



Speech By  
**Hon. Andrew Powell**


**MEMBER FOR GLASS HOUSE**

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Record of Proceedings, 29 October 2014

**QUEENSLAND HERITAGE AND OTHER LEGISLATION AMENDMENT BILL**

**Second Reading**

 **Hon. AC POWELL** (Glass House—LNP) (Minister for Environment and Heritage Protection) (7.36 pm): I move—

That the bill be now read a second time.

The bill is an important element of the Queensland government's efforts to ensure future planning for this state's growth and prosperity takes into account its unique past. It helps connect our heritage legislation to the road map laid down in the Queensland Plan which emphasises effective protection and management of our natural and cultural resources, adaptive reuse of heritage places and the development of world-class heritage tourism experiences.

The reforms in the bill align with the newly revised Queensland Heritage Strategy, which has been reviewed in partnership with the Queensland Heritage Council and in consultation with a range of stakeholders including the Queensland branch of the National Trust of Australia. This new strategy responds to the bold vision expressed in the Queensland Plan. It sets out a clear framework and direction for government, business and community to manage our heritage over the next five years.

The Queensland Heritage Register gives us a snapshot of our heritage while serving as a lens through which to see our future. A range of amendments in this bill tonight seek to ensure the places on that register represent the very best examples of this state's past, whether they are historic buildings, mine sites, landscapes or shipwrecks. Other reforms recognise the vital role played by local government in protecting places of local cultural heritage value. I hope this reform will initiate a new era of partnership between state and local governments cooperating in the promotion and protection of heritage.

The bill streamlines the processes whereby a place may be nominated and assessed for entry onto the Queensland Heritage Register. The standard of information required means only the best quality applications will start the registration process. The Department of Environment and Heritage Protection will update its guidance material and continue to engage with potential applicants, but I want to emphasise that only nominations making a reasoned and informed case about the state's significance of a place will meet these revised requirements.

The nomination process calls on the time and resources of the owners of the properties involved, the department in conducting its comprehensive assessment of heritage significance and the Heritage Council in weighing up all the information provided before a decision is made. It is only fair that this process is initiated by a well prepared document. Owners of places nominated to the Queensland Heritage Register are given an additional opportunity with the bill to respond in writing to the recommendation the department makes to the Heritage Council about a nomination. The recommendation is the department's expert assessment of whether or not the place satisfies the culture heritage criteria and is eligible for entry in the state register. This change means, though, that

owners can engage with what may become a key document describing why a place is on the register rather than the application.

The best way to protect historic places is to ensure they remain in active use, and this bill makes this task easier for owners and custodians of Queensland heritage places. It does so by expanding the scope of work covered by an exemption certificate issued under the Heritage Act, which means a significant reduction in red tape. This change affects the certificates that are issued for specific work at individual places but also the general exemption certificates made by the department and applicable to all places on the register.

To assist the Newman government in identifying and protecting the state's underwater heritage, the bill requires discoveries of certain shipwrecks and submerged aircraft wrecks be reported to the department. The protection against interference that already covers shipwrecks in Queensland waters that dates back at least 75 years is extended to aircraft wrecks of the same age. The bill also makes clear that the artefacts associated with both types of wreck are important too. This means that from late 2016 aircraft associated with the Pacific Ocean theatre of World War II will be progressively protected by the Heritage Act. In fact, it is estimated there are at least 100 aircraft wrecks throughout Queensland waters that date from this important period in history.

A key reform in the bill involves giving local governments the flexibility to decide how to appropriately identify and protect places of local cultural heritage significance in their areas, whether through their planning scheme or through a local Heritage Register kept under the Heritage Act. Flowing on from this reform, local governments will be able to use exemption certificates and heritage agreements on local heritage places to ensure the red-tape-reduction benefits these tools provide are available to owners and custodians of local heritage places as well. Additionally, certain local governments that have been prescribed by regulation will be empowered to use essential repair and maintenance notices with owners of local heritage places to prevent neglect.

The bill introduces a number of measures to better enable the government to protect our important heritage places. It strengthens the state's power to issue essential repair and maintenance notices in circumstances where an owner is deliberately neglecting a place in the erroneous belief that this will facilitate its removal from the register. It re-engineers the stop order provisions by revising the ministerial power to stop work at a place if there is a demonstrated risk it will destroy a potential aspect of Queensland's cultural heritage. With the bill, the orders available to the court in penalising those who destroy or damage Queensland heritage places are expanded and modernised.

I would like to thank the Transport, Housing and Local Government Committee under the stewardship of the honourable member for Warrego for its comments and recommendations on the bill, also noting that it has recommended the bill be passed. I thank the committee and the member for Warrego for that recommendation. I take this chance to commend the honourable member for Warrego for his service to the people of Western Queensland, and indeed the state of Queensland, for over nearly three decades in parliament. Sir, it has been an honour to serve with you and I hope we get plenty more opportunities to recognise your service to this state. I also acknowledge personally how good it was to have you on board when I first started in 2009 and to learn from your sage advice and wisdom. I am sure many of the backbenchers, assistant ministers and ministers here today will reflect those words as well. I also thank the member for Warrego for his specific thanks of my departmental staff in the committee report. I am pretty proud of my team in EHP but to hear that come back to us from someone of your esteemed stature, Sir, I thank you very much and the team in EHP certainly appreciates it as well.

The committee tabled its report on 22 October 2014. It contained 11 recommendations and a comprehensive series of comments on the issues raised in submissions. I will now table the government response to the committee's report.

*Tabled paper:* Transport, Housing and Local Government Committee: Report No. 55—Queensland Heritage and Other Legislation Amendment Bill 2014, government response [\[6397\]](#).

I am very pleased to advise that eight of the recommendations have been accepted and will be actioned. This reflects the high level of productive scrutiny the committee has applied to the bill, and I am extremely grateful for that effort. A number of amendments involve minor improvements to the bill to ensure it meets its policy objectives and achieves clarity, while some require further consultation to progress matters raised in submissions.

The committee recommended that further detail be included in a regulation about what local governments have to demonstrate in order to be prescribed to use the essential repair and maintenance power with owners of local heritage places. I am pleased that my department has found ways of balancing concerns about the improper exercise of this power against sincere calls to give certain local governments the ability to deal with neglect of local heritage properties before they reach a point of no return. The Brisbane City Council, in particular, has made representations to me

personally about extending the essential repair and maintenance power to local heritage places as it believes it will be a useful tool in protecting their local heritage.

On a number of matters that involve the planning reform agenda, the committee recommended that consultation be carried out to explore options to identify the most effective approaches to be taken. Recommendation 6 asked that further investigation be undertaken into the prospect of affording appeal rights to owners of local heritage places opposed to local heritage listing. Recommendation 7 referred to removing unnecessary duplication in development assessment processes involving places under both local and state heritage listings. The committee asked that I consult on these important matters with the Minister for State Development, Infrastructure and Planning and the Minister for Local Government, Community Recovery and Resilience. I undertake to do this. My department will also consult further with the Property Council of Australia with regard to the second matter, as there may be an administrative solution available.

Through recommendations 8, 9 and 11, the committee asked that I ensure the department consults with the Department of State Development, Infrastructure and Planning on a number of matters—firstly, about changes in the statutory guideline *Making and amending local planning instruments* to make minor updates to local heritage data in planning schemes more efficient. It also recommended that I ensure the department consults about the charging of fees for local exemption certificates and the definition of a local heritage place in the Sustainable Planning Act. I confirm this consultation will occur and feel confident some useful outcomes will result.

I will now provide more detail for the two recommendations not supported. Recommendation 2 of the committee asked that a change be made to the bill in relation to the application of the five-year moratorium period following a Heritage Council decision not to remove a place from the Queensland Heritage Register. Currently, the Heritage Act prevents new nominations being made before one year has passed and following a decision of the Queensland Heritage Council. So, for a year after a council decision, new nominations cannot be accepted for places that have not been entered in the Heritage Register. Likewise, new applications proposing to remove a place from the register cannot be accepted in the year following a decision of the council to keep that place in the register. This bill extends this moratorium period from one year to five years.

The committee recommended that, when significant new information is brought forward about a place, this prohibition be lifted and a new application be considered if it involves removing that place from the register. Extensive consideration was given to the question of an appropriate moratorium period following a decision of the Heritage Council. A number of submissions on the discussion paper reviewing the Heritage Act suggested that, if substantial new evidence comes to light, the prohibition on new applications should be lifted. It was determined that the level of additional prescription that would have to be introduced into the Heritage Act to provide a fair and transparent way of doing this was too onerous. It was also determined that the registration process, which this bill improves, produces highly sound and thoroughly considered decisions that are based on a wide range of material from all interested sources. Other options exist for owners of state heritage places if their property is destroyed by fire or natural disaster and should be removed from the register, or if they wish to develop them. It should also be noted that the moratorium will apply once the amendments commence, meaning owners of places entered in the register after this date have an appeal right in the Planning and Environment Court. Also a removal application would have to be rejected by the Heritage Council before the moratorium period had effect.

Recommendation 5 of the committee was that shipwrecks and submerged aircraft wrecks be protected before they have been in Queensland waters for at least 75 years, as currently provided in the Heritage Act and the bill. The intention behind this recommendation is to extend protection to ship and aircraft wrecks that date from World War II. Various 75th anniversaries associated with this conflict have passed or are approaching. I acknowledge the committee's concern and share its enthusiasm for this topic. The application of the term 'historic' to those wrecks in Queensland waters that date back at least 75 years corresponds to the time frame set out in the Commonwealth Historic Shipwrecks Act 1976 and changing it would create unwarranted confusion in terms of these overlapping jurisdictions. While a gap in protection exists for a short period, the bill clarifies that younger wrecks can be considered for protection through entry into the Queensland Heritage Register.

I would like to take this final opportunity to thank all those individuals, organisations and agencies who contributed a submission on the discussion paper about review of the Heritage Act or those who made one to the committee about this bill. I commend the bill to the House.