

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Arts and Heritage)

## Heritage Bill 2004

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2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Arts and Heritage)

## Heritage Bill 2004

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### A Bill for

An Act to provide for the recognition, registration and conservation of places and objects of natural and cultural significance, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Heritage Act 2004*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written  
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see Legislation  
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the  
13 notification day, it automatically commences on the first day after that  
14 period (see Legislation Act, s 79).

15 **3 Objects of Act**

16 (1) The main objects of this Act are as follows:

17 (a) to establish a system for the recognition, registration and  
18 conservation of natural and cultural heritage places and  
19 objects, including Aboriginal places and objects;

20 (b) to establish the heritage council;

21 (c) to provide for heritage agreements to encourage the  
22 conservation of heritage places and objects;

23 (d) to establish enforcement and offence provisions to provide  
24 greater protection for heritage places and objects;

25 (e) to provide a system integrated with land planning and  
26 development to consider development applications having

1 regard to the heritage significance of places and heritage  
2 guidelines.

3 (2) Unless there is no prudent and feasible alternative, functions under  
4 this Act must be exercised—

5 (a) to preserve the heritage significance of places and objects; and

6 (b) to achieve the greatest sustainable benefit to the community  
7 from those places and objects consistent with the conservation  
8 of their heritage significance.

#### 9 **4 Individual heritage trees**

10 (1) The council must not register an individual tree under this Act.

11 (2) Subsection (1) does not prevent the registration of a place at which a  
12 tree or trees form part of the heritage significance of the place.

13 *Note* The *Tree Protection Act 2004* includes provision for the protection of  
14 trees of heritage significance. In relation to such trees, it provides for  
15 the heritage council to be notified about approved activities, tree  
16 management plans and provisional registration under that Act. It also  
17 provides for the heritage council's advice to be taken into account in  
18 deciding whether to register a tree of heritage significance under that  
19 Act.

#### 20 **5 Dictionary**

21 The dictionary at the end of this Act is part of this Act.

22 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
23 Act, and includes references (*signpost definitions*) to other terms  
24 defined elsewhere in this Act.

25 For example, the signpost definition '*Aboriginal place*—see section 9.'  
26 means that the term 'Aboriginal place' is defined in that section.

27 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
28 the entire Act unless the definition, or another provision of the Act,  
29 provides otherwise or the contrary intention otherwise appears (see  
30 Legislation Act, s 155 and s 156 (1)).

1 **6 Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 **7 Offences against Act—application of Criminal Code etc**

5 Other legislation applies in relation to offences against this Act.

6 *Note 1 Criminal Code*

7 The Criminal Code, ch 2 applies to all offences against this Act (see  
8 Code, pt 2.1).

9 The chapter sets out the general principles of criminal responsibility  
10 (including burdens of proof and general defences), and defines terms  
11 used for offences to which the Code applies (eg *conduct*, *intention*,  
12 *recklessness* and *strict liability*).

13 *Note 2 Penalty units*

14 The Legislation Act, s 133 deals with the meaning of offence penalties  
15 that are expressed in penalty units.

## 1 Part 2 Important concepts

### 2 8 **Place and object**

3 (1) In this Act:

4 **place** includes the following:

- 5 (a) a site, precinct or parcel of land;
- 6 (b) an item at the place;
- 7 (c) a building or structure, or part of a building or structure, at the
- 8 place;
- 9 (d) an object at the place that could be registered separately;
- 10 (e) an item historically or physically associated with the place, if
- 11 the primary importance of the item derives, completely or
- 12 partly, from that association;
- 13 (f) equipment, furniture, fittings and articles at, or historically or
- 14 physically associated with, the place.

#### 15 **Examples of things that *place* may include**

- 16 1 landforms
- 17 2 plantings
- 18 3 animal habitats

19 *Note* An example is part of the Act, is not exhaustive and may extend, but  
20 does not limit, the meaning of the provision in which it appears (see  
21 Legislation Act, s 126 and s 132).

22 (2) An **object** means a natural or manufactured object, including an  
23 Aboriginal object, but does not include a place.

24 *Note* An individual tree may not be registered under this Act (see s 4).

1 **9** ***Aboriginal place and object***

2 In this Act:

3 ***Aboriginal place*** means a place of particular significance to  
4 Aboriginal people because of either or both of the following:

- 5 (a) Aboriginal tradition;  
6 (b) the history, including contemporary history, of Aboriginal  
7 people.

8 ***Aboriginal object*** means an object of particular significance to  
9 Aboriginal people because of either or both of the following:

- 10 (a) Aboriginal tradition;  
11 (b) the history, including contemporary history, of Aboriginal  
12 people.

13 **10** ***Heritage significance***

14 A place or object has ***heritage significance*** if it satisfies 1 or more  
15 of the following criteria (the ***heritage significance criteria***):

- 16 (a) it demonstrates a high degree of technical or creative  
17 achievement (or both), by showing qualities of innovation,  
18 discovery, invention or an exceptionally fine level of  
19 application of existing techniques or approaches;
- 20 (b) it exhibits outstanding design or aesthetic qualities valued by  
21 the community or a cultural group;
- 22 (c) it is important as evidence of a distinctive way of life, taste,  
23 tradition, religion, land use, custom, process, design or  
24 function that is no longer practised, is in danger of being lost or  
25 is of exceptional interest;
- 26 (d) it is highly valued by the community or a cultural group for  
27 reasons of strong or special religious, spiritual, cultural,  
28 educational or social associations;

- 
- 1 (e) it is a rare or unique example of its kind, or is rare or unique in  
2 its comparative intactness;
- 3 (f) it is a notable example of a kind of place or object and  
4 demonstrates the main characteristics of that kind;
- 5 (g) it has strong or special associations with a person, group,  
6 event, development or cultural phase in local or national  
7 history;
- 8 (h) it is significant for understanding the evolution of natural  
9 landscapes, including significant geological features,  
10 landforms, biota or natural processes;
- 11 (i) it has provided, or is likely to provide, information that will  
12 contribute significantly to a wider understanding of the natural  
13 or cultural history of the ACT because of its use or potential  
14 use as a research site or object, teaching site or object, type  
15 locality or benchmark site;
- 16 (j) for a place—it exhibits unusual richness, diversity or  
17 significant transitions of flora, fauna or natural landscapes and  
18 their elements;
- 19 (k) for a place—it is a significant ecological community, habitat or  
20 locality for any of the following:
- 21 (i) the life cycle of native species;
- 22 (ii) rare, threatened or uncommon species;
- 23 (iii) species at the limits of their natural range;
- 24 (iv) distinct occurrences of species.

25 **11 Registered**

26 A place or object is *registered* if it is—

- 27 (a) provisionally registered under division 6.1; or
- 28 (b) registered under division 6.2.

1 **12** ***Registration details***

2 The ***registration details*** for a registered place or object are as  
3 follows:

- 4 (a) its name;
- 5 (b) its location or address;
- 6 (c) a description of it, including (if relevant) its extent or  
7 boundary;
- 8 (d) a statement about its heritage significance, including the  
9 reasons for the registration and an assessment of the place or  
10 object against the heritage significance criteria;
- 11 (e) whether it is registered or provisionally registered;
- 12 (f) the date it was registered or provisionally registered;
- 13 (g) if it is provisionally registered—the period of provisional  
14 registration.

15 *Note* The registration details for a place or object may be cancelled under  
16 s 46 (Cancellation of registration of place or object).

17 **13** ***Interested person***

18 Each of the following is an ***interested person***:

- 19 (a) the planning and land authority;
- 20 (b) the conservator of flora and fauna;
- 21 (c) the national capital authority;
- 22 (d) for a place—
- 23 (i) an owner;
- 24 (ii) an occupier;
- 25 (iii) a lessee or sublessee;



- 1 (iv) an architect or designer of a building or structure at the  
2 place;
- 3 (e) for an object—
- 4 (i) an owner;
- 5 (ii) a person in possession of the object;
- 6 (iii) a maker;
- 7 (f) for an Aboriginal place or object—a representative Aboriginal  
8 organisation.

9 **14 Representative Aboriginal organisation**

10 (1) In this Act:

11 *representative Aboriginal organisation* means an organisation  
12 declared under subsection (2).

13 (2) The Minister may, in writing, declare an entity to be a representative  
14 Aboriginal organisation for this Act.

15 (3) However, the Minister may make the declaration only if satisfied,  
16 on reasonable grounds, the entity satisfies the criteria (if any)  
17 declared under subsection (5).

18 (4) A declaration under subsection (2) is a notifiable instrument.

19 *Note* A notifiable instrument must be notified under the Legislation Act.

20 (5) The Minister may, in writing, declare criteria for deciding whether  
21 an entity should be declared to be a representative Aboriginal  
22 organisation.

23 (6) A declaration under subsection (5) is a disallowable instrument.

24 *Note* A disallowable instrument must be notified, and presented to the  
25 Legislative Assembly, under the Legislation Act.

1 **15** ***Conservation management plan***

2 A *conservation management plan* is a plan to ensure that—

3 (a) the conservation and future use of a heritage place or object are  
4 consistent with its heritage significance; and

5 (b) any threat, or potential threat, to the heritage significance of the  
6 place or object is identified and managed in accordance with  
7 the plan.

1       **Part 3**                               **Heritage council**

2       **16**               **Establishment of heritage council**

3               The Australian Capital Territory Heritage Council is established.

4       **17**               **Members of council**

5               (1) The members of the council are as follows:

6                   (a) the conservator of flora and fauna;

7                   (b) the chief planning executive;

8                   (c) 3 people appointed by the Minister as public representatives  
9                   (see subsection (3));

10                  (d) 6 people appointed by the Minister as experts (see  
11                  subsection (4)).

12               (2) The Minister must appoint a chairperson and deputy chairperson of  
13               the council from the members appointed under subsection (1) (c)  
14               and (d).

15               (3) There must be at least 1 public representative for each of the  
16               following groups who, in the Minister's opinion, adequately  
17               represents the group:

18                   (a) the community;

19                   (b) the Aboriginal community;

20                   (c) the property ownership, management and development sector.

21               (4) Each expert must, in the Minister's opinion, adequately represent  
22               1 or more of the following disciplines:

23                   (a) Aboriginal culture;

24                   (b) archaeology;

- 1 (c) architecture;  
2 (d) engineering;  
3 (e) history;  
4 (f) landscape architecture;  
5 (g) nature conservation;  
6 (h) object conservation;  
7 (i) town planning;  
8 (j) urban design.
- 9 (5) A person may be appointed under subsection (1) (c) or (d) for no  
10 longer than 3 years.
- 11 *Note 1* For the making of appointments (including acting appointments), see  
12 Legislation Act 2001, pt 19.3.
- 13 *Note 2* In particular, an appointment may be made by naming a person or  
14 nominating the occupant of a position (see Legislation Act, s 207).
- 15 *Note 3* Certain Ministerial appointments require consultation with an Assembly  
16 committee and are disallowable (see Legislation Act 2001, div 19.3.3).

17 **18 Functions of council**

18 The council has the following functions:

- 19 (a) to identify, assess, conserve and promote places and objects in  
20 the ACT with natural and cultural heritage significance;
- 21 (b) to encourage the registration of heritage places and objects;
- 22 (c) to work within the land planning and development system to  
23 achieve appropriate conservation of the ACT's natural and  
24 cultural heritage places and objects, including Aboriginal  
25 places and objects;
- 26 (d) to advise the Minister about issues affecting the management  
27 and promotion of heritage;

- 1 (e) to encourage and assist in appropriate management of heritage  
2 places and objects;
- 3 (f) to encourage public interest in, and understanding of, issues  
4 relevant to the conservation of heritage places and objects;
- 5 (g) to encourage and provide public education about heritage  
6 places and objects;
- 7 (h) to assist in the promotion of tourism in relation to heritage  
8 places and objects;
- 9 (i) to keep adequate records, and encourage others to keep  
10 adequate records, in relation to heritage places and objects;
- 11 (j) any other function given to it under this Act or another  
12 Territory law.

#### 13 **Examples of other council functions**

- 14 1 making recommendations and submissions to the planning and land authority  
15 about draft variations to the Territory plan (see Land Act, s 17)
- 16 2 providing advice to the planning and land authority about development  
17 applications (see Land Act, s 231)
- 18 3 providing advice to the conservator of flora and fauna about trees of heritage  
19 significance (see *Tree Protection Act 2004*)

20 *Note* An example is part of the Act, is not exhaustive and may extend, but  
21 does not limit, the meaning of the provision in which it appears (see  
22 Legislation Act, s 126 and s 132).

### 23 **19 Procedures of council**

- 24 (1) The regulations may prescribe the procedures of the council,  
25 including its decision-making procedures.

**Part 3** Heritage council

Section 19

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1 (2) However, the conservator of flora and fauna and the chief planning  
2 executive are not eligible to vote on questions being decided by the  
3 council.

4 **Examples of what regulations may prescribe**

- 5 1 the number of members required to be at meetings of the council  
6 2 what happens when votes are tied at meetings of the council  
7 3 who is to preside at meetings of the council

8 *Note* An example is part of the Act, is not exhaustive and may extend, but  
9 does not limit, the meaning of the provision in which it appears (see  
10 Legislation Act, s 126 and s 132).

1       **Part 4**                               **Heritage register**

2       **20**                   **Establishment of heritage register**

- 3           (1) The council must keep a register of heritage places and heritage  
4           objects (the *heritage register*).
- 5           (2) The heritage register must include the registration details for each  
6           registered place or object.
- 7           (3) For each place or object nominated for provisional registration, the  
8           heritage register must include the following:
- 9                   (a) the nomination details;
- 10                   (b) the date the nomination was given to the council; and
- 11                   (c) if an application for an urgent decision on the nomination has  
12                   been made under section 28—
- 13                           (i) a statement to that effect; and
- 14                           (ii) the date the application was given to the council.
- 15           (4) In addition, the heritage register must include the following:
- 16                   (a) each heritage guideline;
- 17                   (b) each heritage direction;
- 18                   (c) each enforcement order.
- 19           (5) The heritage register may also include any other material the council  
20           considers appropriate.

21       **21**                   **Public access to heritage register**

- 22           (1) The council may—
- 23                   (a) in writing, approve an internet site for this Act; and

**Part 4** Heritage register

Section 22

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- 1 (b) publish a copy of the register (other than restricted  
2 information) on the internet site.
- 3 (2) An instrument under subsection (1) (a) is a notifiable instrument.  
4 *Note* A notifiable instrument must be notified under the Legislation Act.
- 5 (3) A person may inspect the heritage register during ordinary office  
6 hours at a place named under subsection (4).
- 7 (4) The council must, in writing, name a place where the register may  
8 be inspected.
- 9 (5) An instrument under subsection (4) is a notifiable instrument.  
10 *Note* A notifiable instrument must be notified under the Legislation Act.
- 11 (6) On application, the council must give a person a copy of all, or any  
12 part, of the heritage register.
- 13 *Note 1* If a form is approved under s 116 for this provision, the form must be  
14 used.
- 15 *Note 2* A fee may be determined under s 117 for this provision.

16 **22 Restricted information on heritage register**

- 17 (1) This section applies if the registration details for a place or object  
18 include restricted information.
- 19 (2) The council must include a statement in the register about the effect  
20 of subsections (3) and (4).
- 21 (3) The restricted information must not be disclosed under section 21,  
22 except in accordance with subsection (4).
- 23 (4) The restricted information may be made available for inspection or  
24 copying only if approved under section 54 (Approval to publish  
25 restricted information).



1   **23           Judicial notice of matters on heritage register**

2           (1) Proof is not required about a matter mentioned in section 20 (2) to  
3           (4) if the matter is published on the internet site approved under  
4           section 21.

5           (2) A court or tribunal may inform itself about the matter by examining  
6           the approved internet site.

7           *Note*     Section 21 provides for the council to approve an internet site by a  
8           notifiable instrument under the Legislation Act.

9   **24           Correction of heritage register**

10           The council may correct a mistake or omission in the heritage  
11           register subject to the requirements (if any) of the regulations.

1 **Part 5 Heritage guidelines**

2 **25 Guidelines about conserving heritage significance**

3 (1) The council may, in writing, make guidelines (*heritage guidelines*)  
4 in relation to the conservation of the heritage significance of places  
5 or objects.

6 **Examples of matters about which guidelines may be made**

- 7 1 demolition of registered structures  
8 2 alterations and additions to registered buildings  
9 3 residential heritage precincts  
10 4 rural heritage places  
11 5 new buildings in heritage precincts  
12 6 Aboriginal heritage places and objects  
13 7 working with heritage places  
14 8 developing heritage places  
15 9 when, and when not, to undertake a development affecting the heritage  
16 significance of a place without development approval under the Land Act,  
17 part 6

18 *Note 1* The power to make a statutory instrument (including guidelines)  
19 includes power to amend or repeal the instrument (see Legislation Act,  
20 s 46)

21 *Note 2* An example is part of the Act, is not exhaustive and may extend, but  
22 does not limit, the meaning of the provision in which it appears (see  
23 Legislation Act, s 126 and s 132).

24 (2) Guidelines are a disallowable instrument.

25 *Note* A disallowable instrument must be notified, and presented to the  
26 Legislative Assembly, under the Legislation Act.

27 **26 Application of heritage guidelines**

28 (1) Unless there is no prudent and feasible alternative, functions under  
29 this Act that relate, directly or indirectly, to the conservation of a

- 1 place or object must be exercised in accordance with any applicable  
2 heritage guidelines.
- 3 (2) Subsection (1) applies, in particular, to the following functions:
- 4 (a) the giving of advice to the planning and land authority under  
5 section 58 (Advice about effect of development on heritage  
6 significance), particularly in relation to ways of avoiding or  
7 minimising the effect of a development on the heritage  
8 significance of a place or object;
- 9 (b) the giving of a heritage direction;
- 10 (c) the making of a heritage order;
- 11 (d) the making of a heritage agreement.

1 **Part 6 Registration of places and**  
2 **objects**

3 **Division 6.1 Provisional registration**

4 **27 Nomination of place or object for provisional registration**

5 (1) Anyone may nominate a place or object for provisional registration.

6 (2) The nomination must be in writing and must be given to the council.

7 *Note 1* If a form is approved under s 116 for a nomination, the form must be  
8 used.

9 *Note 2* A fee may be determined under s 117 for this provision.

10 *Note 3* Section 114 deals with giving documents to the council.

11 (3) The application must include the following details (the ***nomination***  
12 ***details***) of the place or object:

13 (a) its name;

14 (b) its location or address;

15 (c) the nominator's statement about the heritage significance of the  
16 place or object.

17 **28 Application for urgent decision on nomination**

18 (1) Anyone may apply for an urgent decision on a nomination.

19 (2) The application must be in writing and must be given to the council.

20 *Note 1* If a form is approved under s 116 for an application under this section,  
21 the form must be used.

22 *Note 2* A fee may be determined under s 117 for this provision.

23 *Note 3* Section 114 deals with giving documents to the council.

1

**Examples of applications of urgent decisions**

2

1 A member of the Legislative Assembly applies for urgent assessment of heritage significance to protect a place or object under imminent threat.

3

4

2 A developer applies for urgent assessment of heritage significance to avoid delay in a development project.

5

6

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132)

7

8

9

(3) The council must use its best endeavours to decide, within 20 working days after the day it receives the application, whether or not to provisionally register the place or object nominated.

10

11

12

**29 Consultation with representative Aboriginal organisation about nomination**

13

14

(1) This section applies if a nomination is made to provisionally register an Aboriginal place or object.

15

16

(2) Before deciding whether to provisional register the place or object, the council must consult, and consider the views of, each representative Aboriginal organisation about the nomination.

17

18

19

**30 Decision about provisional registration**

20

(1) The council must decide whether to provisionally register each place or object nominated for provisional registration.

21

22

(2) The council may provisionally register a place or object only if satisfied, on reasonable grounds, that the place or object may have heritage significance.

23

24

25

**31 Provisional registration of place or object**

26

To provisionally register a place or object, the council must enter in the register—

27

28

(a) the registration details for the place or object; and

29

(b) an indication that the registration is provisional.

- 1     **32           Notice of decision about provisional registration**
- 2           (1) The council must prepare a written notice of its decision about the
- 3           provisional registration of a place or object.
- 4           (2) The notice—
- 5               (a) is a notifiable instrument; and
- 6               (b) must be notified under the Legislation Act within 3 working
- 7               days after the day the decision is made; and
- 8               (c) must be published in a daily newspaper as soon as practicable.
- 9           (3) The council must use its best endeavours to give a copy of the notice
- 10           to each interested person within 10 working days after the day the
- 11           decision is made.
- 12           *Note*     Section 13 defines *interested person*.
- 13           (4) If the decision is to provisionally register the place or object, the
- 14           notice must include the following:
- 15               (a) the registration details of the place or object;
- 16               (b) the council’s reasons for its decision;
- 17               (c) the date of provisional registration;
- 18               (d) an indication of the council’s intention to decide whether to
- 19               register the place or object under division 6.2.
- 20           (5) The notice must not include restricted information.
- 21     **33           Period of provisional registration**
- 22           (1) The provisional registration of a place or object is for—
- 23               (a) 5 months beginning on the day the place or object is
- 24               provisionally registered; or
- 25               (b) if section 34 applies—the extended period under that section.

- 1 (2) However, the provisional registration ends if the place or object is  
2 registered under division 6.2.

3 **34 Extension of provisional registration**

- 4 (1) This section applies if the council asks the Minister in writing to  
5 extend the period of the provisional registration of a place or object.  
6 (2) While the place or object is provisionally registered, the Minister  
7 may, in writing, extend the period of provisional registration.  
8 (3) The Minister may extend the period of provisional registration only  
9 if satisfied, on reasonable grounds, that the existing period of  
10 registration (including any extension under this subsection) may end  
11 before—  
12 (a) any consultation and consideration required under section 29  
13 (Consultation with representative Aboriginal organisations  
14 about nomination) ends; or  
15 (b) an appeal against a decision by the council not to provisionally  
16 register the place or object has been finally decided.  
17 (4) An extension must end within 8 months after the day the place or  
18 object was provisionally registered.  
19 (5) An extension under subsection (2) is a notifiable instrument.

20 *Note* A notifiable instrument must be notified under the Legislation Act.

21 **Division 6.2 Registration**

22 **35 Public consultation about registration of place or object**

- 23 (1) A notice under section 32 (Notice of decision about provisional  
24 registration) must include an invitation to make comments about the  
25 registration of the place or object to the council within 4 weeks after  
26 the day the notice is notified under the Legislation Act (the *public*  
27 *consultation period*).

28 *Note* Section 114 deals with giving documents to the council.

- 1 (2) In deciding whether to register a place or object under this division,  
2 the council must consider any comments made to the council about  
3 the registration before the end of the public consultation period.

4 **36 Report to Minister about public consultation**

5 As soon as practicable after the end of the public consultation period  
6 in relation to the registration of a place or object, the council must  
7 give the Minister a written report that—

- 8 (a) identifies the place or object; and  
9 (b) gives the council's view about whether the place or object  
10 should be registered under this division; and  
11 (c) identifies issues raised in comments made to the council before  
12 the end of the public consultation period; and  
13 (d) includes a copy of the written comments (if any); and  
14 (e) identifies any other change the council proposes to make to the  
15 registration having regard to the issues raised in the comments.

16 **37 Minister may require further consideration by council**

17 (1) The Minister may direct the council to give further consideration to  
18 issues raised in, or arising from, its report to the Minister under  
19 section 36.

20 (2) The Minister must give the direction to the council in writing within  
21 15 working days after the day the report is given to the Minister.

22 **38 Decision about registration**

23 (1) If a place or object is provisionally registered, the council must  
24 decide whether to register it under this division.

25 (2) The council may register the place or object only—

- 26 (a) after complying with any direction by the Minister under  
27 section 37; and



- 1 (b) if satisfied, on reasonable grounds, that it has heritage  
2 significance.

3 **39 Registration of place or object**

- 4 (1) To register a place or object under this division, the council must—  
5 (a) enter the registration details for the place or object in the  
6 register; and  
7 (b) remove the indication that registration is provisional.  
8 (2) The council may register a place or object only if—  
9 (a) the appeal period has ended and no appeal has been made; or  
10 (b) any appeal has been finally decided and is unsuccessful.

11 **40 Notice of decision about registration**

- 12 (1) The council must prepare a written notice of its decision about the  
13 registration of a place or object under this division.  
14 (2) The notice—  
15 (a) is a notifiable instrument; and  
16 (b) must be notified under the Legislation Act within 3 working  
17 days after the day the decision is made; and  
18 (c) must be published in a daily newspaper as soon as practicable.  
19 (3) The council must use its best endeavours to give a copy of the notice  
20 to each interested person within 10 working days after the day the  
21 decision is made.

22 *Note* Section 13 defines *interested person*.

- 23 (4) If the decision is to register the place or object under this division,  
24 the notice must include the following:  
25 (a) the registration details of the place or object;  
26 (b) the council's reasons for the registration;
-

**Part 6** Registration of places and objects  
**Division 6.2** Registration

Section 40

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- 1 (c) the date of registration.
- 2 (5) The notice must not include restricted information.

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## 1 Part 7 Cancellation of registration

### 2 41 Cancellation proposal

3 (1) Anyone may propose the cancellation of the registration under  
4 division 6.2 of a place or object .

5 (2) The proposal (a *cancellation proposal*) must be in writing and must  
6 be given to the council.

7 *Note 1* If a form is approved under s 116 for this provision, the form must be  
8 used.

9 *Note 2* A fee may be determined under s 117 for this provision.

10 *Note 3* Section 114 deals with giving documents to the council.

11 (3) The council may refuse to consider a proposal if satisfied, on  
12 reasonable grounds, the proposal is frivolous or vexatious.

### 13 42 Notice of cancellation proposal

14 (1) The council must prepare a written notice of each cancellation  
15 proposal.

16 (2) The notice—

17 (a) is a notifiable instrument; and

18 (b) must be notified under the Legislation Act within 3 working  
19 days after the day the proposal is given to the council; and

20 (c) must be published in a daily newspaper as soon as practicable.

21 (3) The council must use its best endeavours to give a copy of the notice  
22 to each interested person within 10 working days after the day the  
23 proposal is given to the council.

24 *Note* Section 13 defines *interested person*.

- 1 (4) A notice under this section must include the following:  
2 (a) the registration details of the place or object;  
3 (b) the proponent's reasons for the cancellation proposal;  
4 (c) the date the proposal was given to the council.  
5 (5) The notice must not include restricted information.

6 **43 Consultation with representative Aboriginal organisation**  
7 **about cancellation proposal**

- 8 (1) This section applies if a cancellation proposal is made in relation to  
9 an Aboriginal place or object.  
10 (2) In deciding whether to cancel the registration of the place or object,  
11 the council must consult, and consider the views of, each  
12 representative Aboriginal organisation about the proposal.

13 **44 Public consultation about cancellation proposal**

- 14 (1) A notice under section 42 (Notice of cancellation proposal) in  
15 relation to the registration of a place or object must include an  
16 invitation to make comments about the proposal to the council  
17 within 4 weeks after the day the notice is notified under the  
18 Legislation Act (the *public consultation period*).

19 *Note* Section 114 deals with giving documents to the council.

- 20 (2) In deciding whether to cancel the registration of the place or object,  
21 the council must consider any comments made to the council about  
22 the proposed cancellation before the end of the public consultation  
23 period.

24 **45 Decision about cancellation proposal**

- 25 (1) If the council receives a cancellation proposal about a place or  
26 object, it must decide whether to cancel the registration of the place  
27 or object in accordance with the proposal.

- 1 (2) The council may cancel the registration only if satisfied, on  
2 reasonable grounds, that the place or object no longer has heritage  
3 significance.

4 **46 Cancellation of registration of place or object**

- 5 (1) To cancel the registration of a place or object, the council must—  
6 (a) cancel the registration details for the place or object; and  
7 (b) enter in the register—  
8 (i) the date of cancellation; and  
9 (ii) an indication that the details have been cancelled.  
10 (2) The council may cancel the registration of a place or object only  
11 if—  
12 (a) the appeal period has ended and no appeal has been made; or  
13 (b) any appeal has been finally decided and is unsuccessful.

14 **47 Notice of decision about cancellation**

- 15 (1) The council must prepare a written notice of the cancellation of the  
16 registration of a place or object.  
17 (2) The notice—  
18 (a) is a notifiable instrument; and  
19 (b) must be notified under the Legislation Act within 3 working  
20 days after the day the decision is made; and  
21 (c) must be published in a daily newspaper as soon as practicable.  
22 (3) The council must use its best endeavours to give a copy of the notice  
23 to each interested person within 10 working days after the day the  
24 decision is made.

25 *Note* Section 13 defines *interested person*.

- 1 (4) The notice must include the following:  
2 (a) details of the cancellation;  
3 (b) the council's reasons for the cancellation;  
4 (c) the date of cancellation.  
5 (5) The notice must not include restricted information.

6 **48 Partial cancellation of registration of place**

- 7 (1) In this part:  
8 *cancellation* includes partial cancellation.  
9 *partial cancellation* means the exclusion of part of a registered  
10 place.  
11 (2) This part applies to a partial cancellation as if—  
12 (a) a reference to a registered place were a reference to the part of  
13 the place to be excluded; and  
14 (b) all other necessary changes, including any changes prescribed  
15 under the regulations, were made.

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1 **Part 8** **Discovery of Aboriginal places**  
2 **and objects**

3 **49 Reporting discovery of Aboriginal place or object**

- 4 (1) A person commits an offence if the person—  
5 (a) discovers an Aboriginal place or object; and  
6 (b) has reasonable grounds to believe it is an Aboriginal place or  
7 object; and  
8 (c) fails to take reasonable steps to report the discovery to the  
9 council, in accordance with subsection (2), within 5 working  
10 days after the day of the discovery.

11 Maximum penalty: 5 penalty units.

- 12 (2) The report must be in writing and must include the following:  
13 (a) a description of the place or object and its location;  
14 (b) the person's name and address;  
15 (c) if known by the person—the name and address of the owner or  
16 occupier of the place where the discovery was made.
- 17 (3) An offence against this section is a strict liability offence.

18 **50 Exceptions to reporting obligation**

- 19 (1) Section 49 does not apply—  
20 (a) to a registered place or object; or  
21 (b) if the person cannot report the discovery to the council, in  
22 accordance with section 49 (2), within 5 working days after the  
23 day of the discovery but does so within 10 working days after  
24 the day of the discovery.

**Part 8** Discovery of Aboriginal places and objects

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- 1 (2) Also, section 49 does not apply to a person who has a traditional  
2 Aboriginal affiliation with the land where the place or object was  
3 discovered.



1       **Part 9**                               **Restricted information**

2       **51**               **Restricted non-Aboriginal information**

- 3           (1) The council may, in writing, declare particular information about the  
4           location or nature of a place or object to be restricted information.
- 5           (2) The council may make the declaration only if satisfied, on  
6           reasonable grounds, that public disclosure of the information would  
7           be likely to have a substantial adverse effect on the heritage  
8           significance of the place or object.
- 9           (3) The council must use its best endeavours to give a copy of the  
10          declaration to each interested person for the place or object.

11          *Note*       Section 13 defines *interested person*.

12       **52**               **Restricted Aboriginal information**

- 13           (1) Information about the location or nature of an Aboriginal place or  
14           object is restricted information unless the council declares in writing  
15           that it is not.
- 16           (2) Before making a declaration under subsection (1), the council must  
17           consult, and consider the views of, each representative Aboriginal  
18           organisation about the information.
- 19           (3) The council must use its best endeavours to give a copy of the  
20           declaration to each interested person for the place or object.

21          *Note*       Section 13 defines *interested person*.

22       **53**               **Restricted information not to be published without  
23                               approval**

- 24           (1) A person commits an offence if the person—  
25           (a) publishes restricted information about a place or object; and

- 1 (b) knows the information is restricted information.  
2 Maximum penalty: 50 penalty units.  
3 (2) Subsection (1) does not apply if the publication is—  
4 (a) in accordance with an approval under section 54; or  
5 (b) for the exercise of a function under this Act or another  
6 Territory law; or  
7 (c) by an Aboriginal person to another Aboriginal person and is  
8 about an Aboriginal place or object.

9 **54 Approval to publish restricted information**

- 10 (1) The council may approve the publication of restricted information  
11 about a place or object if satisfied, on reasonable grounds, that the  
12 publication will not have a substantial adverse effect on the heritage  
13 significance of the place or object.  
14 (2) An approval—  
15 (a) may be given only on application; and  
16 (b) must be given in writing to the applicant.  
17 (3) An application must be in writing and must—  
18 (a) identify the restricted information proposed to be published;  
19 and  
20 (b) state the reason for the publication; and  
21 (c) state the nature of the publication, including the person, people  
22 or kind of people to whom it would be directed.

23 *Note 1* If a form is approved under s 116 for an application, the form must be  
24 used.

25 *Note 2* A fee may be determined under s 117 for this provision.

1    **55           Limited access to restricted information**

2           (1) This section applies if—

3               (a) land is offered for sale; and

4               (b) an interested person for the land, or someone considering  
5               buying an interest in the land, applies to the council for access  
6               to restricted information relevant to the conservation and use of  
7               the land.

8           *Note 1*   If a form is approved under s 116 for an application, the form must be  
9               used.

10          *Note 2*   A fee may be determined under s 117 for this provision.

11          *Note 3*   Section 13 defines *interested person*.

12          (2) The council must give the applicant the restricted information  
13          sought, together with a written explanation about the operation of  
14          this part.

1 **Part 10 Land development applications**

2 **56 Meaning of *development* for pt 10**

3 In this part:

4 *development* means a proposed development to which an  
5 application under the Land Act, part 6 (Approvals and orders)  
6 applies.

7 **57 Simplified outline**

8 The following notes provide a simplified outline of this part and the  
9 Land Act, part 6:

10 *Note 1* The planning and land authority must give the council a copy of each  
11 development application that relates to a place or object registered, or  
12 nominated for provisional registration, under this Act (see Land Act,  
13 s 229).

14 *Note 2* The council provides advice to the planning and land authority about the  
15 effect of a development on the heritage significance of a place or object  
16 (see s 58).

17 *Note 3* The council's advice must be considered by the planning and land  
18 authority in approving or refusing to approve a development application  
19 (see Land Act, s 231).

20 *Note 4* The heritage council may apply to the AAT for review of the planning  
21 and land authority's decision to approve or refuse to approve a  
22 development application (see Land Act, s 275).

23 **58 Advice about effect of development on heritage  
24 significance**

25 (1) This section applies if the council is satisfied, on reasonable  
26 grounds, that a development would affect the heritage significance  
27 of—

28 (a) a registered place or object; or

- 1 (b) a place or object nominated for provisional registration.
- 2 (2) The council may give the planning and land authority written advice  
3 in accordance with section 59 about its decision.
- 4 (3) However, if the planning and land authority gives the council notice  
5 of a development application under the Land Act, section 229, the  
6 council must, as soon as practicable but within 15 working days  
7 after the day it is given the notice—
- 8 (a) consider the application; and
- 9 (b) give the authority written advice in accordance with section 59.
- 10 *Note* The council may apply to the administrative appeals tribunal for review  
11 of a decision by the planning and land authority on the application (see  
12 Land Act, s 275).

## 13 **59 Requirements for council's advice about development**

- 14 (1) The council's advice under section 58 about the effect of a  
15 development on the heritage significance of a place or object must  
16 include the following:
- 17 (a) an outline of the effect of the development on the heritage  
18 significance of the place or object;
- 19 (b) advice about ways of avoiding or minimising the impact of the  
20 development on the heritage significance of the place or object.
- 21 (2) Without limiting subsection (1), the advice may set out proposed  
22 conditions on any approval of the development, including conditions  
23 requiring compliance with all or any of the following:
- 24 (a) prudent and feasible measures to conserve the heritage  
25 significance of the place or object;
- 26 (b) conservation requirements under applicable heritage  
27 guidelines;
- 28 (c) a conservation management plan approved by the council.

1 **Part 11 Heritage directions**

2 **60 Heritage direction by Minister**

3 (1) The Minister may give the owner or occupier of a place or object a  
4 written direction (a *heritage direction*) to do or not do something to  
5 conserve the heritage significance of the place or object.

6 **Examples of heritage directions**

- 7 1 to do essential maintenance on a place  
8 2 not to adversely affect a significant feature of a heritage place  
9 3 not to undertake a development affecting the heritage significance of a place  
10 without development approval under the Land Act, part 6

11 *Note 1* The power to make a statutory instrument (including a heritage  
12 direction) includes power to amend or repeal the instrument (see  
13 Legislation Act, s 46)

14 *Note 2* An example is part of the Act, is not exhaustive and may extend, but  
15 does not limit, the meaning of the provision in which it appears (see  
16 Legislation Act, s 126 and s 132).

- 17 (2) The heritage direction may be given only if—  
18 (a) the council—  
19 (i) is satisfied, on reasonable grounds, the direction is in  
20 accordance with any applicable heritage guideline; and  
21 (ii) recommends the direction; and  
22 (b) the Minister is satisfied, on reasonable grounds, that—  
23 (i) there is a serious and imminent threat to the heritage  
24 significance of the place or object; and  
25 (ii) immediate protection is necessary.  
26 (3) The direction must state the period for which it is in force.

- 1 (4) To remove any doubt, a direction may be given in relation to a place  
2 or object whether or not it is registered.

3 **61 Service of heritage direction**

4 A heritage direction may be given to the owner or occupier of a  
5 place by leaving it secured in a conspicuous position at the place.

6 *Note* For how directions may be served generally, see Legislation Act,  
7 pt 19.5.

8 **62 Extension of heritage direction**

- 9 (1) On application by the Minister, the Supreme Court may extend the  
10 period for which a heritage direction is in force in relation to a place  
11 or object if satisfied that—

12 (a) there is a serious and imminent threat to the heritage  
13 significance of the place or object; and

14 (b) extended protection is necessary.

- 15 (2) An extension must be for no longer than the Supreme Court  
16 considers necessary.

17 **63 Contravention of heritage direction—offence**

18 A person commits an offence if the person intentionally contravenes  
19 a requirement of a heritage direction.

20 Maximum penalty: 1 000 penalty units.

21 **64 Contravention of heritage direction—action by authorised  
22 person**

- 23 (1) This section applies if—

24 (a) a person does not comply with a heritage direction requiring  
25 the person to do something; and

26 (b) either—

- 1 (i) the appeal period has ended and no appeal has been made;  
2 or  
3 (ii) any appeal has been finally decided and is unsuccessful.
- 4 (2) An authorised person may enter the premises where the place or  
5 object to which the direction applies is located and—  
6 (a) do the thing stated in the direction; or  
7 (b) do or finish any work stated in the direction.
- 8 (3) The reasonable cost incurred by the Territory in doing anything  
9 under subsection (2) is a debt owing to the Territory by the person to  
10 whom the direction was given.
- 11 (4) The Minister must endeavour to give each interested person for the  
12 place or object written notice of the action proposed under  
13 subsection (2) at least 5 working days before the day the action is to  
14 begin.
- 15 (5) The notice must include the following:  
16 (a) a statement about the operation of this section;  
17 (b) the purpose and nature of the proposed action;  
18 (c) the parts of the place likely to be affected;  
19 (d) the time or times when the action is proposed to be taken;  
20 (e) a statement about the obligations of the authorised person and  
21 the Territory under subsection (7).
- 22 (6) A person may waive the right to all or part of the minimum period  
23 of notice under subsection (4).
- 24 (7) Section 95 (Damage etc to be minimised) and section 96  
25 (Compensation for exercise of enforcement powers) apply to any  
26 action taken under subsection (2) as if—



- 1 (a) it were the exercise of a function under part 14 (Enforcement)  
2 by an authorised person or a person assisting an authorised  
3 person; and  
4 (b) as if all other changes, including changes prescribed under the  
5 regulations, were made.

6 **65 Order to enforce exercise of functions**

- 7 (1) This section applies if—  
8 (a) an authorised person is entitled to exercise a function under  
9 section 64 (2); and  
10 (b) another person obstructs, or proposes to obstruct, the  
11 authorised person in the exercise of the function.  
12 (2) The Magistrates Court may, on the application of the authorised  
13 person, make an order authorising a police officer or other person  
14 named in the order to use necessary assistance and force to enable  
15 the function to be exercised.  
16 (3) A copy of an application under subsection (1) must be given to the  
17 obstructor, and the obstructor is entitled to appear and be heard on  
18 the hearing of the application.

1 **Part 12 Civil protection of heritage**

2 **66 Application for heritage order**

- 3 (1) An application for a heritage order may be made to the Supreme  
4 Court by—
- 5 (a) the council on behalf of the Territory; or
- 6 (b) someone else with the court's leave.
- 7 (2) The Supreme Court may grant leave under subsection (1) (b) only if  
8 satisfied that—
- 9 (a) the person has asked the council to apply for a heritage order  
10 and the council has failed to do so within a reasonable time;  
11 and
- 12 (b) it is in the public interest that the proceeding be brought.

13 **67 Heritage order**

- 14 (1) This section applies if, on an application under section 66, the  
15 Supreme Court is satisfied that—
- 16 (a) the respondent has contravened, is contravening or is likely to  
17 contravene a defined offence provision; and
- 18 (b) an order under this section is necessary to avoid material harm  
19 to the heritage significance of a place or object.
- 20 (2) The Supreme Court may make an order (a *heritage order*)—
- 21 (a) restraining the respondent from contravening the defined  
22 offence provision (including an order requiring the respondent  
23 to do something); and
- 24 (b) about anything else the court considers appropriate for giving  
25 effect to the order.

1 (3) In this section:

2 *defined offence provision* means any of the following:

- 3 (a) section 53 (Restricted information not to be published without  
4 approval);
- 5 (b) section 63 (Contravention of heritage direction—offence);
- 6 (c) section 72 (Diminishing heritage significance of place or  
7 object);
- 8 (d) section 73 (Damaging Aboriginal place or object);
- 9 (e) section 94 (Contravention of information discovery order).

10 **68 Interim heritage order**

11 The Supreme Court may make an interim heritage order under  
12 section 67 before deciding an application for a heritage order.

13 **69 Costs**

14 In deciding the amount of any costs to be awarded against a party to  
15 a proceeding under section 67, the Supreme Court must consider the  
16 public interest in the proceeding being brought.

17 **70 Security for costs etc**

18 The Supreme Court may order an applicant for a heritage order to  
19 give—

- 20 (a) security for the payment of costs that may be awarded against  
21 the applicant if the application is subsequently dismissed; or
- 22 (b) an undertaking about the payment of any amount that may be  
23 awarded against the applicant under section 71.

- 1     **71           Respondent’s loss etc in relation to heritage order**  
2                   **proceedings**
- 3           (1) This section applies if, on an application for a heritage order  
4           claiming a contravention of a defined offence provision, the  
5           Supreme Court is satisfied that—
- 6                   (a) there has not been a contravention of the provision by the  
7                   respondent; and
- 8                   (b) the respondent has suffered loss or damage because of the  
9                   making of the application; and
- 10                  (c) in the circumstances it is appropriate to make an order under  
11                  this section.
- 12           (2) The court may, on the application of the respondent, and in addition  
13           to any order about costs, order the applicant to pay the respondent  
14           an amount, decided by the court, to compensate the respondent for  
15           the loss or damage suffered by the respondent.
- 16           (3) In this section:  
17                   ***defined offence provision***—see section 67 (3).

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## 1 **Part 13** **Heritage offences**

### 2 **72** **Diminishing heritage significance of place or object**

3 (1) A person commits an offence if the person—

4 (a) engages in conduct that diminishes the heritage significance of  
5 a place or object; and

6 (b) is reckless about whether the conduct would diminish the  
7 heritage significance of the place or object.

8 Maximum penalty: 1 000 penalty units.

9 (2) A person commits an offence if the person—

10 (a) engages in conduct that diminishes the heritage significance of  
11 a place or object; and

12 (b) is negligent about whether the conduct would diminish the  
13 heritage significance of the place or object.

14 Maximum penalty: 500 penalty units.

15 (3) A person commits an offence if the person engages in conduct that  
16 diminishes the heritage significance of a place or object.

17 Maximum penalty: 100 penalty units.

18 (4) An offence against subsection (3) is a strict liability offence.

### 19 **73** **Damaging Aboriginal place or object**

20 (1) A person commits an offence if the person—

21 (a) engages in conduct that causes damage to an Aboriginal place  
22 or object; and

1 (b) is reckless about whether the conduct would cause damage to  
2 the Aboriginal place or object.

3 Maximum penalty: 1 000 penalty units.

4 (2) A person commits an offence if the person—

5 (a) engages in conduct that causes damage to an Aboriginal place  
6 or object; and

7 (b) is negligent about whether the conduct would cause damage to  
8 the Aboriginal place or object.

9 Maximum penalty: 500 penalty units.

10 (3) A person commits an offence if the person engages in conduct that  
11 causes damage to an Aboriginal place or object.

12 Maximum penalty: 100 penalty units.

13 (4) An offence against subsection (3) is a strict liability offence.

14 (5) In this section:

15 *cause damage* includes disturb and destroy.

## 16 **74 Exceptions to part 13 offences**

17 (1) In this section:

18 *governmental officer* means—

19 (a) a public servant or any other conservation officer; or

20 (b) a person declared under subsection (3) to be a governmental  
21 officer.

22 (2) Section 72 and section 73 do not apply to—

23 (a) engaging in conduct in accordance with any of the following:

24 (i) a heritage guideline;

25 (ii) a heritage direction;

- 1                   (iii) a heritage agreement;
- 2                   (iv) a conservation management plan approved by the council;
- 3                   (v) an approval for a development under the Land Act, part 6;
- 4                   or
- 5                   (b) a governmental officer.
- 6           (3) The Minister may, in writing, declare a person to be a governmental
- 7           officer.
- 8           (4) A declaration is a notifiable instrument.
- 9           *Note*     A notifiable instrument must be notified under the Legislation Act.

1            **Part 14                            Enforcement**

2            **Division 14.1                    General**

3            **75                    Definitions for pt 14**

4                            In this part:

5                            *connected*—a thing is *connected* with an offence if—

- 6                            (a) the offence has been committed in relation to it; or
- 7                            (b) it will provide evidence of the commission of the offence; or
- 8                            (c) it was used, is being used, or is intended to be used, to commit
- 9                            the offence.

10                           *occupier*, of premises, includes—

- 11                           (a) a person believed, on reasonable grounds, to be an occupier of
- 12                           the premises; and
- 13                           (b) a person apparently in charge of the premises.

14                           *Note*     The dictionary defines *premises* as including land.

15                           *offence* includes an offence that there are reasonable grounds for

16                           believing has been, is being, or will be, committed.

17            **Division 14.2                    Authorised people**

18            **76                    Appointment of authorised people**

19                           The chief executive may appoint a person to be an authorised person

20                           for this Act.

21                           *Note 1*   For the making of appointments (including acting appointments), see

22                           Legislation Act, pt 19.3.





- 1 (i) inspect a place or object that is registered, or nominated  
2 for provisional registration; or
- 3 (ii) give a heritage direction to the owner or occupier; or
- 4 (c) at any time, enter premises with the occupier's consent; or
- 5 (d) at any time, enter premises if the authorised person believes, on  
6 reasonable grounds, that the circumstances are so serious and  
7 urgent that immediate entry to the premises without the  
8 authority of a search warrant is necessary; or
- 9 (e) enter premises in accordance with a search warrant.
- 10 (2) However, subsections (1) (a) and (1) (b) do not authorise entry into  
11 a part of premises that is being used only for residential purposes.
- 12 (3) An authorised person may, without the consent of the occupier of  
13 premises, enter land around the premises to ask for consent to enter  
14 the premises.
- 15 (4) To remove any doubt, an authorised person may enter premises  
16 under subsection (1) without payment of an entry fee or other  
17 charge.
- 18 (5) For subsection (1) (d), the inspector may enter the premises with  
19 any necessary assistance and force.

20 **79 Production of identity card**

21 An authorised person may not remain at premises entered under this  
22 part if the authorised person does not produce his or her identity  
23 card when asked by the occupier.

24 **80 Consent to entry**

- 25 (1) When seeking the consent of an occupier to enter premises under  
26 section 78 (1) (b), an authorised person must—
- 27 (a) produce his or her identity card; and

- 1 (b) tell the occupier—
- 2 (i) the purpose of the entry; and
- 3 (ii) that anything found and seized under this part may be
- 4 used in evidence in court; and
- 5 (iii) that consent may be refused.
- 6 (2) If the occupier consents, the authorised person must ask the occupier
- 7 to sign a written acknowledgment (an *acknowledgment of*
- 8 *consent*)—
- 9 (a) that the occupier was told—
- 10 (i) the purpose of the entry; and
- 11 (ii) that anything found and seized under this part may be
- 12 used in evidence in court; and
- 13 (iii) that consent may be refused; and
- 14 (b) that the occupier consented to the entry; and
- 15 (c) stating the time and date when consent was given.
- 16 (3) If the occupier signs an acknowledgment of consent, the authorised
- 17 person must immediately give a copy to the occupier.
- 18 (4) A court must find that the occupier did not consent to entry to the
- 19 premises by the authorised person under this part if—
- 20 (a) the question whether the occupier consented to the entry arises
- 21 in a proceeding in the court; and
- 22 (b) an acknowledgment of consent for the entry is not produced in
- 23 evidence; and
- 24 (c) it is not proved that the occupier consented to the entry.

1 **81 General powers on entry to premises**

2 (1) An authorised person who enters premises under this part may, for  
3 this Act, do 1 or more of the following in relation to the premises or  
4 anything at the premises:

5 (a) inspect or examine;

6 (b) take measurements or conduct tests;

7 (c) take samples;

8 (d) make sketches, drawings or any other kind of record (including  
9 photographs, films, or audio, video or other recordings);

10 (e) require the occupier, or anyone at the premises, to give the  
11 authorised person reasonable help to exercise a power under  
12 this part.

13 *Note* The Legislation Act, s 170 and s 171 deal with the application of the  
14 privilege against selfincrimination and client legal privilege.

15 (2) A person must take all reasonable steps to comply with a  
16 requirement made of the person under subsection (1) (e).

17 Maximum penalty: 50 penalty units.

18 **82 Power to seize things**

19 (1) An authorised person who enters premises under this part with the  
20 occupier's consent may seize anything at the premises if—

21 (a) the authorised person is satisfied, on reasonable grounds, that  
22 the thing is connected with an offence against this Act; and

23 (b) seizure of the thing is consistent with the purpose of the entry  
24 told to the occupier when seeking the occupier's consent.

25 (2) An authorised person who enters premises under a warrant under  
26 this part may seize anything at the premises that the authorised  
27 person is authorised to seize under the warrant.

- 1 (3) An authorised person who enters premises under this part (whether  
2 with the occupier's consent, under a warrant or otherwise) may seize  
3 anything at the premises if satisfied, on reasonable grounds, that—  
4 (a) the thing is connected with an offence against this Act; and  
5 (b) the seizure is necessary to prevent the thing from being—  
6 (i) concealed, lost or destroyed; or  
7 (ii) used to commit, continue or repeat the offence.
- 8 (4) Having seized a thing, an authorised person may—  
9 (a) remove the thing from the premises where it was seized (the  
10 *place of seizure*) to another place; or  
11 (b) leave the thing at the place of seizure but restrict access to it.
- 12 (5) A person commits an offence if—  
13 (a) the person interferes with a seized thing, or anything  
14 containing a seized thing, to which access has been restricted  
15 under subsection (4); and  
16 (b) the person does not have an authorised person's approval to  
17 interfere with the thing.
- 18 Maximum penalty: 50 penalty units.
- 19 (6) An offence against subsection (5) is a strict liability offence.

20 **83 Power to require name and address**

- 21 (1) An authorised person may require a person to state the person's  
22 name and home address if the authorised person suspects, on  
23 reasonable grounds, that the person is committing, is about to  
24 commit, or has just committed, an offence against this Act.

25 *Note* A reference to an Act includes a reference to the statutory instruments  
26 made or in force under the Act, including regulations (see Legislation  
27 Act, s 104).

- 1 (2) If an authorised person makes a requirement of a person under  
2 subsection (1), the authorised person must—  
3 (a) tell the person the reasons for the requirement; and  
4 (b) as soon as practicable, record the reasons.
- 5 (3) A person commits an offence if the person contravenes a  
6 requirement under subsection (1).  
7 Maximum penalty: 10 penalty units.
- 8 (4) However, a person is not required to comply with a requirement  
9 under subsection (1) if, when asked by the person, the authorised  
10 person does not produce his or her identity card for inspection by  
11 the person.
- 12 (5) An offence against subsection (3) is a strict liability offence.
- 13 (6) In this section:  
14 *home address*, of a person, means the address of the place where the  
15 person usually lives.

## 16 Division 14.4 Search warrants

### 17 84 Warrants generally

- 18 (1) An authorised person may apply to a magistrate for a warrant to  
19 enter premises.
- 20 (2) The application must be sworn and state the grounds on which the  
21 warrant is sought.
- 22 (3) The magistrate may refuse to consider the application until the  
23 authorised person gives the magistrate all the information the  
24 magistrate requires about the application in the way the magistrate  
25 requires.
- 26 (4) The magistrate may issue a warrant only if satisfied there are  
27 reasonable grounds for suspecting—

- 1 (a) there is a particular thing or activity connected with an offence  
2 against this Act; and
- 3 (b) the thing or activity—
- 4 (i) is, or is being engaged in, at the premises; or
- 5 (ii) may be, or may be engaged in, at the premises within the  
6 next 14 days.
- 7 (5) The warrant must state—
- 8 (a) that an authorised person may, with any necessary assistance  
9 and force, enter the premises and exercise the authorised  
10 person's powers under this part; and
- 11 (b) the offence for which the warrant is issued; and
- 12 (c) the things that may be seized under the warrant; and
- 13 (d) the hours when the premises may be entered; and
- 14 (e) the date, within 14 days after the day of the warrant's issue,  
15 when the warrant ends.

16 **85 Warrants—application made other than in person**

- 17 (1) An authorised person may apply for a warrant by phone, fax, radio  
18 or other form of communication if the authorised person considers it  
19 necessary because of—
- 20 (a) urgent circumstances; or
- 21 (b) other special circumstances.
- 22 (2) Before applying for the warrant, the authorised person must prepare  
23 an application stating the grounds on which the warrant is sought.
- 24 (3) The authorised person may apply for the warrant before the  
25 application is sworn.
- 26 (4) After issuing the warrant, the magistrate must immediately fax a  
27 copy to the authorised person if it is practicable to do so.

- 1            (5) If it is not practicable to fax a copy to the authorised person—  
2            (a) the magistrate must—  
3            (i) tell the authorised person what the terms of the warrant  
4            are; and  
5            (ii) tell the authorised person the date and time the warrant  
6            was issued; and  
7            (b) the authorised person must complete a form of warrant (the  
8            *warrant form*) and write on it—  
9            (i) the magistrate's name; and  
10            (ii) the date and time the magistrate issued the warrant; and  
11            (iii) the warrant's terms.  
12            (6) The faxed copy of the warrant, or the warrant form properly  
13            completed by the authorised person, authorises the entry and the  
14            exercise of the authorised person's powers under this part.  
15            (7) The authorised person must, at the first reasonable opportunity, send  
16            to the magistrate—  
17            (a) the sworn application; and  
18            (b) if the authorised person completed a warrant form—the  
19            completed warrant form.  
20            (8) On receiving the documents, the magistrate must attach them to the  
21            warrant.  
22            (9) A court must find that a power exercised by an authorised person  
23            was not authorised by a warrant under this section if—  
24            (a) the question arises in a proceeding before the court whether the  
25            exercise of power was authorised by a warrant; and  
26            (b) the warrant is not produced in evidence; and



- 1 (c) it is not proved that the exercise of power was authorised by a  
2 warrant under this section.

3 **86 Search warrants—announcement before entry**

- 4 (1) An authorised person must, before anyone enters premises under a  
5 search warrant—  
6 (a) announce that the authorised person is authorised to enter the  
7 premises; and  
8 (b) give anyone at the premises an opportunity to allow entry to  
9 the premises; and  
10 (c) if the occupier of the premises, or someone else who  
11 apparently represents the occupier, is present at the premises—  
12 identify himself or herself to the person.  
13 (2) The authorised person is not required to comply with subsection (1)  
14 if the authorised person believes, on reasonable grounds, that  
15 immediate entry to the premises is required to ensure—  
16 (a) the safety of anyone (including the authorised person or any  
17 person assisting); or  
18 (b) that the effective execution of the warrant is not frustrated.

19 **87 Details of search warrant to be given to occupier etc**

- 20 If the occupier of the premises, or someone else who apparently  
21 represents the occupier, is present at the premises while a search  
22 warrant is being executed, the authorised person or a person  
23 assisting must make available to the person—  
24 (a) a copy of the warrant; and  
25 (b) a document setting out the rights and obligations of the person.

- 1     **88           Occupier entitled to be present during search etc**
- 2           (1) If the occupier of premises, or someone else who apparently
- 3           represents the occupier, is present at the premises while a search
- 4           warrant is being executed, the person is entitled to observe the
- 5           search being conducted.
- 6           (2) However, the person is not entitled to observe the search if—
- 7               (a) to do so would impede the search; or
- 8               (b) the person is under arrest, and allowing the person to observe
- 9               the search being conducted would interfere with the objectives
- 10              of the search.
- 11           (3) This section does not prevent 2 or more areas of the premises being
- 12           searched at the same time.

13     **Division 14.5           Return and forfeiture of things seized**

- 14     **89           Receipt for things seized**
- 15           (1) As soon as practicable after a thing is seized by an authorised person
- 16           under this part, the authorised person must give a receipt for it to the
- 17           person from whom it was seized.
- 18           (2) If, for any reason, it is not practicable to comply with subsection (1),
- 19           the authorised person must leave the receipt, secured conspicuously
- 20           at the place of seizure under section 82 (Power to seize things)-.
- 21           (3) A receipt under this section must include the following:
- 22               (a) a description of the thing seized;
- 23               (b) an explanation of why the thing was seized;
- 24               (c) the authorised person's name, and how to contact the
- 25               authorised person;
- 26               (d) if the thing is moved from the premises where it is seized—
- 27               where the thing is to be taken.

- 
- 1     **90**           **Moving things to another place for examination or**  
2                   **processing under search warrant**
- 3           (1) A thing found at premises entered under a search warrant may be  
4           moved to another place for examination or processing to decide  
5           whether it may be seized under the warrant if—
- 6                   (a) both of the following apply:
- 7                           (i) there are reasonable grounds for believing that the thing is  
8                           or contains something to which the warrant relates;
- 9                           (ii) it is significantly more practicable to do so having regard  
10                          to the timeliness and cost of examining or processing the  
11                          thing at another place and the availability of expert  
12                          assistance; or
- 13                   (b) the occupier of the premises agrees in writing.
- 14           (2) The thing may be moved to another place for examination or  
15           processing for no longer than 72 hours.
- 16           (3) An authorised person may apply to a magistrate for an extension of  
17           time if the authorised person believes, on reasonable grounds, that  
18           the thing cannot be examined or processed within 72 hours.
- 19           (4) The authorised person must give notice of the application to the  
20           occupier of the premises, and the occupier is entitled to be heard on  
21           the application.
- 22           (5) If a thing is moved to another place under this section, the  
23           authorised person must, if practicable—
- 24                   (a) tell the occupier of the premises the address of the place where,  
25                   and time when, the examination or processing will be carried  
26                   out; and
- 27                   (b) allow the occupier or the occupier’s representative to be  
28                   present during the examination or processing.

- 1 (6) The provisions of this part relating to the issue of search warrants  
2 apply, with any necessary changes, to the giving of an extension  
3 under this section.

4 **91 Access to things seized**

5 A person who would, apart from the seizure, be entitled to inspect a  
6 thing seized under this part may—

- 7 (a) inspect it; and  
8 (b) if it is a document—take extracts from it or make copies of it.

9 **92 Return of things seized**

10 (1) A thing seized under this part must be returned to its owner, or  
11 reasonable compensation must be paid to the owner by the Territory  
12 for the loss of the thing, if—

13 (a) an infringement notice for an offence connected with the thing  
14 is not served on the owner within 1 year after the day of the  
15 seizure and either—

16 (i) a prosecution for an offence connected with the thing is  
17 not begun within the 1-year period; or

18 (ii) a prosecution for an offence connected with the thing is  
19 begun within the 1-year period but the court does not find  
20 the offence proved; or

21 (b) an infringement notice for an offence connected with the thing  
22 is served on the owner within 1 year after the day of the  
23 seizure, the infringement notice is withdrawn and—

24 (i) a prosecution for an offence connected with the thing is  
25 not begun within 1 year after the day of the seizure; or

26 (ii) a prosecution for an offence connected with the thing is  
27 begun within 1 year after the day of the seizure but the  
28 court does not find the offence proved; or

- 1 (c) an information for an offence connected with the thing is  
2 served on the owner within 1 year after the day of the seizure,  
3 liability for the offence is disputed in accordance with the  
4 *Magistrates Court Act 1930*, section 132 (Disputing liability  
5 for infringement notice offence) and—
- 6 (i) an infringement notice is not laid in the Magistrates Court  
7 against the person for the offence within 60 days after the  
8 day notice is given under section 132 that liability is  
9 disputed; or
- 10 (ii) the Magistrates Court does not find the offence proved.
- 11 (2) If anything seized under this part is not required to be returned or  
12 reasonable compensation is not required to be paid under subsection  
13 (1), the thing—
- 14 (a) if forfeited to the Territory; and
- 15 (b) may be sold, destroyed or otherwise disposed of as the chief  
16 executive directs.

17 **Division 14.6** **Miscellaneous**

18 **93** **Information discovery order**

- 19 (1) This section applies if the council has reasonable grounds for  
20 suspecting that a person—
- 21 (a) has knowledge of information (the *required information*)  
22 reasonably required by the council for the administration or  
23 enforcement of this Act; or
- 24 (b) has possession or control of a document containing the  
25 required information.
- 26 (2) The council may give the person an order (an *information discovery*  
27 *order*) requiring the person to give the information, or produce the  
28 document, to the council.

- 1 (3) The information discovery order must be in writing and must  
2 include particulars of the following:
- 3 (a) the identity of the person to whom it is given;
- 4 (b) why the information is required;
- 5 (c) the time by which the order must be complied with;
- 6 (d) the operation of section 94.

7 **94 Contravention of information discovery order**

8 A person commits an offence if the person intentionally contravenes  
9 a requirement of an information discovery order.

10 Maximum penalty: 100 penalty units.

11 *Note* The Legislation Act, s 170 and s 171 deal with the application of the  
12 privilege against selfincrimination and legal professional privilege.

13 **95 Damage etc to be minimised**

- 14 (1) In the exercise, or purported exercise, of a function under this part,  
15 an authorised person must take all reasonable steps to ensure that the  
16 authorised person, and any person assisting the authorised person,  
17 cause as little inconvenience, detriment and damage as is  
18 practicable.
- 19 (2) If an authorised person, or a person assisting an authorised person,  
20 damages anything in the exercise or purported exercise of a function  
21 under this part, the authorised person must give written notice of the  
22 particulars of the damage to the person whom the authorised person  
23 believes, on reasonable grounds, is the owner of the thing.
- 24 (3) If the damage happens at premises entered under this part in the  
25 absence of the occupier, the notice may be given by leaving it  
26 secured in a conspicuous place at the premises.

- 1    **96            Compensation for exercise of enforcement powers**
- 2            (1) A person may claim compensation from the Territory if the person
- 3                suffers loss or expense because of the exercise, or purported
- 4                exercise, of a function under this part by an authorised person or a
- 5                person assisting an authorised person.
- 6            (2) Compensation may be claimed and ordered in a proceeding for—
- 7                (a) compensation brought in a court of competent jurisdiction; or
- 8                (b) an offence against this Act brought against the person making
- 9                the claim for compensation.
- 10           (3) A court may order the payment of reasonable compensation for the
- 11               loss or expense only if it is satisfied it is just to make the order in the
- 12               circumstances of the particular case.
- 13           (4) The regulations may prescribe matters that may, must or must not be
- 14               taken into account by the court in considering whether it is just to
- 15               make the order.

1 **Part 15 Heritage agreements**

2 **97 Heritage agreement with Minister**

- 3 (1) The Minister may enter into an agreement (a *heritage agreement*)  
4 with a person in relation to the conservation of the heritage  
5 significance of a place or object.
- 6 (2) A heritage agreement may only be made in accordance with the  
7 council's advice and with—
- 8 (a) the owner of the place or object; or  
9 (b) if the owner consents—someone else.
- 10 (3) A heritage agreement may be made in relation to a place or object,  
11 whether or not it is registered.
- 12 (4) The regulations may provide that a stated Territory law does not  
13 apply to—
- 14 (a) a place to which a heritage agreement applies; or  
15 (b) a place where there is an object to which a heritage agreement  
16 applies.

17 **98 Provisions of heritage agreement**

- 18 A heritage agreement may include provisions about 1 or more of the  
19 following:
- 20 (a) conservation of the place or object;  
21 (b) provision of financial, technical or other professional advice or  
22 assistance needed for the conservation of the place or object;  
23 (c) review of the valuation of the place or object;  
24 (d) restrictions on the use of the place or object;



- 
- 1 (e) requirements to carry out work;
- 2 (f) standards to which any work is to be carried out;
- 3 (g) restrictions on work that may be carried out;
- 4 (h) public appreciation of the heritage significance of the place or
- 5 object;
- 6 (i) availability of the place or object for public inspection.

7 **99 Amending or ending heritage agreement**

8 The Minister may, on the council's advice, amend or end a heritage

9 agreement—

- 10 (a) by agreement with the owner of the place or object; or
- 11 (b) in accordance with the original agreement.

12 **100 Period of heritage agreement**

13 A heritage agreement begins and ends on the dates stated in the

14 agreement.

15 **101 Binding nature of heritage agreement**

- 16 (1) A heritage agreement attaches to the land where the place or object
- 17 is located and is binding on the owner of the land for the time being.
- 18 (2) The Minister must lodge a copy of each heritage agreement, and of
- 19 any agreement to vary or end a heritage agreement, with the
- 20 registrar-general for registration under the *Land Titles Act 1925*.
- 21 (3) The Minister must ensure as far as is practicable that the copy of the
- 22 agreement is lodged with the registrar-general in registrable form.

23 *Note* The *Land Titles Act 1925* provides for the registrar-general to register

24 an agreement mentioned in s (2) under that Act (see s 48).

1 **102 Enforcement order**

2 (1) A party to a heritage agreement may apply to the Supreme Court for  
3 an enforcement order to give effect to the agreement if—

4 (a) someone contravenes the agreement; or

5 (b) there are reasonable grounds for believing that someone may  
6 contravene the agreement.

7 *Note* **Contravene** includes fails to comply with (see Legislation Act,  
8 dict, pt 1).

9 (2) The council must enter details of an enforcement order in the  
10 heritage register as soon as possible after the order is made.

11 **103 Financial and other assistance**

12 The council may arrange for the provision of financial, technical or  
13 other assistance that the council considers necessary or desirable for  
14 the conservation of a place or object subject to a heritage agreement.

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## 1 Part 16 Heritage and public authorities

### 2 104 Meaning of *public authority* for pt 16

3 In this part:

4 *public authority*—see the *Annual Reports (Government Agencies)*  
5 *Act 2004*, dictionary.

### 6 105 Public authority *heritage places* and *heritage objects*

7 For this part, a place or object is a *heritage place* or *heritage object*  
8 for which a public authority is responsible if—

9 (a) the place or object—

10 (i) is vested in, or subject to the control of, the authority; or

11 (ii) is owned by the authority; and

12 (b) the place or object—

13 (i) is registered; or

14 (ii) although not registered, meets 1 or more heritage  
15 significance criteria; or

16 (iii) is an Aboriginal place or object.

### 17 106 Annual heritage reports

18 (1) Within 1 month after the end of each financial year, each public  
19 authority must give the council a written report for the year that  
20 includes details of each heritage place and object for which it was  
21 responsible at any time during the year.

22 (2) If the public authority disposed of a heritage place or object during  
23 the year, the report must include details of the disposal.

- 1 (3) However, a public authority is not required to include details of a  
2 heritage place or object in the report if—  
3 (a) subsection (2) does not apply to the place or object; and  
4 (b) the details of the place or object were included in a previous  
5 report under this section to the council; and  
6 (c) the details given to the council have not changed.  
7 (4) Also, a public authority need not comply with this section for the  
8 1st financial year that ends after the commencement of this section,  
9 or the following financial year.  
10 (5) Subsection (4) and this subsection expire 2 years after the day this  
11 section commences.  
12 (6) The regulations may prescribe information that may, must or must  
13 not be included in a report under this section.

14 **107 Heritage audit**

- 15 (1) Within 2 years after the commencement of this section, each public  
16 authority must begin an audit to identify each heritage place or  
17 object for which it is responsible.  
18 (2) Each public authority must give a written report about the audit to  
19 the council within 3 years after the day this section commences.  
20 (3) If, because of the audit, a public authority identifies a heritage place  
21 or object that is not registered, the authority must nominate the place  
22 or object for provisional registration.  
23 (4) The regulations may prescribe—  
24 (a) how a heritage audit must be done; and  
25 (b) information that may, must or must not be included in a report  
26 under this section.  
27 (5) This section expires 4 years after the day it commences.

- 1    **108       Conservation management plan**
- 2       (1) The council may, in writing, direct a public authority to prepare a
- 3       conservation management plan for a heritage place or object for
- 4       which the authority is responsible.
- 5       (2) The public authority must prepare the conservation management
- 6       plan and give the plan to the council within the time (no less than
- 7       1 month) allowed by the council in the direction.
- 8       (3) If the council considers that the conservation management plan
- 9       adequately manages the threat, or potential threat, the council—
- 10       (a) may approve the plan in writing; and
- 11       (b) if the council approves the plan—must tell the public authority
- 12       in writing that it has approved the plan.
- 13       (4) If the council approves the conservation management plan, the
- 14       public authority must act in accordance with the plan.

1 **Part 17 AAT review of decisions**

2 **109 Reviewable decisions**

3 Each of the following is a reviewable decision:

- 4 (a) a decision by the council not to provisionally register a place or  
5 object under section 30;
- 6 (b) a decision by the Minister to extend, or not extend, a period of  
7 provisional registration under section 34;
- 8 (c) a decision by the council to register, or not register, a place or  
9 object under section 38;
- 10 (d) a decision by the council to cancel, or not cancel, the  
11 registration of a place or object under section 45;
- 12 (e) a decision by the council to approve, or not approve, the  
13 publication of restricted information under section 54;
- 14 (f) a decision by the Minister to make, or not make, a heritage  
15 direction under section 60;
- 16 (g) a decision by the Minister to revoke, or not revoke, a heritage  
17 direction under section 60.

18 **110 Notice of reviewable decisions**

- 19 (1) The maker of a reviewable decision must use its best endeavours to  
20 give written notice of the decision to each interested person for the  
21 place or object to which the decision relates.
- 22 (2) The notice must comply with the requirements of the code of  
23 practice in force under the *Administrative Appeals Tribunal Act*  
24 *1989*, section 25B (1).
- 25 (3) In particular, the notice must tell the person—

- 1 (a) that a person whose interests are affected by the decision may  
2 apply to the administrative appeals tribunal for review of the  
3 decision, and how the application must be made; and  
4 (b) about the options available under other Territory laws to have  
5 the decision reviewed by a court or the ombudsman.

6 **111 Review of decisions by AAT**

7 A person may apply to the administrative appeals tribunal for  
8 review of a reviewable decision.

1 **Part 18** **Miscellaneous**

2 **112 Repository for Territory-owned Aboriginal objects**

3 (1) The Minister must ensure that each Aboriginal object owned by the  
4 Territory is kept in a repository declared under subsection (2).

5 (2) The Minister may, in writing, declare a place to be a repository only  
6 if satisfied, on reasonable grounds, that the place is suitable for the  
7 conservation of Aboriginal objects owned by the Territory.

8 *Note* The power to make a statutory instrument (including a declaration)  
9 includes power to amend or repeal the instrument (see Legislation Act,  
10 s 46)

11 (3) Before making a declaration, the Minister must consult, and  
12 consider the views of, the council and each representative  
13 Aboriginal organisation about the proposed declaration.

14 (4) A declaration must not include restricted information.

15 (5) A declaration is a notifiable instrument.

16 *Note* A notifiable instrument must be notified under the Legislation Act.

17 **113 Criminal liability of executive officers**

18 (1) An executive officer of a corporation commits an offence if—

19 (a) the corporation contravenes a provision of this Act; and

20 (b) the contravention is an offence against this Act (a *relevant*  
21 *offence*); and

22 (c) the officer was reckless about whether, the contravention  
23 would happen; and

24 (d) the officer was in a position to influence the conduct of the  
25 corporation in relation to the contravention; and



- 1 (e) the officer failed to take all reasonable steps to prevent the  
2 contravention.
- 3 Maximum penalty: The maximum penalty that may be imposed for  
4 the commission of the relevant offence by an individual.
- 5 (2) This section applies whether or not the corporation is prosecuted for,  
6 or convicted of, the relevant offence.
- 7 (3) In deciding whether the executive officer took (or failed to take)  
8 reasonable steps to prevent the contravention, a court must consider  
9 the following:
- 10 (a) any action the officer took directed towards ensuring the  
11 following (to the extent that the action is relevant to the act or  
12 omission):
- 13 (i) that the corporation arranges regular professional  
14 assessments of the corporation's compliance with the  
15 contravened provision;
- 16 (ii) that the corporation implements any appropriate  
17 recommendation arising from such an assessment;
- 18 (iii) that the corporation's employees, agents and contractors  
19 have a reasonable knowledge and understanding of the  
20 requirement to comply with the contravened provision;
- 21 (b) any action the officer took when the officer became aware that  
22 the contravention was, or might be, about to happen.
- 23 (4) Subsection (3) does not limit the matters to which the court may  
24 have regard.
- 25 (5) This section does not apply if the corporation would have a defence  
26 to a prosecution for the relevant offence.
- 27 (6) In this section:
- 28 *executive officer*, of a corporation, means a person, by whatever  
29 name called and whether or not the person is a director of the

1 corporation, who is concerned with, or takes part in, the  
2 corporation's management.

3 **114 Service of documents on council**

4 A document may be given to the council by giving it to the chief  
5 executive.

6 *Note 1* For how documents may be served generally, see Legislation Act,  
7 pt 19.5.

8 *Note 2* The chief executive may delegate the function under this section to a  
9 public sector officer, for example, a public servant who is the council  
10 secretary (see *Public Sector Management Act 1994*, s 36).

11 **115 Legal immunity for council members etc**

12 (1) This section applies to someone who is, or has been, a member of  
13 the council or an authorised person.

14 (2) A civil proceeding does not lie against the person in relation to  
15 anything done or omitted to be done honestly by the person in the  
16 exercise or purported exercise of a function under this Act.

17 (3) Subsection (2) does not affect any liability the Territory would have  
18 for the act or omission apart from that subsection.

19 **116 Approved forms**

20 (1) The Minister may, in writing, approve forms for this Act.

21 (2) If the Minister approves a form for a particular purpose, the  
22 approved form must be used for that purpose.

23 *Note* For other provisions about forms, see Legislation Act, s 255.

24 (3) An approved form is a notifiable instrument.

25 *Note* A notifiable instrument must be notified under the Legislation Act.

1     **117       Determination of fees**

2             (1) The Minister may, in writing, determine fees for this Act.

3             *Note*     The Legislation Act contains provisions about the making of  
4                       determinations and regulations relating to fees (see pt 6.3)

5             (2) A determination is a disallowable instrument.

6             *Note*     A disallowable instrument must be notified, and presented to the  
7                       Legislative Assembly, under the Legislation Act.

8     **118       Delegation**

9             The council may delegate the council's functions under this Act to  
10            the chief executive.

11            *Note 1*    For the making of delegations and the exercise of delegated functions,  
12                       see Legislation Act, pt 19.4.

13            *Note 2*    The chief executive may subdelegate a function delegated to the chief  
14                       executive under this section (see *Public Sector Management Act 1994*,  
15                       s 36).

16    **119       Regulation-making power**

17            The Executive may make regulations for this Act.

18            *Note*     Regulations must be notified and presented to the Legislative Assembly,  
19                       under the Legislation Act.

20    **120       5-year review**

21            (1) In this section:

22            *review period* means the 5 years beginning on the day this section  
23            commences.

24            (2) As soon as practicable after the review period, the Minister must  
25            review the operation of this Act during the review period.

**Part 18**            Miscellaneous

Section 120

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- 1            (3) The Minister must present the report of the review to the Legislative  
2            Assembly within 6 months after the review period ends.
- 3            (4) This section expires 6 years after the day it commences.

## 1 Part 19 Transitional

### 2 121 Definitions for pt 19

3 In this part:

4 *commencement day* means the day section 20 (Establishment of  
5 heritage register) commences.

6 *Heritage Objects Act* means the *Heritage Objects Act 1991*  
7 (repealed).

8 *Land Act* means the Land Act as in force immediately before the  
9 commencement day.

10 *old heritage objects register* means—

11 (a) an interim heritage objects register under the Heritage Objects  
12 Act; or

13 (b) a heritage objects register under the Heritage Objects Act.

14 *old heritage places register* means—

15 (a) an interim heritage places register under the Land Act; or

16 (b) a heritage places register under the Land Act.

### 17 122 Legislation repealed

18 The following legislation is repealed:

- 19 • *Heritage Objects Act 1991* A1991-101
- 20 • *Heritage Objects (Assessment of Heritage Significance Criteria)*  
21 *Determination 1995* DI1995-35
- 22 • *Heritage Objects (Heritage Register) Approval 1996* DI1996-27
- 23 • *Heritage Objects (Heritage Register) Approval 1996* DI1996-28
- 24 • *Heritage Objects (Heritage Register) Determination 1995*  
25 *DI1995-36*

1 **123 Legislation amended—sch 1**

2 This Act amends the legislation mentioned in schedule 1.

3 **124 Applications for registration on old heritage places**  
4 **register**

5 (1) In this section:

6 *application* means an application under the Land Act, section 59 for  
7 the inclusion of a provision in an interim heritage places register  
8 under that Act.

9 (2) An application in relation to a place is taken to be a nomination for  
10 provisional registration of the place.

11 (3) To remove any doubt, the council may amend the heritage register  
12 to reflect the operation of this section.

13 **125 Places on old heritage places register**

14 (1) A place included in an old heritage places register is taken to be  
15 registered under division 6.2.

16 (2) The details entered in an old heritage places register for a place are  
17 taken to be the registration details for the place.

18 (3) Subsection (2) does not apply to any requirement stated in an old  
19 heritage places register for the conservation of the heritage  
20 significance of the place.

21 (4) To remove any doubt, the council may amend the heritage register  
22 to reflect the operation of this section.

23 **126 Conservation requirements for places on old heritage**  
24 **places register**

25 (1) In this section:

26 *conservation requirement* means a requirement stated in an old  
27 heritage places register for the conservation of the heritage

1 significance of a place identified in the register, including any  
2 requirement for the conservation of features identified as intrinsic to  
3 that heritage significance.

4 (2) A conservation requirement for a place identified in an old heritage  
5 places register is taken to be a heritage guideline applying to the  
6 place.

7 **127 Objects on old heritage objects register**

8 (1) An object included in an old heritage objects register is taken to be  
9 registered under division 6.2.

10 (2) The details entered in an old heritage objects register for an object  
11 are taken to be the registration details for the object.

12 (3) Subsection (2) does not apply to any requirement stated in an old  
13 heritage objects register for the conservation of the heritage  
14 significance of the object.

15 (4) To remove any doubt, the council may amend the heritage register  
16 to reflect the operation of this section.

17 **128 Conservation requirements for objects on old heritage  
18 objects register**

19 (1) In this section:

20 *conservation requirement* means a requirement stated in an old  
21 heritage objects register for the conservation of the heritage  
22 significance of an object identified in the register, including any  
23 requirement for the conservation of features identified as intrinsic to  
24 that heritage significance.

25 (2) A conservation requirement for an object identified in an old  
26 heritage objects register is taken to be a heritage guideline applying  
27 to the object.

1 **129 Restricted information on old registers**

2 Restricted information on an old heritage places register, or an old  
3 heritage objects register, is restricted information under this Act.

4 **130 Transitional regulations**

5 (1) The regulations may prescribe transitional matters necessary or  
6 convenient to be prescribed because of the enactment of this Act.

7 (2) Without limiting the scope of subsection (1), the regulations may  
8 prescribe matters necessary or convenient to be prescribed for  
9 carrying out or giving effect to the provisions of this Act.

10 (3) Regulations made for this section must not be taken to be  
11 inconsistent with this Act as far as they can operate concurrently  
12 with this Act.

13 (4) This section is additional to, and does not limit, section 131.

14 **131 Modification of pt 19's operation**

15 The regulations may modify the operation of this part to make  
16 provision in relation to any matter that is not already, or is not (in  
17 the Executive's opinion) adequately, dealt with in this part.

18 **132 Expiry of pt 19**

19 This part expires 1 year after the commencement day.



1 **Schedule 1**            **Consequential amendments**

2 (see s 123)

3 **Part 1.1**                    **Administrative Appeals Tribunal**  
4 **Act 1989**

5 **[1.1] Section 49A, new dot point**

6 *insert*

- 7 • *Heritage Act 2004*

8 **[1.2] Section 49B, new dot point**

9 *insert*

- 10 • *Heritage Act 2004*

11 **Part 1.2**                    **Administrative Decisions**  
12 **(Judicial Review) Act 1989**

13 **[1.3] Section 9 (2) (b) (iii)**

14 *omit*

15 *Heritage Objects Act 1991*

16 *substitute*

17 *Heritage Act 2004*

1 **Part 1.3 Community Title Act 2001**

2 **[1.4] Section 10 (3)**

3 *substitute*

- 4 (3) The planning and land authority may refuse to approve a community  
5 title scheme proposal if the proposal is inconsistent with a heritage  
6 guideline or heritage direction under the *Heritage Act 2004*.

7 **Part 1.4 Environment Protection Act 1997**

8 **[1.5] Section 4 (1), definition of *area of high conservation***  
9 ***value*, paragraph (b)**

10 *substitute*

- 11 (b) a place, other than a structure or group of structures, registered  
12 under the *Heritage Act 2004*; or

13 **[1.6] Section 4 (1), definition of *heritage places register***

14 *substitute*

15 *heritage register*—see the *Heritage Act 2004*, section 20.

16 **[1.7] Section 164 (2)**

17 *substitute*

- 18 (2) A certificate purporting to be signed by the planning and land  
19 authority stating that an area is an area to which section 4 (1),  
20 definition of *area of high conservation value*, paragraph (a), (c)  
21 or (d) applies is evidence of the matter stated.

1 **Part 1.5** **Land (Planning and**  
2 **Environment) Act 1991**

3 **[1.8] Section 5, definition of *background papers*, paragraph (b)**  
4 **(iii)**

5 *substitute*

- 6 (iii) any recommendation or submission made by the heritage  
7 council and mentioned in section 17 (Consultation with  
8 heritage council); and

9 **[1.9] Section 5, definition of *background papers*, paragraph (c)**  
10 **(i)**

11 *substitute*

- 12 (i) a direction mentioned in paragraph (b) (i); or

13 **[1.10] Section 5, definition of *background papers*, paragraph (c)**  
14 **(iii) and note**

15 *substitute*

- 16 (iii) any recommendation or submission made by the heritage  
17 council and mentioned in section 17 (Consultation with  
18 heritage council); and

19 **[1.11] Section 5, definition of *background papers*, paragraph (d)**

20 *omit*

21 **[1.12] Section 5, definition of *background papers***

22 *renumber paragraphs when Act next republished under the*  
23 *Legislation Act*

- 1 **[1.13] Section 7 heading**
- 2 *substitute*
- 3 **7 Object of Territory plan**
- 4 **[1.14] Section 7 (3) (d)**
- 5 *omit*
- 6 **[1.15] Section 7 (3)**
- 7 *renumber paragraphs when Act next republished under the*
- 8 *Legislation Act*
- 9 **[1.16] Section 9 (3)**
- 10 *omit*
- 11 **[1.17] Section 9**
- 12 *renumber subsections when Act next republished under the*
- 13 *Legislation Act*
- 14 **[1.18] Sections 10 and 11**
- 15 *omit*
- 16 **[1.19] Section 17**
- 17 *substitute*
- 18 **17 Consultation with heritage council**
- 19 In preparing a draft plan variation, the planning and land authority
- 20 must consult the heritage council and consider any recommendation
- 21 or submission made by the council in relation to the variation.

- 1 **[1.20] Section 19A (1)**
- 2 *substitute*
- 3 (1) A consultation notice under section 19 must state whether or not
- 4 section 9 (Effect of draft plan variation) applies in relation to the
- 5 draft variation.
- 6 **[1.21] Section 24 (1) (e)**
- 7 *omit*
- 8 or the heritage council
- 9 **[1.22] Part 3**
- 10 *omit*
- 11 **[1.23] Section 222, definition of *development*, paragraph (c)**
- 12 *substitute*
- 13 (c) the carrying out of work that would affect the landscape of the
- 14 land except if the land—
- 15 (i) is leased for residential purposes only; and
- 16 (ii) is not registered, or nominated for provisional
- 17 registration, under the *Heritage Act 2004*;
- 18 **[1.24] New section 227 (1) (ba) and (bb)**
- 19 *insert*
- 20 (ba) each notice given to the heritage council under section 229 of a
- 21 development application that relates to a place or object
- 22 registered, or nominated for provisional registration, under the
- 23 *Heritage Act 2004*; and
- 24 (bb) each advice given to the planning and land authority by the
- 25 heritage council under the *Heritage Act 2004*, section 58
- 26 (Advice about effect of development on heritage significance);
- 27 and

1 **[1.25] Section 227 (1)**  
2 *renumber paragraphs when Act next republished under the*  
3 *Legislation Act*

4 **[1.26] Section 229 (4) (a)**  
5 *substitute*  
6 (a) must give the heritage council—  
7 (i) notice of each application that relates to a place or object  
8 registered, or nominated for provisional registration,  
9 under the *Heritage Act 2004*; and  
10 (ii) a copy of each application mentioned in subparagraph (i);  
11 and  
12 (iii) a copy of each objection, or document containing  
13 comments about the development, received by the  
14 authority that relate to the effect of the development on  
15 the heritage significance of the place or object; and

16 **[1.27] New section 229A (1A)**  
17 *insert*  
18 (1A) If the application relates to a place or object registered, or  
19 nominated for provisional registration, under the *Heritage Act 2004*,  
20 the planning and land authority must give a copy of the direction to  
21 the heritage council.

22 **[1.28] Section 229A (2) (a)**  
23 *substitute*  
24 (a) the information and documents received by the authority in  
25 relation to the application, including any advice under the  
26 *Heritage Act 2004*, section 58 (Advice about effect of  
27 development on heritage significance); and

1 **[1.29] Section 229A**  
2 *renumber subsections when Act next republished under Legislation*  
3 *Act*

4 **[1.30] Section 229B (6)**  
5 *substitute*

- 6 (6) If the Minister decides to consider an application, the Minister  
7 must—
- 8 (a) tell the applicant in writing about the decision and the grounds  
9 on which the decision was made; and
- 10 (b) if the application relates to a place or object registered, or  
11 nominated for provisional registration, under the *Heritage Act*  
12 *2004*—ensure that the Minister has the advice of the heritage  
13 council under that Act, section 58 (Advice about effect of  
14 development on heritage significance); and
- 15 (c) ensure that the Minister has the comments of the planning and  
16 land authority and the planning and land council on the  
17 application; and
- 18 (d) approve or refuse the application under section 230.

19 **[1.31] Section 231**  
20 *substitute*

21 **231 Matters to be considered by relevant authority**

- 22 (1) In approving or refusing to approve an application, the relevant  
23 authority must consider the following:
- 24 (a) the comments of any entity to which the authority referred the  
25 application for comment;
- 26 (b) each objection or other submission received by the authority in  
27 relation to the application that has not been withdrawn;

- 1 (c) a preliminary assessment under division 4.2, or a report under  
2 section 128, in relation to the environmental impact of the  
3 proposed development;
- 4 (d) any assessment made, or the report of any inquiry conducted,  
5 in relation to the proposed development;
- 6 (e) any advice given to the authority by the heritage council under  
7 the *Heritage Act 2004*, section 58 (Advice about effect of  
8 development on heritage significance);
- 9 (f) if the relevant authority is the Minister—the comments of the  
10 planning and land authority and the planning and land council.
- 11 (2) If the heritage council has given the planning and land authority  
12 advice about the application, the relevant authority must, for the  
13 purpose of avoiding or minimising the impact of the development  
14 on the heritage significance of a place or object, consider the  
15 following:
- 16 (a) any applicable heritage guidelines;
- 17 (b) whether there is a prudent and feasible alternative to the  
18 proposed development, or relevant aspects of it.
- 19 (3) Also, if the heritage council advice indicates the proposed  
20 development would be affected by heritage guidelines relating to the  
21 heritage significant of an Aboriginal place or object registered under  
22 the *Heritage Act 2004*, the relevant authority must consult each  
23 representative Aboriginal organisation and consider any further  
24 comments by the heritage council about the development.
- 25 (4) In this section:
- 26 *Aboriginal object*—see the *Heritage Act 2004*, section 9.
- 27 *Aboriginal place*—see the *Heritage Act 2004*, section 9.
- 28 *representative Aboriginal organisation*—see the *Heritage Act*  
29 *2004*, section 14.



1 **[1.32] New section 244A**

2 *insert*

3 **244A Notice of decision to heritage council**

4 If an application relates to a place registered, or nominated for  
5 provisional registration, under the *Heritage Act 2004*, the planning  
6 and land authority must give the heritage council—

7 (a) written notice of the decision to approve or refuse the  
8 application; and

9 (b) a copy of the decision.

10 **[1.33] Section 245 (3) (g)**

11 *substitute*

12 (g) if the approval is in relation to a place registered, or nominated  
13 for provisional registration, under the *Heritage Act 2004*—that  
14 the applicant enter into a heritage agreement under that Act for  
15 the conservation of the heritage significance of the place; or

16 **[1.34] New section 253 (b)**

17 *substitute*

18 (b) if the approval is in relation to a place registered, or nominated  
19 for provisional registration, under the *Heritage Act 2004*—the  
20 applicant is convicted of an offence against this part or the  
21 *Heritage Act 2004*.

22 **[1.35] New section 254 (3) (ba)**

23 *insert*

24 (ba) if the order sought relates to a place or object registered, or  
25 nominated for provisional registration, under the *Heritage Act*  
26 *2004*—the heritage council; and

1 **[1.36] Section 254 (3)**  
2 *renumber paragraphs when Act next republished under the*  
3 *Legislation Act*

4 **[1.37] New section 255 (2) (ba)**  
5 *insert*  
6 (ba) if the proposed order relates to a place or object registered, or  
7 nominated for provisional registration, under the *Heritage Act*  
8 *2004*—the heritage council; and

9 **[1.38] Section 255 (2)**  
10 *renumber paragraphs when Act next republished under the*  
11 *Legislation Act*

12 **[1.39] New section 275 (1A)**  
13 *insert*  
14 (1A) To remove any doubt, the heritage council may apply to the AAT  
15 for review of a decision mentioned in subsection (1).

16 **[1.40] Section 275**  
17 *renumber subsections when Act next republished under the*  
18 *Legislation Act*

19 **[1.41] Section 282A (1)**  
20 *substitute*  
21 (1) Application may be made to the AAT for review of the following  
22 decisions:  
23 (a) a decision mentioned in subsection (3) or (4);  
24 (b) a decision mentioned in schedule 4, part 4.2, column 4.

- 1 **[1.42] New section 294**
- 2 *insert*
- 3 **294 Territory plan variation—omission of heritage places**
- 4 **register**
- 5 (1) The planning and land authority must, in writing, make amendments
- 6 of the plan that are necessary or convenient because of the omission
- 7 of the heritage places register by the *Heritage Act 2004*.
- 8 (2) An instrument under subsection (1) is a disallowable instrument.
- 9 *Note* A disallowable instrument must be notified, and presented to the
- 10 Legislative Assembly, under the Legislation Act.
- 11 **[1.43] Schedule 2**
- 12 *omit*
- 13 **[1.44] Schedule 4, part 4.2, items 1-9**
- 14 *omit*
- 15 **[1.45] Schedule 4, part 4.2**
- 16 *renumber items when Act next republished under Legislation Act*
- 17 **[1.46] Schedule 5, item 1**
- 18 *substitute*
- 19 1 work affecting a conservation 200 penalty
- 20 requirement under a heritage direction units
- 21 conducted otherwise than in
- 22 accordance with an approval
- 19 **[1.47] Dictionary, definitions of *Aboriginal object, Aboriginal***
- 20 ***place, Aboriginal tradition, chairperson, compensation,***
- 21 ***conservation, deputy chairperson and expert member***
- 22 *omit*

1 **[1.48] Dictionary, definitions of *heritage council, heritage***  
2 ***object, heritage objects register, heritage place, heritage***  
3 ***places register and heritage significance***

4 *substitute*

5 *heritage direction*—see the *Heritage Act 2004*, section 60.

6 *heritage significance*—see the *Heritage Act 2004*, section 60.

7 **[1.49] Dictionary, definitions of *interim heritage places register,***  
8 ***interim variation, member, permanent member,***  
9 ***registered, registration, relevant Aboriginal organisation,***  
10 ***restricted information, secretary, unregistered and***  
11 ***variation***

12 *omit*

13 **Part 1.6 Land (Planning and**  
14 **Environment) (Bushfire**  
15 **Emergency) Regulations 2003**

16 **[1.50] Regulation 7 (5), definition of *specified land,***  
17 **paragraph (b)**

18 *substitute*

19 (b) leased for residential purposes and is not a place registered  
20 under the *Heritage Act 2004*.

21 **Part 1.7 Land (Planning and**  
22 **Environment) Regulations 1992**

23 **[1.51] Regulation 40 (4) (b)**

24 *substitute*

25 (b) the development—

- 1 (i) affects a place that is registered, or nominated for  
2 provisional registration, under the *Heritage Act 2004*; and  
3 (ii) would be inconsistent with a heritage guideline applying  
4 to the place; or

## 5 **Part 1.8** **Legislation Act**

### 6 **[1.52] Dictionary, part 1, new definitions of *heritage council* and** 7 ***heritage register***

8 *insert*

9 *heritage council* means the Australian Capital Territory Heritage  
10 Council under the *Heritage Act 2004*.

11 *heritage register* means the heritage register under the *Heritage*  
12 *Act 2004*.

## 13 **Part 1.9** **Territory plan**

### 14 **[1.53] Heritage places register**

15 *omit the register*

## 16 **Part 1.10** **Roads and Public Places Act** 17 **1937**

### 18 **[1.54] New section 15BA**

19 *insert*

#### 20 **15BA Placement of objects affecting heritage significance**

- 21 (1) The section applies if an application under section 15B relates to the  
22 placement of an object at a place registered, or nominated for  
23 provisional registration, under the *Heritage Act 2004*.

- 1 (2) The Minister must—  
2 (a) give a copy of the application to the heritage council; and  
3 (b) in deciding on the application under section 15C, consider any  
4 written recommendation or submission about the placement  
5 given to the Minister by the council within 15 working days  
6 after the day the copy of the application is given to the council.

7 **Part 1.11 Utilities Act 2000**

8 **[1.55] New section 110A**

9 *insert*

10 **110A Network operations affecting heritage significance**

- 11 (1) If a notice under section 109 or section 110 is about network  
12 operations that may affect a place or object registered, or nominated  
13 for provisional registration, under the *Heritage Act 2004*, the utility  
14 must also give a copy of the notice to the heritage council at least  
15 7 days before the day operations begin.
- 16 (2) Subsection (1) does not apply if the operations are to be carried out  
17 in urgent circumstances in which it is necessary to protect—  
18 (a) the integrity of a network or network facility; or  
19 (b) the health or safety of people; or  
20 (c) public or private property; or  
21 (d) the environment.

- 1 **[1.56] New section 125A**
- 2 *insert*
- 3 **125A Network protection action affecting heritage significance**
- 4 (1) If a notice under section 125 is about action that may affect a place
- 5 or object registered, or nominated for provisional registration, under
- 6 the *Heritage Act 2004*, the utility must also give a copy of the notice
- 7 to the heritage council as soon as is practicable.
- 8 (2) If a utility acts in urgent circumstances as mentioned in section
- 9 125 (7), it must give the heritage council written notice of the action
- 10 as soon as is practicable.

## 1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- 6 • chief executive
- 7 • chief planning executive
- 8 • conservator of flora and fauna
- 9 • entity
- 10 • exercise
- 11 • function
- 12 • planning and land authority
- 13 • Minister
- 14 • national capital authority
- 15 • working day.

16 *Aboriginal object*—see section 9.

17 *Aboriginal place*—see section 9.

18 *Aboriginal tradition* means Aboriginal tradition, observance,  
19 custom or belief, including Aboriginal tradition, observance, custom  
20 or belief that has evolved or developed since European colonisation  
21 of Australia.

22 *appeal*, in relation to a reviewable decision, means an application to  
23 the administrative appeals tribunal to review the decision.

24 *at premises* includes on the premises.

25 *authorised person* means a person appointed as an authorised  
26 person under section 76.

27 *cancellation proposal*, for part 7 (Cancellation of registration)—see  
28 section 41.

29 *connected*, for part 14 (Enforcement)—see section 75.



- 1            **conservation** includes preservation, protection, maintenance,  
2 restoration and reconstruction.
- 3            **conservation management plan**—see section 15.
- 4            **conservation requirement** means a requirement under any heritage  
5 guideline that applies, directly or indirectly, to conservation of the  
6 heritage significance of a place or object.
- 7            **council** means the Australian Capital Territory Heritage Council  
8 established under section 16.
- 9            **daily newspaper** means a daily newspaper that circulates generally  
10 in the ACT.
- 11           **development**, for part 10 (Land development applications)—see  
12 section 56.
- 13           **enforcement order** means an order under section 102.
- 14           **engage in conduct** means—
- 15           (a) do an act; or
- 16           (b) omit to do an act.
- 17           **heritage agreement**—see section 97.
- 18           **heritage direction**—see section 60.
- 19           **heritage guidelines**—see section 25.
- 20           **heritage object**, for which a public authority is responsible—see  
21 section 105.
- 22           **heritage order**—see section 67.
- 23           **heritage place**, for which a public authority is responsible—see  
24 section 105.
- 25           **heritage register**—see section 20.
- 26           **heritage significance**—see section 10.
- 27           **heritage significance criteria**—see section 10.

- 1            **information discovery order**—see section 93.
- 2            **interested person**—see section 13.
- 3            **Land Act** means the *Land (Planning and Environment) Act 1991*.
- 4            **nomination** means nomination of a place or object under section 27  
5 for provisional registration.
- 6            **nomination details**, for a place or object—see section 27 (3).
- 7            **object**—see section 8 (2).
- 8            **occupier**, for part 14 (Enforcement)—see section 75.
- 9            **offence**, for part 14 (Enforcement)—see section 75.
- 10           **owner**, of a place, means—
- 11           (a) the registered proprietor of a lease granted under the *Land*  
12                *(Planning and Environment) Act 1991* over land that includes  
13                the place; or
- 14           (b) a unit owner within the meaning of the *Unit Titles Act 2001*, if  
15                the lease of the unit is over land that includes the place; or
- 16           (c) an owners corporation within the meaning of the *Unit Titles*  
17                *Act 2001*, if the common property covers land that includes the  
18                place.
- 19           **partial cancellation**, for part 7 (Cancellation of registration)—see  
20                section 48.
- 21           **place**—see section 8 (1).
- 22           **premises** includes land.
- 23           **public authority**, for part 16 (Heritage and public authorities)—see  
24                section 104
- 25           **public consultation period**—
- 26           (a) for division 6.2 (Registration)—see section 35; and
- 27           (b) for part 7 (Cancellation of registration)—see section 44.

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- 1            *registered*—see section 11.
- 2            *registered proprietor*, of a lease, means the person registered under
- 3            the *Land Titles Act 1925* as the proprietor of the lease.
- 4            *registration details*—see section 12.
- 5            *representative Aboriginal organisation*—see section 14.
- 6            *restricted information* means information restricted under
- 7            section 51 (Restricted non-Aboriginal information) or section 52
- 8            (Restricted Aboriginal information).
- 9            *reviewable decision*—see section 109.

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## Endnotes

- 1        **Presentation speech**  
Presentation speech made in the Legislative Assembly on        2004.
- 2        **Notification**  
Notified under the Legislation Act on                                2004.
- 3        **Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
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