



Queensland Heritage Act 1992

Reprinted as in force on 2 March 2012

Reprint No. 5B

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 2 March 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- when provisions commenced
- editorial changes made in earlier reprints.

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.

Part 2 Queensland Heritage Council

Division 1 Establishment and functions

6 Establishment of council

- (1) The Queensland Heritage Council, formerly established under this Act, is continued in existence under the name Queensland Heritage Council.
- (2) The council—
 - (a) is a body corporate; and
 - (b) may sue and be sued in its corporate name.

7 Council's relationship with the State

The council does not represent the State.

8 Functions of council

- (1) The council has the following functions—
 - (a) to provide strategic advice to the Minister about matters relating to Queensland's cultural heritage, including, for example, measures necessary to conserve Queensland's cultural heritage;
 - (b) to provide information to the community to encourage interest in, and understanding of, Queensland's cultural heritage;
 - (c) to advise entities about conserving Queensland's cultural heritage, including, for example, government entities and community organisations;
 - (d) to encourage the appropriate management of places of cultural heritage significance;
 - (e) to perform other functions given to the council under this Act or by the Minister.

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- (2) In performing its functions, the council must act independently, impartially and in the public interest.

9 Delegation by council

The council may delegate its functions under this Act to—

- (a) a member; or
- (b) a committee of the council consisting of appropriately qualified persons, 1 of whom must be a member; or
- (c) an appropriately qualified public service officer.

Division 2 Membership

10 Membership of council

The council consists of the following members—

- (a) a representative, appointed by the Governor in Council, of each of the following entities—
 - (i) the National Trust of Queensland;
 - (ii) the Local Government Association of Queensland (Incorporated);
 - (iii) the Queensland Council of Unions;
 - (iv) an organisation representing the interests of property owners and managers in Queensland;
 - (v) an organisation representing the interests of rural industries in Queensland;
- (b) 7 persons, appointed by the Governor in Council, with appropriate knowledge, expertise and interest in heritage conservation.

11 Chairperson and deputy chairperson of council

- (1) The Governor in Council must appoint a member to be the chairperson, and another member to be the deputy chairperson, of the council.
- (2) A person may be appointed the chairperson or deputy chairperson at the same time the person is appointed a member.
- (3) The chairperson or deputy chairperson holds office as chairperson or deputy chairperson for the term, of not more than 3 years, decided by the Governor in Council.
- (4) Despite subsection (3), a person stops holding office as chairperson or deputy chairperson if the person stops being a member.
- (5) The office of chairperson or deputy chairperson becomes vacant if the person holding the office resigns the office by signed notice of resignation given to the Minister.
- (6) However, a member resigning the office of chairperson or deputy chairperson may continue to be a member.
- (7) The deputy chairperson must act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

12 Term of appointment

A member must be appointed for a term of not more than 3 years.

13 Eligibility for membership

- (1) A person can not be appointed as a member if the person—
 - (a) has a conviction, other than a spent conviction, for an indictable offence or an offence against this Act; or

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- (b) has been a member for at least 6 consecutive years and the proposed appointment would happen less than 1 year after the day the person was last a member.
- (2) A person who is a member can not be reappointed as a member if the reappointment would result in the person continuing as a member for more than 6 consecutive years.
- (3) In this section—
 - spent conviction* means a conviction—
 - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.

14 Vacation of office

- (1) A member is taken to have vacated office if the member—
 - (a) resigns his or her position on the council by signed notice of resignation given to the Minister; or
 - (b) is convicted of an indictable offence or an offence against this Act; or
 - (c) is absent without—
 - (i) the council's permission from 3 consecutive council meetings of which due notice has been given; or
 - (ii) the Minister's approval under section 16.
- (2) In this section—
 - meeting* means a meeting with a quorum present.

15 When notice of resignation takes effect

A notice of resignation under section 11(5) or 14(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, at the later time.

16 Leave of absence for a member

- (1) The Minister may approve a leave of absence for a member of more than 3 months.
- (2) The Minister may appoint another person to act in the office of the member while the member is absent on the approved leave.
- (3) If the member is the deputy chairperson, the Minister may appoint another member to act in the deputy chairperson's office while the deputy chairperson is absent on the approved leave.

17 Effect of vacancy in membership of council

- (1) Subsection (2) applies despite section 10.
- (2) The performance of a function by the council is not affected merely because of a vacancy in the council membership.

18 Remuneration of members

A member is entitled to be paid the fees and allowances decided by the Governor in Council.

Division 3 Council business

19 Conduct of business

Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.

20 Times and places of meetings

- (1) The council must meet at least 6 times a year.
- (2) Council meetings are to be held when and where the chairperson decides.

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- (3) However, the chairperson must call a council meeting if asked, in writing, to do so by the Minister or at least 6 members.
- (4) Notice of when and where a council meeting must be held, and of the business for the meeting, must be given to each member at least 5 business days before the day for the meeting.
- (5) Subsection (1) does not limit the number of meetings the council may hold in a year.

21 Quorum

A quorum for the council is 6 members.

22 Presiding at meetings

- (1) The chairperson must preside at all council meetings at which the chairperson is present.
- (2) If the chairperson is absent from a council meeting, but the deputy chairperson is present, the deputy chairperson must preside.
- (3) If the chairperson and deputy chairperson are both absent from a council meeting or the offices are vacant, a member chosen by the members present must preside.

23 Conduct of meetings

- (1) A question at a council meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting who abstains from voting is taken to have voted in the negative.
- (4) The council may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably

allows members to hear and take part in discussions as they happen.

Example—

teleconferencing

- (5) A member who takes part in a council meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the council, even if it is not passed at a council meeting, if—
 - (a) a majority of the council members gives written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the council.

24 Minutes

- (1) The council must keep—
 - (a) minutes of its meetings; and
 - (b) a record of any resolutions made under section 23(6).
- (2) Subsection (3) applies if a resolution is passed at a council meeting.
- (3) If asked by a member who voted against the passing of the resolution, the council must record in the minutes of the meeting that the member voted against the resolution.

Division 4 Council committees

25 Committees

- (1) The council may establish committees of the council for effectively and efficiently performing its functions.
- (2) A committee may include a person who is not a member.
- (3) The council must decide the terms of reference of a committee.

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- (4) The functions of a committee are to—
- (a) advise and make recommendations to the council about matters, within the scope of the council's functions, referred by the council to the committee; and
 - (b) exercise powers delegated to it by the council.

Editor's note—

See section 9 for the council's power of delegation.

- (5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the council.
- (6) The council may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

26 Remuneration of committee members

- (1) A committee member is entitled to be paid the fees and allowances decided by the chief executive.
- (2) The fees and allowances paid under subsection (1) must not be more than the fees and allowances payable to a member.

Division 5 Disclosure of interests by members and committee members

27 Disclosure of interests of members

- (1) This section applies to a member (the *interested person*) if—
- (a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the council; and
 - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the matter.

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- (2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a council meeting.
 - (3) Unless the council otherwise directs, the interested person must not—
 - (a) be present when the council considers the matter; or
 - (b) take part in a decision of the council about the matter.
 - (4) The interested person must not be present when the council is considering whether to give a direction under subsection (3).
 - (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—
 - (a) be present when the council is considering whether to give a direction under subsection (3) about the interested person; or
 - (b) take part in making the decision about giving the direction.
 - (6) Subsection (7) applies if—
 - (a) because of this section, a member is not present at a meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
 - (b) there would be a quorum if the member were present.
 - (7) The remaining members present are a quorum for considering or deciding the matter, or for considering or deciding whether to give the direction, at the meeting.
 - (8) A disclosure under subsection (2) must be recorded in the council's minutes.

28 Disclosure of interests of committee members

- (1) This section applies to a committee member (the *interested person*) if—

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- (a) the interested person has a direct or indirect interest in a matter being considered, or about to be considered, by the committee; and
 - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a committee meeting.
- (3) Unless the committee otherwise directs, the interested person must not—
 - (a) be present when the committee considers the matter; or
 - (b) take part in a decision of the committee about the matter.
- (4) The interested person must not be present when the committee is considering whether to give a direction under subsection (3).
- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—
 - (a) be present when the committee is considering whether to give a direction under subsection (3) about the interested person; or
 - (b) take part in making the decision about giving the direction.
- (6) Subsection (7) applies if—
 - (a) because of this section, a committee member is not present at a meeting for considering or deciding a matter, or for considering or deciding whether to give a direction under subsection (3); and
 - (b) there would be a quorum if the committee member were present.
- (7) The remaining committee members present are a quorum for considering or deciding the matter, or for considering or

deciding whether to give the direction, at the committee meeting.

- (8) A disclosure under subsection (2) must be recorded in the committee's minutes.

Division 6 Other provisions about the council

29 Annual report

- (1) The council must, by 31 October in each year, give the Minister a written report on the administration of this Act during the financial year that ended on 30 June in the year.
- (2) The report must include—
- (a) information, required by the Minister, relating to the performance of the council's functions under this Act; and
 - (b) information about the timeliness of the council's dealings with applications under part 4, division 5; and
 - (c) a statement about the measures the council considers necessary to conserve Queensland's cultural heritage.
- (3) As soon as practicable, but within 14 sitting days after receiving the report, the Minister must table the report in the Legislative Assembly.

30 Excluded matter for Corporations legislation

The council is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the following provisions of the Corporations Act—

- (a) parts 2D.1 and 2D.6;
- (b) chapters 2K and 2L;
- (c) parts 5.7, 5.7B, 5.9 and 5B.2.