking to be prescribed to issue repair and maintenance notices for local heritage places.

With regard to the code for IDAS for local heritage places on a local heritage register, during preparation of this Regulation consultation occurred with the eight local governments that

apply the current code in the 2003 Regulation. None expressed dissatisfaction with this code and it was decided that further engagement was necessary before a substantial revision was progressed.

The registered lessee of the State land affected by the protected area covering the Burke and Wills Expedition's Plant Camp was consulted and offered no objection to its re-declaration for a period of three years. The land is held under a rolling term pastoral lease, so the Central Region Land Services Unit in the Department of Natural Resources and Mines, which represents the Queensland Government for State land, was also consulted. Its only concern is that the pastoral business of the lessee is not impacted by the declaration.

The Australian Government's Department of the Environment, which administers the Commonwealth's Shipwrecks Act, was consulted about the proposal to allow the protected area declaration for the wreckage associated with the SS Marloo wreck to end. It confirmed that the area is still protected under the Shipwrecks Act because it most probably contains a relic associated with the Marloo.

The Heritage Council was closely involved in the 2014 review of the Heritage Act. In relation to the Regulation, it endorsed the new provision for section 71(3), re-declaration of the Plant Camp protected area for three years, and finishing the declaration covering the SS Marloo wreckage that has become disassociated from the main wreck.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

This clause states that the short title of this subordinate legislation is the Queensland Heritage Regulation 2015.

Clause 2 Commencement

This clause establishes 1 September 2015 as the date on which the Queensland Heritage Regulation 2015 will commence.

Part 2 Provisions about Queensland heritage places and local heritage places

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

As required by section 71(3) of the Act, this clause prescribes the details for a report provided to the Heritage Council about development involving a place on the Queensland heritage register when the Queensland Government proposes to carry out that development. The Heritage Council uses this report to assess the impact the development will have on the heritage significance of the place and provide a recommendation to the responsible Minister about whether to carry out the development as proposed and under what conditions. The prescribed report details align with the information that must be submitted with a development application lodged through IDAS, of which development by the State is not a part.

The key detail of the report is a statement prepared in accordance with the relevant guideline made under section 173 of the Heritage Act about the impact the development will have on the heritage significance of the place. In practical terms, this clause aligns the Regulation with what Queensland Government departments and agencies frequently submit to the Heritage Council. This is a heritage impact statement and is an industry-standard document used in the assessment of development of heritage-listed places.

Other important report details include the relevant contents of other standard documents prepared as part of planning and designing a development proposal, such as a conservation management plan, photographs of the development in relation to significant features of the place and architectural drawings for the scheme. The scope of the statement and other details provided with it are always proportionate to the scale of the development and level of its impact on the place in question.

Clause 4 Matters Minister must consider—Act, s 83

This clause fulfils the requirement in section 83(3) of the Heritage Act as inserted by section 46 of QHOLAA 2014. It prescribes the matters the Minister responsible for the Heritage Act must consider in being satisfied a local government has appropriate policy and procedures in place for issuing repair and maintenance notices to owners of local heritage places. If the Minister were to be satisfied about these matters, an Amendment Regulation process would be undertaken to seek the approval of the Governor in Council for the local government to be prescribed in the regulation to exercise the power set out in section 84.

QHOLAA 2014 establishes that chief executive officers of those local governments that have been prescribed in a regulation made under the Heritage Act are empowered to issue repair and maintenance notices to owners of local heritage places in their areas (refer to sections 46 and 79). The Heritage Act provides the same power to the chief executive of the department administering it in relation to places on the Queensland heritage register. Neither power can be delegated, being powers of last resort. Such a notice is used to protect a place from the damage and deterioration caused by weather, fire, vandalism and insects when essential maintenance and repair work is neglected. This work is similar to that undertaken at any property.

The matters this clause catalogues correspond to the core elements of the essential repair and maintenance power; promote transparency and consistency in the process by which local governments can seek to be prescribed and support a decision-making framework for the responsible Minister.

The final paragraph of this clause refers users of the Regulation to definitions of the terms *decision-maker* and *essential repair and maintenance work* contained in the Heritage Act section 84.

Clause 5 Declaration of protected areas—Act, s 103

The first paragraph of this clause clarifies that the area mentioned in Schedule 1AA, item 1 of the 2003 Regulation is no longer a protected area. The area is on Orchid Beach on the eastern side of Fraser Island. Declared in 2002, it covered wreckage from the SS Marloo, which has become disassociated from the main wreck over time. The Marloo was wrecked in September 1914 on its way from Mackay to Brisbane. The steamer struck a submerged danger eastward of Fraser Island and began to founder. The captain steered the ship towards the beach and deliberately beached it about 3 miles (4.8km) north of Waddy Point. The vessel was left

broadside on the beach (its long side perpendicular with the beach line). All on board were transferred to the beach without any loss of life. The wreck now rests about 4km north-west of Waddy Point in about 8 to 9m of water, while the buried wreckage and its protected area are a further 1km further north-west in the intertidal zone. The area is defined by a centre point and a circle inscribed at a 400m radius from this point. The declaration of this area is ended because what is buried there is probably a relic of the Marloo and these are protected under the Commonwealth's Shipwrecks Act. The protected area has not been practically enforceable as it covers a beach well-travelled by visitors to Fraser Island.

The second paragraph of this clause first declares that the area in Schedule 1 of the Regulation continues as a protected area. This is for the Burke and Wills Expedition Plant Camp and is described in the Notes of Provisions below for Schedule 1 of the Regulation. The second part of this paragraph then establishes that this protected area declaration ends three years after commencement. The reason for this is explained below in relation to Schedule 1 of the Regulation.

The final paragraph of this clause defines the term *expiring regulation* to mean the Queensland Heritage Regulation 2003.

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

This clause sets out what information the responsible Minister may require be included in a recommendation about declaration of a protected area under section 103 of the Heritage Act. Entry into a protected area requires a permit and large maximum penalties apply to those not obtaining a permit or failing to comply with the conditions of a permit. The only two areas that have been declared under the Heritage Act were protected due to their potential archaeological importance and the risk of treasure hunters collecting artefacts from these sites and reducing their value for further scientific investigation.

The purpose of this clause is to allow for a person or group that wants the Minister to seek the approval of the Governor in Council for a place to be declared a protected area to present a reasoned argument as to why a place should be a protected area rather than considered for entry in the Queensland heritage register through an application process that culminates in a decision of the Heritage Council. The information required in a protected area recommendation is modeled on that required from applications for entry of a place in the register, with the addition of a statement about why the place needs protected area status.

Part 3 Miscellaneous

Clause 7 Code for IDAS—Act, s 121

This clause provides that a code for IDAS for use by local governments with local heritage places on a local heritage register established under the Heritage Act but not applied, adopted or incorporated into a planning scheme features in Schedule 2 of the Regulation. Refer to the following explanation of Schedule 2.

Clause 8 Fees

This clause provides that Schedule 3 of the Regulation sets out fees for three services performed under the Heritage Act. Refer to the following explanation of Schedule 3.

Part 4 Consequential and other amendments

Division 1 Amendment of State Penalties Enforcement Regulation 2014**Clause 9 Regulation amended**

This clause provides that the SPER 2014 is amended. The *State Penalties Enforcement Act 1999* and the SPER 2014 provide the framework for the prescription of penalty infringement notice offences in Queensland.

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

This clause amends the part of Schedule 1 of the SPER 2014 that sets out the offences under the Heritage Act for which penalty infringement notices may be issued for minor breaches. It amends the references for sections 76, 87(6) and 91(1) but not the penalty amounts.

Sections 36 to 41 of QHOLAA 2014 provide local governments with the power to issue exemption certificates for local heritage places under the Heritage Act, a power already exercised by the Queensland Government with places on the Queensland heritage register. The changes that establish this new power take in the provision that makes non-compliance with the conditions of an exemption certificate an offence, which is section 76; providing different maximum penalties for non-compliance with certificates issued by the state and those issued by local government for local heritage places. The sole change in the reference for section 76 made with this clause clarifies that the penalty infringement notices provided for in the SPER 2014 are those issued for minor offences related to work done that does not comply with the terms of an exemption certificate issued for a place on the Queensland heritage register. This relates only to paragraph (a) of the maximum penalty in section 76.

Section 46 of QHOLAA 2014 replaces section 87 of the Heritage Act with three new provisions (sections 83, 84 & 85) that revise how and when repair and maintenance notices can be issued for heritage places. Such notices are intended to protect places from the damage or deterioration caused by weather, fire, vandalism or insects when regular repair and maintenance tasks are neglected. These new sections of the Heritage Act provide local governments that are prescribed in the regulation with the power to issue these notices for locally heritage-listed places (refer to Clause 4). Section 84 sets different penalties for the different offences: those related to local places and those related to places on the Queensland heritage register. This clause's changes for section 87(6) update the sectional reference to section 84(6) and clarify that the penalty infringement notices referred to are those issued for minor non-compliance with a repair and maintenance notice issued by the chief executive to the owner of a place on the Queensland heritage register, which relates only to paragraph (a) of the maximum penalty.

The final amendment to Schedule 1 of the SPER 2014 that this clause provides for relates to section 91 of the Heritage Act as amended by section 51 of QHOLAA 2014. Firstly, QHOLAA 2014 amends section 91(1) to make it an offence to interfere without the chief executive's consent with an historic aircraft wreck, as well as with an historic shipwreck. The term *interfere* is defined for the division to mean 'damage, destroy, disturb, expose or move'. Secondly, QHOLAA 2014 omits the second and last subsection of section 91, making the first redundant. Under section 43 of the *Reprints Act 1992*, a consequential change will be made in the Heritage Act to convert section 91(1) to section 91 and this will be reflected in the SPER 2014.

Division 2 Amendment of Sustainable Planning Regulation 2009**Clause 11 Regulation amended**

This clause provides that the SPR 2009 is amended by the Regulation. The SPR 2009 is made under the *Sustainable Planning Act 2009*.

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

The first part of this clause amends Schedule 3, part 1, table 5, item 2 where all development on a Queensland heritage place (meaning a place or area on the Queensland heritage register) is made assessable under the *Sustainable Planning Act 2009* unless it is: covered by an exemption certificate issued under the Heritage Act, liturgical development as defined under the Heritage Act, carried out by the State or related to development in a Priority Development Area declared and managed under the *Economic Development Act 2012*. The amendment clarifies that the exemption certificates referred to in column 2, paragraph (a) of item 2 are those issued by the chief executive of the department administering the Heritage Act. This distinguishes them from exemptions issued by the chief executive officer of a local government for locally heritage-listed places. As described in Clause 10 above, QHOLAA 2014 provides that local governments can issue exemption certificates under the Heritage Act for local heritage places, whether they are entered in a local heritage register or identified and managed in a local government's planning scheme.

The second and third parts of this clause amend Schedule 3, part 1, table 5, item 3, column 2 to provide that when local governments issue these exemption certificates for local heritage places—whether they are entered in a local heritage register established under the Heritage Act or identified in a local government's planning scheme as being of local cultural heritage significance—the development covered by them is not assessable in terms of its impact on heritage value. The third part of this clause also precludes a local government issuing such an exemption certificate for a local heritage place that is also a place on the Queensland heritage register. The Queensland Government department that administers the Heritage Act is responsible for issuing exemption certificates for these places.

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

This clause makes a consequential amendment in Schedule 5, part 1, table 5, item 5, column 2, paragraph (a) of the SPR 2009 to reflect that the Queensland Heritage Regulation 2015 will replace the Queensland Heritage Regulation 2003.

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

This clause makes a consequential amendment in Schedule 7, table 1, item 13, column 3, paragraph (a) of the SPR 2009 to reflect that the Queensland Heritage Regulation 2015 will replace the Queensland Heritage Regulation 2003.

Clause 15 Amendment of sch 26 (Dictionary)

This clause amends the definition of the term *cultural heritage significance* to identify that it is used in Schedule 3, part 1, table 5, item 2 given the effect of Clause 12.

Schedule 1 Protected areas

This schedule is provided for in Clause 5 and establishes part of 17DE844097 in the north-west corner of Durrie Station in Western Queensland as a protected area under section 103 of the Heritage Act. The area is located on what is now called Plant Creek, about 90km north-east of Birdsville. The clause describes the lot affected and then sets out the corners of the broadly rectangular boundary for the area. The area covers almost 12 hectares. Notes to the clause explain firstly that a map illustrating the protected area boundary can be inspected at the department's head office, and secondly that the coordinates used to define the boundary are worked out using a particular spatial datum system. The size of the area disguises the precise location of the place being protected, which is the likely site of the Plant Camp associated with the Victorian Exploring Expedition, or what is better known today as the Burke and Wills Expedition of 1860 to 1861.

The Victorian Exploring Expedition was organised by the Royal Society of Victoria and funded by the Victorian Government and through public subscription. Led by Robert O'Hara Burke, the expedition party set off from Melbourne on 20 August 1860. At Menindee in New South Wales, Burke first split the group, leaving some of the party there guarding stores. He and his remaining party then carried on to Cooper's Creek (now Cooper Creek) in Queensland, where he split the group again; leaving a number of the party at a camp near Boolloo Boolloo Waterhole while the rest travelled north (this was known as the Depot Camp).

The forward party, comprising Burke, William John Wills, the expedition's surveyor, John King and Charles Gray, travelled north and reached the Little Bynoe River near what would later become Normanton in February 1861. The party began the return journey with low rations and failing camels, and were hampered by monsoonal weather. Having travelled south for about two months and behind schedule, Wills made his last astronomical readings before Burke instructed the group to bury (i.e. plant) any unnecessary equipment at what was called the Plant Camp. The group then headed back to the Depot Camp. Here on 21 April 1861 they found the party stationed there had left only hours earlier (Gray died before reaching the Depot Camp). The remains of the Depot Camp are inside what is now Nappa Merrie Station near Queensland's border with South Australia and its Dig Tree is entered in the Queensland heritage register (heritage reference number 601073).

Having retrieved a buried cache of supplies using the instructions blazed onto the Depot Camp's Dig Tree, Burke, Wills and King made an attempt to reach Blanchewater Station to the west (in South Australia, near Mt Hopeless) but not being able to penetrate the desert ultimately turned back. Burke and Wills perished in late June near Cooper's Creek, while King survived by befriending Aboriginal people in the area. He was rescued in September 1861 by the first relief team sent from Melbourne to find the missing explorers.

The Plant Camp was first declared a protected area under the Heritage Act on 12 December 2008 (SL No. 440), its location having been the subject of great speculation. After 20 years applying geospatial techniques to Wills' surveying records and conducting physical searches, in 2007 Dr FJ Leahy from the University of Melbourne discovered what he calculated to be the site. A number of finds had been made that supported the idea that the site had been found. Soon after this, the Royal Society of Victoria reported the discovery to the Queensland Government and asked it be protected from artefact hunters. Since its original declaration, one substantial archaeological investigation has been conducted at the site, the findings from which strongly indicate the general location of the Plant Camp has been located within the protected area. Further general visits to the site have since been conducted.

Being evidence of the famous Burke and Wills Expedition, which was the first to cross the Australian continent from south to north and helped open western Queensland to pastoral settlement, the Plant Camp is of potential national heritage significance. Four other places associated with the Expedition (and the search for the forward party conducted by William Landsborough) are on the Queensland heritage register (as State heritage places) and illustrate the great importance of the expedition: as mentioned previously, the Dig Tree on Nappa Merrie Station, west of Thargomindah (place ID 601073); Camp CXIX and Walker's Camp on the Little Bynoe River, Normanton (place ID 602156); Landsborough's Blazed Tree at Camp 69 on Mitchell Highway, Bakers Bend (place ID 602715); and Landsborough's Blazed Tree, Camp 67, Mitchell Highway, Charleville (place ID 602716).

South Australia declared the Innamincka/Cooper Creek state heritage area in 1985 in part for its connection with the Burke and Wills Expedition. It is within the Innamincka Regional Reserve, more than 800km north-east of Adelaide, along the Strzelecki Track. The Victorian Heritage Register includes a number of places associated with the Burke and Wills Expedition: the Memorial Obelisk in Castlemaine (place reference H1814), Royal Park in Melbourne from where the party set off in 1860 (place reference H2337) and the monument in Bendigo Cemetery (place reference H0798) erected by public subscription to honour the explorers. The National Trust of Victoria maintain a Register of Significant Trees and include a number of trees known or believed to be associated with the expedition's journey between Melbourne and Cooper Creek.

As per Clause 5, the declaration ends three years after the date the Regulation commences, which will allow time for a further archaeological investigation to be arranged at the remote site and a plan for its future recognition and conservation to be formulated in consultation with the registered lessee and other interested parties. This plan may mean re-declaration of a smaller protected area, or entry of the site in the Queensland heritage register.

Schedule 2 Code for IDAS

This schedule is provided for in Clause 7 and establishes a code for IDAS as per section 121 of the Heritage Act. It is intended for use in development assessment involving local heritage places that are not also places on the Queensland heritage register, but are entered in a local heritage register established under Part 11 of the Heritage Act and not applied, adopted or incorporated into a planning scheme.

The various parts of Schedule 2 represent a transfer of the 2003 Regulation code, with some minor amendments being made to align with aspects of the Queensland Planning Provisions (version 3.1 and draft version 4.0) and the model code in the Queensland State Planning Policy state interest guideline for Cultural Heritage. The code sets out the development to which it does and does not apply, providing that it does not apply to local development of heritage places: managed through a planning scheme, that are also on the Queensland heritage register and for which an exemption certificate has been issued under the Heritage Act by the relevant local government. The overall outcomes that will achieve the code's purpose remain that same as those in the 2003 Regulation code. The purpose of the code is to provide for the conservation of local heritage places. The remainder of the code—where compliance with it is explained and a series of specific outcomes and probable solutions are set out—is the same as in the 2003 Regulation with minor amendments to update drafting.

Schedule 3 Fees

This schedule is provided for in Clause 8 and sets out fees for various services under the Heritage Act: for obtaining a certified copy of an entry for a place on the Queensland heritage register under section 33(1)(a); for obtaining a certificate about certain matters under section 33(1)(b), commonly known as a ‘certificate of affect’; and applying for a permit to enter a protected area under section 105(2)(d). A certified copy of an entry is a document used as evidence that a place or area is on the Queensland heritage register, for what reasons and what extent of land is covered by the listing. A certificate about certain matters records whether a place or area is on the register; is the subject of a heritage agreement; is subject to an application regarding entry in, or removal from, the register; or is an excluded place (a place the Queensland Heritage Council has determined should not be entered in the register for five years – refer to section 29 of QHOLAA 2014).

The fee amounts match those current as at 1 July 2015. They have been subject to the annual review required under Queensland Government policy and then indexed by the approved government indexation factor.

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