NORTHERN TERRITORY OF AUSTRALIA

HERITAGE ACT 2011

As in force 30 September 2026

Table of provisions

Chapter 1 Introduction

Part 1.1 Preliminary matters

1 Short title 1
2 Commencement 1
3 Object of Act 1

Part 1.2 Interpretation

Division 1 Defined terms

4 Definitions 2

Division 2 Important concepts

5 Meaning of *place* 6
6 Meaning of *archaeological place* and *Aboriginal or Macassan archaeological place* 7
7 Meaning of *object* 8
8 Meaning of *archaeological object* and *Aboriginal or Macassan archaeological object* 8
9 Meaning of *relic* 8
10 Meaning of *heritage significance* 9
11 Meaning of *heritage assessment criteria* 9
12 Meaning of *conservation* and *interpretation* of places and objects 10

Division 3 Criminal responsibility

13 Application of Criminal Code 10

Part 1.3 Application of Act

14 Act binds Crown 10
15 Sacred sites 10
16 Native title rights and interests 11

Chapter 2 Declaration of heritage places and objects

Part 2.1 Declaration of Aboriginal and Macassan heritage places and objects

17 Aboriginal or Macassan archaeological heritage places 12
18 Aboriginal or Macassan archaeological heritage objects 12

Part 2.2 Declaration of other heritage places and objects

Division 1 Preliminary matter

19 Purpose of Part 12

Division 2 Nomination and Council initiation process for assessment of heritage significance

20 Nomination of place or object for assessment 12
21 Council to accept or refuse to accept nomination 13
22 Council may initiate assessment of heritage significance 13

Division 3 Assessment of heritage significance of places and objects

23 Assessment period 13
24 Assessment of place or object to be made 14
25 Deciding assessment 15
26 Public consultation on place or object 15
27 Council's decision 16

Division 4 Decision not to recommend declaration of place or object to be heritage place

28 Application of Division 16
29 Notice of Council's decision 16

Division 5 Decision to recommend declaration of place or object to be heritage place

30 Application of Division 17
31 Recommendation to be given to Minister 17
32 Minister's decision on recommendation 17
33 Minister may ask for further relevant information or variation of recommendation for heritage place or object 18
34 Permanent declaration of heritage place or object 18
35 Minister's decision not to declare heritage place or object 18

Division 6 Provisional declaration of place or object to be heritage place or object

36 Provisional declaration 19
38 Provisional declaration may authorise work or removal 19
39 Duration of provisional declaration 19
39A Revocation of provisional declaration 20

Division 7 General matters

40 Notice of declaration of heritage place or object 20
41 No further assessment of place or object for 5 years 21
41A Hearing not required for certain preliminary decisions 21

Part 2.3 Protected classes of places and objects of heritage significance

Division 1 Preliminary matter

42 Purpose of Part 22

Division 2 Assessment and declaration process for protected classes of places and objects

Subdivision 1 Council assessment process

43 Council may initiate assessment of heritage significance 22
44 How assessment made 22
45 Public consultation on places or objects 23
46 Council's decision 23
47 Recommendation for declaration 23

Subdivision 2 Minister's decision on recommendation for declaration

48 When Minister to make decision on recommendation 24
49 Minister may ask for further relevant information or variation of recommendation 24
50 Declaration of protected class of places or objects 25
51 Notice of declaration 25
52 Effect of declaration 25
53 Minister's decision not to declare protected class of places or objects 25

Part 2.4 Revocation of declaration of heritage places and objects

Division 1 Preliminary matters

54 Application of Part 25
55 Definition 26

Division 2 Assessment for revocation of declaration of heritage places and objects

56 Request for assessment 26
57 Council may initiate assessment 27
58 Council to notify Minister of assessment 27
59 Public consultation on assessment 27
60 How assessment made 28
61 Council's decision 28

Division 3 Minister's decision on Council recommendation

62 Minister's decision 28
63 Minister may ask for further relevant information or variation of recommendation 29
64 Revocation of declaration of heritage place or object 29

Division 4 Notice of decisions

65 Notice of revocation of declaration of heritage place or object 29
66 Notice of decision not to revoke declaration of heritage place or object 30

Chapter 3 Conservation of heritage places and objects

Part 3.1 Heritage agreements

67 Definition 31
68 Agreement for conservation of heritage place or object 31
69 Provisions of heritage agreement 31
70 Effect of heritage agreement 32
71 Heritage agreement for more than one heritage place or object 32

Part 3.2 Work approvals

72 Application for approval 32
73 Referral of application to Minister or Council 33
74 When decision on application to be made 33
75 Consideration of application 34

76 Conditions may be imposed on work approval 34
77 Notice of decision 35

Part 3.3 Exempt work

78 Regulation may exempt work 35

Part 3.4 Stop work orders

79 Application of Part 35
80 Issuing order 36
81 Application to Tribunal 36
82 Revocation of order 36
83 Duration of order 36
84 Offence to contravene order 37

Part 3.5 Repair orders

85 Application of Part 37
86 Issuing order 37
87 Offence to contravene order 38
88 Territory may carry out work if owner contravenes order 38

Part 3.6 Removal of heritage objects from Territory

89 CEO may give approval for removal 39

Chapter 4 Reviews and appeals

Part 4.1 Tribunal reviews

90 Reviewable decisions and affected persons 40
91 Application to Tribunal for review 40

Part 4.2 Appeals to Supreme Court

93 Appealable decisions and affected persons 40
94 Information notice 40
95 Appeal on question of law 41
96 Starting appeal 41
97 Appeal procedure 41
98 Decision on appeal 41

Chapter 5 Enforcement

Part 5.1 Preliminary matters

99 Definitions 42
100 When thing is *connected* with offence 42

Part 5.2 Powers of heritage officers to enter places

101 Entry of place – general 42
102 Consent to entry 43
103 Entry of place – search warrant 43
104 Additional powers for entry of aircraft, vehicle or vessel 44

Part 5.3 Powers of heritage officers on entry of places

105 Powers on entry of place 44
106 Seizure of things 46
107 Retention of things seized 47
108 Heritage officer may use help and force in exercising powers 47

Part 5.4 Other powers of heritage officers

109 Power to require name and address 47
110 Power to require information from certain persons 48

Part 5.5 Heritage offences

111 Causing damage to heritage place or object 49
112 Removal of part of heritage place 50
113 Removal of heritage objects from Territory 51
114 Discovery of archaeological places and objects 51
115 Alternative verdicts 52

Part 5.6 Other offences

116 Misleading information or document 52
117 Obstruction of person acting in official capacity 53
118 Falsely representing to be heritage officer 54

Part 5.7 Criminal liability for offences

119 Definitions 54
120 Conduct of representative 55
121 Criminal liability of executive officer of body corporate 56

Part 5.8 Evidentiary matters

122 Judicial notice 57
123 Evidentiary certificate 58

Chapter 6 Administrative matters

Part 6.1 Heritage Council

Division 1 Establishment, functions and powers

124 Establishment 59
125 Functions 59
126 Powers 60
127 Delegation 60

Division 2 Provisions about membership

128 Membership of Council 60
129 Nominations for appointment of member 60
130 Duration of appointment 60
131 Conditions of appointment 60
132 Chairperson and deputy chairperson 60
133 When member ceases to hold office 61

Division 3 Conduct of business

134 Holding meetings 61
135 Presiding member at meetings 61
136 Procedures at meetings 62
137 Disclosure of interest 62

Division 4 Miscellaneous matters

138 Annual report 63
139 Register of heritage places and objects 63
140 Public access to register 63

Part 6.2 Heritage officers

141 Who is heritage officer 63
142 Identity cards 64
143 Production of identity card 64
144 Return of identity card 65

Chapter 7 Miscellaneous matters

145 Approved forms 66
146 Delegations by Minister and CEO 66
147 Acquisition on just terms 66
148 Protection from liability 66
149 Regulations 67

Chapter 8 Repeal of Acts and transitional matters

Part 8.1 Repeal of Acts

150 Repeals 68

Part 8.2 Transitional matters

Division 1 Heritage Act 2011

151 Definitions 68
152 Register 68
153 Heritage places and objects 68
154 Pending assessments for declaration of heritage places and objects 69
155 Pending assessments for revocation of declaration of heritage places and objects 70
156 Interim conservation orders 71
157 Conservation management plans 71
158 Heritage agreements 71
159 Applications for approval for works etc. on heritage places and objects 71
160 Authorisations for works etc. on heritage places and objects 72
161 Directions to repair or maintain heritage places and objects 72

Division 2 Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014

163 Definitions 72
164 Review of Council's or Minister's decision made before commencement 73
165 Council's or Minister's decision made after commencement 73
166 Applications before former Tribunal 74

Division 3 Heritage Amendment Act 2026

167 Definition 74
168 Application of amendments to section 21 74
169 Application of amendments to section 23 74
170 Continuation of provisional declarations 74
171 Work approval applications made before commencement 75
172 Continuation of appointments 75

Schedule 1 Reviewable decisions

Schedule 2 Appealable decisions

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 30 September 2026

HERITAGE ACT 2011

An Act about the Territory's cultural and natural heritage

Chapter 1 Introduction

Part 1.1 Preliminary matters

1 Short title

This Act may be cited as the *Heritage Act 2011*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Object of Act

(1) The object of this Act is to provide for the conservation of the Territory's cultural and natural heritage.

(2) The object is achieved by:

(a) declaring places and objects of heritage significance to be heritage places and objects; and

(b) declaring classes of places and objects of heritage significance to be protected classes of heritage places and objects; and

(c) establishing the Heritage Council; and

(d) providing for heritage agreements to encourage the conservation, use and management of heritage places and objects; and

(e) regulating work on heritage places and objects; and

(f) establishing enforcement and offence provisions.

Part 1.2 Interpretation

Division 1 Defined terms

4 Definitions

In this Act:

Aboriginal or Macassan archaeological object, see section 8(2).

Aboriginal or Macassan archaeological place, see section 6(2).

Aboriginal tradition, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

acting in an official capacity, in relation to a heritage officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

affected person, for:

(a) a reviewable decision – see section 90(2); or

(b) an appealable decision – see section 93(2).

appealable decision, see section 93(1).

appointed heritage officer, see section 141(1)(a).

approved form means a form approved under section 145.

archaeological object, see section 8(1).

archaeological place, see section 6(1).

assessment period, see section 23.

building includes a structure of any kind.

cause damage, to a heritage place or object, includes:

(a) destroy the place or object; and

(b) diminish the heritage significance of the place or object.

CEO means the Chief Executive Officer.

chairperson means the chairperson of the Council.

connected, for Chapter 5, see section 100.

conservation, of a place or object, see section 12(1).

Council means the Heritage Council established by section 124.

decision maker means:

(a) for an application for major work – the Minister; or

(b) for another application – the Council.

deputy chairperson means the deputy chairperson of the Council.

early contact period means the period during which Aboriginal peoples of the Territory first interacted with people from outside of Australia.

exempt work, see section 78(1).

heritage agreement, see section 68(1).

heritage assessment criteria, see section 11.

heritage nomination, see section 20(1).

heritage object means:

(a) an object declared under Part 2.1 or 2.2 to be a heritage object; or

(b) an object of a protected class of heritage objects.

heritage officer, see section 141.

heritage place means:

(a) a place declared under Part 2.1 or 2.2 to be a heritage place; or

(b) a place of a protected class of heritage places.

heritage significance, see section 10.

information notice, see section 94.

interested person, for:

(a) a place – means each of the following persons:

(i) the owner of the place and, if the place is occupied by someone else, the occupier;

(ii) for land entered in the land register under the *Land Title Act 2000* – the holder of a registered interest in the land under that Act;

(iii) for land covered by a resources interest – the holder of the interest; or

(b) an object – means the owner of the object and, if the object is in the lawful possession of someone else, the person in possession of the object.

interpretation, of a place or object, see section 12(2).

land includes:

(a) land that is, or is at any time, covered by Territory waters; and

(b) Territory waters.

major work means work that is likely to:

(a) cause significant damage to a heritage place or object; or

(b) to significantly alter the heritage significance of a heritage place or object.

member means a member of the Council, and includes the chairperson and deputy chairperson.

object, see section 7.

on, in relation to a place, includes at and in the place.

occupier, of a place:

(a) means:

(i) a person in occupation of the place; or

(ii) the person in control of the place; or

(iii) if the place has different parts occupied or controlled by different persons – each person in occupation or control of the part concerned; and

(b) for Chapter 5 – see section 99.

owner, for Part 3.1, see section 67.

place, see:

(a) generally – section 5; or

(b) for Chapter 5 – section 99.

pre-contact period means the period before the early contact period.

protected class, for a heritage place or object, means a place or object of a class of places or objects of heritage significance declared under Part 2.3 to be a protected class of places or objects.

public consultation period, for:

(a) Part 2.2 – see section 26(2)(b); or

(b) Part 2.3 – see section 45(2)(b); or

(c) Part 2.4 – see section 59(3).

register means the register kept under section 139.

relic, see section 9.

repair order, see section 86(1).

resources interest, in land, means:

(a) a registered licence or permit under the *Energy Pipelines Act 1981*; or

(b) a geothermal authority under the *Geothermal Energy Act 2009* (other than a geothermal exploration permit); or

(c) a mineral title under the *Mineral Titles Act 2010* (other than a mineral exploration licence or extractive mineral exploration licence); or

(d) a petroleum interest under the *Petroleum Act 1984* (other than an exploration permit).

reviewable decision, see section 90(1).

review notice means a notice given under section 34 of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

revocation request, for Part 2.4, see section 56(1) and (2).

revoke, for Part 2.4, see section 55.

sacred site, see section 3(1) of the *Aboriginal Land Rights Act (Northern Territory) Act 1976* (Cth).

stop work order, see section 80.

Tribunal means the Civil and Administrative Tribunal.

use includes proposed use.

work includes:

(a) a physical act that results in, or may result in, a change to the nature, appearance or physical nature of a heritage place or object; and

(b) the subdivision or consolidation of land.

Examples of work for paragraph (a)

1 Construction, removal or demolition of a building.

2 Alteration or decoration of a building.

3 Archaeological excavation.

4 Removal, destruction or lopping of trees.

5 Removal of topsoil.

6 Erection of a sign or hoarding.

work approval, see section 72(1).

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

Division 2 Important concepts

5 Meaning of *place*

(1) A ***place*** is an area of land.

(2) A ***place*** includes:

(a) a building or, a part of a building, on the place; and

(b) an item historically or physically associated with the place if the primary importance of the item derives (completely or partly) from that association; and

(c) equipment, furniture, fittings and articles on, or historically or physically associated with, the place.

Examples of places for section 5

1 A reef or a cliff, cutting, gorge, spring or other landform.

2 A plant or animal community.

3 Fossil beds.

4 A park or garden.

5 A lighthouse, church, homestead, railway station or gaol.

6 A stock well.

7 A cemetery, burial site or grave.

8 An airstrip, magazine, storage tunnel or other military installation.

9 The site of a shipwreck or aircraft crash.

6 Meaning of *archaeological place* and *Aboriginal or Macassan archaeological place*

(1) An ***archaeological place*** is a place that:

(a) relates to the past human occupation of the Territory; and

(b) contains evidence of modification of the place by the activity of the occupiers.

(2) An ***Aboriginal or Macassan archaeological place*** is a place that relates to the past human occupation of the Territory by Aboriginal or Macassan people during the pre-contact period or early contact period and contains:

(a) a group of relics related to that occupation that:

(i) were deposited in or near the place during the pre-contact period or early contact period; or

(ii) are stored in the place in accordance with Aboriginal tradition; or

(b) ancestral remains; or

(c) evidence of modification of the place by the activity of the Aboriginal or Macassan people during the pre-contact period or early contact period.

Examples of modification of the place for subsection (2)(c)

1 Rock art.

2 Shell middens.

3 Stone arrangements or quarries.

4 Culturally modified trees.

5 Axe grinding grooves.

6 Stone fish traps.

7 Stone lines.

7 Meaning of *object*

(1) An ***object*** is a natural or manufactured object that is moveable.

(2) An ***object*** includes an archaeological object but does not include a place.

8 Meaning of *archaeological object* and *Aboriginal or Macassan archaeological object*

(1) An ***archaeological object*** is a relic that:

(a) relates to the past human occupation of the Territory; and

(b) is in an archaeological place.

(2) An ***Aboriginal or Macassan archaeological object*** is a relic that:

(a) relates to the past human occupation of the Territory by Aboriginal or Macassan people during the pre-contact period or early contact period; and

(b) is:

(i) in an Aboriginal or Macassan archaeological place; or

(ii) stored in a place in accordance with Aboriginal tradition.

9 Meaning of *relic*

(1) A ***relic*** is:

(a) an artefact or thing given shape by a person; or

(b) ancestral remains; or

(c) something else prescribed by regulation.

(2) An artefact or thing can be of any material.

Examples for subsection (2)

1 Animal material.

2 Shells.

3 Natural pigments.

4 Wood.

5 Stone.

(3) Despite subsection (1), the following is not a relic:

(a) an artefact or thing that is:

(i) made for sale; or

(ii) made as a replica for educational or artistic purposes;

(b) any other thing prescribed by regulation.

10 Meaning of *heritage significance*

The ***heritage significance*** of a place or object includes its aesthetic, historical, scientific and social significance.

11 Meaning of *heritage assessment criteria*

The ***heritage assessment criteria*** for a place or object are as follows:

(a) whether it is important to the course, or pattern, of the Territory's cultural or natural history;

(b) whether it possesses uncommon, rare or endangered aspects of the Territory's cultural or natural history;

(c) whether it has potential to yield information that will contribute to an understanding of the Territory's cultural or natural history;

(d) whether it is important in demonstrating the principal characteristics of a class of cultural or natural places or environments;

(e) whether it is important in exhibiting particular aesthetic characteristics;

(f) whether it is important in demonstrating a high degree of creative or technical achievement during a particular period;

(g) whether it has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons, including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions;

(h) whether it has a special association with the life or works of a person, or group of persons, of importance in the Territory's history.

Note for section 11

Under section 24, the heritage assessment criteria are applied to assess the heritage significance of a place or object to decide whether or not to declare the place or object a heritage place or object.

12 Meaning of *conservation* and *interpretation* of places and objects

(1) The ***conservation*** of a place or object includes the maintenance, preservation, restoration, reconstruction, adaptation and interpretation of the place or object for the retention of its heritage significance.

(2) The ***interpretation*** of a place or object is the way of presenting the heritage significance of the place or object.

Division 3 Criminal responsibility

13 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 13

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 1.3 Application of Act

14 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

15 Sacred sites

Part 3.1 does not apply in relation to:

(a) a place that is a sacred site; or

(b) an object that is in a sacred site.

16 Native title rights and interests

(1) This Act is not intended to affect native title rights and interests otherwise than in accordance with the Native Title Act.

(2) This Act must be interpreted in a way that does not prejudice native title rights and interests to the extent those rights and interests are recognised and protected by the Native Title Act.

(3) In this section:

affect, see section 227 of the Native Title Act.

Native Title Act means the *Native Title Act 1993* (Cth).

native title rights and interests, see section 223 of the Native Title Act.

Chapter 2 Declaration of heritage places and objects

Part 2.1 Declaration of Aboriginal and Macassan heritage places and objects

17 Aboriginal or Macassan archaeological heritage places

An Aboriginal or Macassan archaeological place is a heritage place.

18 Aboriginal or Macassan archaeological heritage objects

An Aboriginal or Macassan archaeological object is a heritage object.

Part 2.2 Declaration of other heritage places and objects

Division 1 Preliminary matter

19 Purpose of Part

This Part provides for the conservation of particular places and objects by establishing a process for declaring them to be heritage places and objects.

Division 2 Nomination and Council initiation process for assessment of heritage significance

20 Nomination of place or object for assessment

(1) Anyone may nominate a place or object for assessment of its heritage significance for declaration as a heritage place or object (a ***heritage nomination***).

(2) The nomination must:

(a) be made in the approved form; and

(b) be given to the Council; and

(c) be accompanied by the information necessary to enable the assessment to be made.

21 Council to accept or refuse to accept nomination

(1) The Council must accept, or refuse to accept, the heritage nomination of the place or object for assessment as soon as practicable after receiving it.

(2) The Council must refuse to accept the nomination if it is prevented under section 41 from making the assessment.

(2A) The Council may refuse to accept the nomination if it:

(a) is satisfied the nomination is:

(i) frivolous or vexatious; or

(ii) misconceived or lacking substance; or

(b) otherwise considers it appropriate to do so.

(2B) If the Council accepts the nomination, it must give written notice of the acceptance, to the owner of the place or object.

(3) If the Council refuses to accept the nomination, it must give written notice of the decision, and the reasons for the decision, to the person who made the nomination.

22 Council may initiate assessment of heritage significance

(1) The Council may, on its own initiative, decide to assess the heritage significance of a place or object if it considers the place or object may be of heritage significance.

(2) If the Council initiates an assessment under subsection (1), it must give written notice of the initiated assessment, to the owner of the place or object.

Division 3 Assessment of heritage significance of places and objects

23 Assessment period

(1) The ***assessment period*** for the assessment of the heritage significance of a place or object is 6 months after the earlier of the following:

(a) the day the Council commences work on the assessment;

(b) the day of the next in-person meeting of the Council after the trigger day;

(c) the day 3 months after the trigger day.

(2) Despite subsection (1), the Council may extend the assessment period if it is satisfied it is not possible to complete the assessment in the period because of:

(a) the remoteness of the place or object; or

(b) any other reason it considers appropriate.

(3) If the Council extends the assessment period it must:

(a) give written notice of the extension and the reasons for it to:

(i) the owner; and

(ii) if the assessment is to be made on a heritage nomination – the person who made the nomination; and

(b) compete the assessment as soon as practicable.

(4) In this section:

trigger day means:

(a) in relation to an assessment that is made on a heritage nomination – the day Council accepts the nomination; or

(b) in relation to an assessment that is made on the Council's own initiative – the day the Council decides to initiate the assessment; or

(c) in relation to an assessment made on a direction under section 36(3) – the day the direction is given.

24 Assessment of place or object to be made

(1) The Council must assess the heritage significance of a place or object by applying the heritage assessment criteria to the place or object.

(2) In assessing the place or object, the Council may carry out the research and make the inquiries it considers appropriate.

(3) In addition, for an assessment of the place or object on a heritage nomination, the Council may ask the person making the nomination to give it additional information relevant to the assessment.

25 Deciding assessment

(1) The Council must, at the end of the assessment period, decide whether or not the place or object is of heritage significance.

(2) If the Council decides the place or object is of heritage significance, the Council must, at the end of the assessment period:

(a) prepare a statement of heritage value for the place or object; and

(b) give a copy of the statement to the Minister.

(3) If the Council decides the place or object is not of heritage significance, the Council must, at the end of the assessment period:

(a) if the assessment was made on a heritage nomination – give a review notice for the decision to the person who made the nomination; or

(b) if the assessment was made on a direction under section 36(3) – give a written notice of the decision and the reasons for it to the Minister.

26 Public consultation on place or object

(1) As soon as practicable after preparing the statement of heritage value for the place or object, the Council must invite submissions on the heritage significance of the place or object and whether it should be conserved by:

(a) giving a written notice to:

(i) each interested person for the place or object; and

(ii) anyone else the Council considers is likely to be directly affected if the place or object is declared to be a heritage place or object; and

(b) publishing a notice on the Agency's website.

(2) A notice under subsection (1) must state:

(a) where copies of the statement of heritage value can be obtained; and

(b) that submissions are to be made to the Council in writing within 28 days, unless specified otherwise, after the notice mentioned in subsection (1)(b) is published (the ***public consultation period***).

(3) The Council must make available, without fee, copies of the statement of heritage value.

27 Council's decision

(1) Within 60 days after the end of the public consultation period, the Council must decide whether or not to recommend that the Minister declare the place or object to be a heritage place or object.

(2) In making the decision, the Council:

(a) must consider the submissions made to it in the public consultation period; and

(b) may carry out the research and make the inquiries it considers appropriate.

Division 4 Decision not to recommend declaration of place or object to be heritage place

28 Application of Division

(1) This Division applies if, under Division 3, the Council decides not to recommend that the Minister declare a place or object to be a heritage place or object.

(2) However, this Division does not apply if the Council cannot, under section 41, make an assessment of the heritage significance of the place or object.

29 Notice of Council's decision

(1) As soon as practicable after making the decision, the Council must give a review notice for the decision to:

(a) each interested person for the place or object; and

(b) each person who made a submission in relation to the place or object in the public consultation period; and

(c) if the assessment was made on a heritage nomination – the person who made the nomination.

(2) If the assessment was made on a direction under section 36(3), the Council must give written notice of the decision, and the reasons for it, to the Minister.

Division 5 Decision to recommend declaration of place or object to be heritage place

30 Application of Division

This Division applies if, under Division 3, the Council decides to recommend that the Minister declare a place or object to be a heritage place or object.

31 Recommendation to be given to Minister

(1) As soon as practicable after making the decision, the Council must give the Minister a recommendation to declare the place or object to be a heritage place or object.

(2) When giving the Minister the recommendation, the Council must also give the Minister the following:

(a) the statement of heritage value for the place or object;

(b) a copy of each submission made in relation to the place or object in the public consultation period;

(c) other information the Council considers appropriate (for example, suggestions about possible ways of dealing with any objections to the declaration).

32 Minister's decision on recommendation

(1) The Minister must decide whether or not to permanently declare the place or object to be a heritage place or object.

(2) In making a decision on the Council's recommendation, the Minister must consider all relevant documents and information.

(3) The Minister must make the decision within 30 days after:

(a) receiving the recommendation; or

(b) if, under section 33, the Minister asks the Council to give further relevant information or to vary the recommendation – the Minister receives the information or varied recommendation.

33 Minister may ask for further relevant information or variation of recommendation for heritage place or object

(1) The Minister may, by written notice, ask the Council:

(a) to give further relevant information before making a decision on the Council's recommendation for the place or object; or

(b) to vary the recommendation in a stated way.

(2) The notice must include:

(a) the Minister's reasons for asking for the information or variation; and

(b) a date, at least 30 days after the date of the notice, by which the information or varied recommendation is to be given to the Minister.

34 Permanent declaration of heritage place or object

(1) If the Minister is satisfied the place or object is of heritage significance and should be conserved, the Minister must, by *Gazette* notice, permanently declare the place or object to be a heritage place or object.

(2) The declaration may authorise:

(a) stated work that may be carried out on the heritage place or object without a work approval; or

(b) the removal of:

(i) part of the heritage place; or

(ii) the object or part of it.

35 Minister's decision not to declare heritage place or object

(1) This section applies if, on the Council's recommendation for the place or object, the Minister decides not to declare the place or object to be a heritage place or object.

(2) The Minister must give written notice to the Council of the Minister's decision and the reasons for it.

(3) In addition, the Minister must give an information notice for the decision to:

(a) each interested person for the place or object; and

(b) each person who made a submission in relation to the place or object in the public consultation period; and

(c) if the assessment of the place or object was made on a heritage nomination made by another person – the person.

Division 6 Provisional declaration of place or object to be heritage place or object

36 Provisional declaration

(1) This section applies if the Minister is satisfied:

(a) a place or object is likely to be of heritage significance; and

(b) a declaration under this section is necessary to ensure its conservation.

(2) The Minister may provisionally declare the place or object to be a heritage place or object.

(3) If, when the declaration is made, an assessment of the heritage significance of the place or object has not been started, the Minister must direct the Council to assess the heritage significance of the place or object.

38 Provisional declaration may authorise work or removal

The provisional declaration of a place or object to be a heritage place or object may authorise:

(a) stated work that may be carried out on the heritage place or object without a work approval; or

(b) the removal of:

(i) part of the heritage place; or

(ii) the object or part of it.

39 Duration of provisional declaration

The provisional declaration of a place or object to be a heritage place or object has effect until the earlier of the following:

(a) the permanent declaration of the place or object to be a heritage place or object;

(b) the revocation of the provisional declaration.

39A Revocation of provisional declaration

(1) The Minister must revoke a provisional declaration of a place or object to be a heritage place or object if any of the following occurs:

(a) the Minister receives a notice under section 25(3)(b) that the Council has decided the place or object is not of heritage significance;

(b) the Minister receives a notice under section 29(2) that the Council does not recommend that the Minister declare the place or object to be a heritage place or object;

(c) the Minister decides under section 32 not to declare the place or object to be a heritage place or object.

(2) The Minister may revoke a provisional declaration of a place or object to be a heritage place or object if the Minister is satisfied that the declaration is no longer required.

(3) The Minister must, as soon as practicable after revoking a provisional declaration of a place or object to be a heritage place or object, publish notice of the revocation on the Agency's website.

Division 7 General matters

40 Notice of declaration of heritage place or object

(1) Within 7 days after the provisional or permanent declaration of a heritage place or object, the Minister must give written notice of the declaration to:

(a) each interested person for the place or object; and

(b) for a permanent declaration – each person who made a submission in relation to the place or object in the public consultation period.

(2) The notice must include an information notice.

(3) As soon as practicable after making the declaration, the Minister must publish notice of the declaration on the Agency's website.

(4) The Registrar-General must ensure that details of the declaration of a heritage place are entered in the record of administrative interests kept under section 38 of the *Land Title Act 2000*, as soon as practicable after the declaration is made.

41 No further assessment of place or object for 5 years

(1) This section applies if the Minister decides not to permanently declare a place or object to be a heritage place or object.

(2) The Council must not make an assessment of the heritage significance of the place or object within 5 years after the decision is made except:

(a) on a heritage nomination for the place or object made:

(i) by the owner of the place or object; or

(ii) with the owner's consent; or

(b) at the initiative of the Council under section 22, with the owner's consent.

(3) This Part applies in relation to an assessment of the heritage significance of a heritage place or object under subsection (2) with the following changes:

(a) public consultation under section 26 is not required;

(b) a submission received under section 26 in relation to the previous assessment of the heritage significance of the place or object and whether it should be declared, is taken to be a submission received in relation to the new assessment;

(c) the decision mentioned in section 27(1) must be made within 60 days after preparing the statement of heritage value for the place or object under section 25(2)(a).

41A Hearing not required for certain preliminary decisions

In making a decision under section 21(1), 22(1), 23(2) or 25(1), the Council is not required to afford any person, who would be affected by the decision, an opportunity to be heard in relation to the decision.

Part 2.3 Protected classes of places and objects of heritage significance

Division 1 Preliminary matter

42 Purpose of Part

(1) This Part provides for the conservation of places and objects by establishing a process for declaring protected classes of places and objects of heritage significance.

Examples of classes of places and objects

1 The remains of World War II aircraft wrecks.

2 World War II coastal fortification sites.

3 Shipwrecks, including the remains of a ship or anything associated with a ship (whether or not they are attached to the ship).

4 Places and objects associated with the Australian Overland Telegraph Line.

(2) The declaration may be made even if the location of places or objects of the declared class is not known.

Division 2 Assessment and declaration process for protected classes of places and objects

Subdivision 1 Council assessment process

43 Council may initiate assessment of heritage significance

If the Council considers a class of places or objects may be of heritage significance, the Council may assess the heritage significance of places or objects of the class.

44 How assessment made

(1) The Council must assess the heritage significance of a class of places or objects by applying the heritage assessment criteria to places or objects of the class.

(2) In assessing the places or objects, the Council may carry out the research and make the inquiries it considers appropriate.

45 Public consultation on places or objects

(1) If, on completing the assessment, the Council considers places or objects of the class are of heritage significance, it must:

(a) prepare a statement of heritage value for places or objects of the class; and

(b) give a written notice to the local government council in whose area the places or objects are known to be situated; and

(c) publish a notice on the Agency's website inviting submissions on the heritage significance of places or objects of the class and whether they should be conserved.

(2) A notice under subsection (1)(c) must state:

(a) where copies of the statement of heritage value can be obtained; and

(b) that submissions are to be made to the Council in writing within 28 days, unless specified otherwise, after the notice mentioned in subsection (1)(c) is published (the ***public consultation period***).

(3) The Council must make available, without fee, copies of the statement of heritage value.

46 Council's decision

(1) Within 60 days after the end of the public consultation period, the Council must decide whether or not to recommend that the Minister declare the class of places or objects to be a protected class of places or objects.

(2) In making the decision, the Council:

(a) must consider the submissions made to it in the public consultation period; and

(b) may carry out the research and make the inquiries it considers appropriate.

47 Recommendation for declaration

(1) If the Council decides to recommend the Minister declare a class of places or objects to be a protected class of places or objects, it must give the Minister its recommendation.

(2) The Council must also give the Minister the following:

(a) the statement of heritage value for places and objects of the class;

(b) a copy of each submission made in relation to the class of places or objects in the public consultation period.

Subdivision 2 Minister's decision on recommendation for declaration

48 When Minister to make decision on recommendation

The Minister must make a decision on the Council's recommendation for the class of places or objects to be a protected class of places or objects within 30 days after:

(a) receiving the recommendation; or

(b) if, under section 49, the Minister asks the Council to give further relevant information or to vary the recommendation – the Minister receives the information or varied recommendation.

49 Minister may ask for further relevant information or variation of recommendation

(1) The Minister may, by written notice, ask the Council:

(a) to give further relevant information before making a decision on the Council's recommendation for the class of places or objects; or

(b) to vary the recommendation in a stated way.

(2) The notice must include:

(a) the Minister's reasons for asking for the information or variation; and

(b) a date, at least 30 days after the date of the notice, by which the information or varied recommendation is to be given to the Minister.

50 Declaration of protected class of places or objects

If the Minister is satisfied places or objects of the class are of heritage significance and should be conserved, the Minister must, by *Gazette* notice, declare the class to be a protected class of places or objects.

51 Notice of declaration

As soon as practicable after making the declaration of the protected class of places or objects, the Minister must publish notice of the declaration on the Agency's website.

52 Effect of declaration

(1) On the making of the declaration of the protected class of places or objects, a place or object of the class is a heritage place or object.

(2) However, the declaration does not affect the declaration of a particular place or object to be a heritage place or object regardless of when the particular place or object is declared to be a heritage place or object.

53 Minister's decision not to declare protected class of places or objects

If, on the Council's recommendation for the class of places or objects, the Minister decides not to declare the class to be a protected class of places or objects, the Minister must give written notice to the Council of the decision and the reasons for it.

Part 2.4 Revocation of declaration of heritage places and objects

Division 1 Preliminary matters

54 Application of Part

This Part applies to a heritage place or object that:

(a) is permanently declared under Part 2.2; or

(b) is of a protected class of heritage places or objects.

55 Definition

In this Part:

revoke, for a declaration of:

(a) a heritage place or object under Part 2.2 – includes partially revoke the declaration by excluding part of the heritage place or object; or

(b) a protected class of heritage places or objects – means partially revoke the declaration by excluding a particular heritage place or object of the class.

Division 2 Assessment for revocation of declaration of heritage places and objects

56 Request for assessment

(1) The Minister may ask the Council to assess whether the declaration for a heritage place or object should be revoked (a ***revocation request***).

(2) In addition, the owner of a particular heritage place or object may ask the Council to assess whether the declaration for the heritage place or object should be revoked (also a ***revocation request***).

(3) However, the owner of the heritage place or object may make a revocation request only if:

(a) a revocation request for the place or object has not been made during the preceding 12 months; and

(b) any of the following applies:

(i) the place or object no longer exists or is no longer of heritage significance;

(ii) information is available about the heritage value of the place or object that has not previously been considered by the Council;

(iii) other relevant information is available that does not appear to have been taken into account by the Minister when deciding previously whether or not to make or revoke the declaration.

(4) A revocation request by the owner of a heritage place or object must:

(a) be made in the approved form; and

(b) be accompanied by the information necessary to enable the assessment to be made.

57 Council may initiate assessment

The Council may, on its own initiative, decide to assess whether the declaration for a heritage place or object should be revoked.

58 Council to notify Minister of assessment

(1) If the Council receives a revocation request from the owner of a heritage place or object, the Council must give the Minister a copy of the request.

(2) If the Council decides to assess whether the declaration for a heritage place or object should be revoked, the Council must give the Minister its reasons for the decision.

59 Public consultation on assessment

(1) This section applies if the Council:

(a) receives a revocation request for a heritage place or object; or

(b) decides to assess whether the declaration for a heritage place or object should be revoked.

(2) Within 7 days after receiving the request or making the decision, the Council must invite submissions on the assessment of the place or object by:

(a) giving a written notice to:

(i) each interested person for the place or object; and

(ii) anyone else the Council considers is likely to be directly affected if the declaration for the place or object is revoked; and

(b) publishing a notice on the Agency's website.

(3) A notice under subsection (2) must state that submissions are to be made to the Council in writing within 28 days after the notice mentioned in subsection (2)(b) is published (the ***public consultation period***).

(4) The Council must make available, without fee:

(a) for an assessment made on a revocation request – copies of the request; or

(b) for an assessment on the Council's initiative – copies of the Council's reasons for its decision to make the assessment.

60 How assessment made

In assessing whether the declaration for the heritage place or object should be revoked, the Council:

(a) must have regard to the heritage assessment criteria for the place or object; and

(b) must consider the submissions made to it in the public consultation period; and

(c) may carry out the research and make the inquiries it considers appropriate; and

(d) may ask the owner of the place or object to give it information relevant to the assessment.

61 Council's decision

(1) Within 30 days after the end of the public consultation period, the Council must recommend the Minister revoke or not revoke the declaration for the place or object.

(2) When giving the Minister the recommendation, the Council must also give the Minister the following:

(a) a statement of its reasons for the recommendation;

(b) a copy of each submission made in relation to the place or object in the public consultation period;

(c) the other information the Council considers appropriate.

Division 3 Minister's decision on Council recommendation

62 Minister's decision

(1) The Minister must decide whether or not to revoke the declaration of the heritage place or object.

(2) In making a decision on the Council's recommendation, the Minister must consider all relevant documents and information.

(3) The Minister must make the decision within 30 days after:

(a) receiving the recommendation; or

(b) if, under section 63, the Minister asks the Council to give further relevant information or to vary the recommendation – the Minister receives the information or varied recommendation.

63 Minister may ask for further relevant information or variation of recommendation

(1) The Minister may, by written notice, ask the Council:

(a) to give further relevant information before making a decision on the Council's recommendation for the heritage place or object; or

(b) to vary the recommendation in a stated way.

(2) The notice must include:

(a) the Minister's reasons for asking for the information; and

(b) a date, at least 30 days after the date of the notice, by which the information or varied recommendation is to be given to the Minister.

64 Revocation of declaration of heritage place or object

(1) This section applies if on the Council's recommendation the Minister decides to revoke the declaration for the heritage place or object.

(2) As soon as practicable after making the decision, the Minister must, by *Gazette* notice, revoke the declaration.

Division 4 Notice of decisions

65 Notice of revocation of declaration of heritage place or object

(1) This section applies if the Minister revokes the declaration for a heritage place or object.

(2) Within 7 days after publication of the notice revoking the declaration for the place or object, the Minister must give written notice of the decision to:

(a) each interested person for the place or object; and

(b) each person who made a submission in relation to the place or object in the public consultation period.

(3) The notice must include an information notice.

(4) As soon as practicable after revoking the declaration, the Minister must publish notice of the revocation on the Agency's website.

(5) For the revocation of a heritage place entered in the record of administrative interests kept under section 38 of the *Land Title Act 2000*, the Registrar-General must ensure that details of the declaration are removed from the record as soon a practicable after the revocation is made.

66 Notice of decision not to revoke declaration of heritage place or object

(1) This section applies if on the Council's recommendation the Minister decides not to revoke the declaration for a heritage place or object.

(2) As soon as practicable after making the decision, the Minister must give written notice to the Council of the Minister's decision and the reasons for it.

(3) In addition, the Minister must give an information notice for the decision to:

(a) each interested person for the place or object; and

(b) each person who made a submission in relation to the place or object in the public consultation period.

Chapter 3 Conservation of heritage places and objects

Part 3.1 Heritage agreements

67 Definition

In this Part:

owner, of a heritage place that comprises land entered in the land register under the *Land Title Act 2000*, means the registered owner of the land under that Act.

68 Agreement for conservation of heritage place or object

(1) The Minister may enter into an agreement (a ***heritage agreement***) on behalf of the Territory with the owner of a heritage place or object.

(2) The Minister may enter into the agreement only after considering the Council's advice.

(3) The owner of a heritage place that comprises land may enter into the agreement only with the written consent of each of the following persons:

(a) for land entered in the land register under the *Land Title Act 2000* – the holder of a registered interest in the land under that Act;

(b) for land covered by a resources interest – the holder of the interest.

69 Provisions of heritage agreement

(1) A heritage agreement may contain provisions about the conservation, use and management of the heritage place or object.

(2) The agreement may, for example, provide for the following:

(a) restricting the use of the heritage place or object;

(b) carrying out, or restricting the carrying out, of work on the place or object;

(c) opening of the place for public inspection and regulating charges for admission;

(d) financial, technical or other professional advice or help to the owner of the place or object.

70 Effect of heritage agreement

(1) A heritage agreement is binding on:

(a) the parties to the agreement; and

(b) to the extent it affects the use of a heritage place, the occupier of the place.

(2) The agreement may be varied or terminated by agreement of the parties.

(3) If the heritage place comprises land entered in the land register under the *Land Title Act 2000*, the agreement:

(a) is a registrable interest under the *Land Title Act 2000*; and

(b) on registration under that Act:

(i) has effect as if it were an instrument of covenant over the land; and

(ii) may be enforced by the Territory.

71 Heritage agreement for more than one heritage place or object

A heritage agreement may be entered into with the owner or owners of more than one heritage place or object or any combination of them.

Part 3.2 Work approvals

72 Application for approval

(1) A person may apply to the CEO for an approval (a ***work approval***) to carry out work on a heritage place or object.

(2) The application must:

(a) be made in the approved form; and

(b) if the applicant is not the owner of the heritage place or object:

(i) for an application that relates to a heritage place – include the consent of the owner of the place; and

(ii) for an application that relates to a heritage object – include:

(A) the consent of the owner of the land on which the object is located; and

(B) evidence that the applicant has made best endeavours to identify and consult with the owner of the object.

73 Referral of application to Minister or Council

(1) On receipt of the application, the CEO must:

(a) if the application is for carrying out major work – request the Council's advice on it; or

(b) otherwise – refer it to the Council for decision.

(2) The Council must give the advice to the CEO within 30 days after receiving the request.

(3) On receipt of the advice, the CEO must:

(a) refer the application to the Minister for decision; and

(b) give the Minister a copy of the Council's advice.

74 When decision on application to be made

(1) The decision maker must decide the application:

(a) for an application for major work – within 30 days after the Minister receives the application; or

(b) for an application for other work – within 14 days after receiving the application.

(2) Despite subsection (1), the decision maker may extend the time for deciding the application if the decision maker:

(a) considers it necessary to consult with affected persons or others; or

(b) requests further information relating to the application.

(3) If the decision maker extends the time for deciding the application, the decision maker must give written notice of the extension to:

(a) the applicant; and

(b) if the applicant is not the owner of the place or object:

(i) for an application that relates to a heritage place – the owner of the place; and

(ii) for an application that relates to a heritage object – the owner of the land on which the object is located.

75 Consideration of application

(1) In deciding an application for a work approval, the decision maker must consider the following:

(a) the extent to which the application, if approved, would affect the heritage significance of the heritage place or object;

(b) the extent to which the application, if refused, would:

(i) affect the reasonable or economic use of the place or object; or

(ii) cause a person undue financial hardship;

(c) for an application for major work – the Council's advice on the application;

(d) if the heritage place or object is, or is in, a sacred site – the advice of the Aboriginal Areas Protection Authority;

(e) other matters relating to the conservation, use and management of the place or object the decision maker considers relevant.

(2) For subsection (1), the decision maker may ask the applicant to give the decision maker additional information relevant to the application.

76 Conditions may be imposed on work approval

(1) If the decision maker approves the application, the decision maker may impose reasonable conditions on the work approval.

(2) Without limiting subsection (1), a condition may provide for the following:

(a) the removal of an archaeological object from the heritage place;

(b) what happens to the removed object.

77 Notice of decision

(1) The decision maker must, within 14 days after deciding the application, give written notice of the decision to:

(a) the applicant; and

(b) if the applicant is not the owner of the place or object:

(i) for an application that relates to a heritage place – the owner of the place; and

(ii) for an application that relates to a heritage object – the owner of the land on which the object is located.

(2) The notice must include a review notice.

Part 3.3 Exempt work

78 Regulation may exempt work

(1) A regulation may declare work to be exempt from the requirement for a work approval (***exempt work***).

(2) However, the declaration may be made only for work that will not detrimentally affect the heritage significance of a heritage place or object.

(3) Without limiting subsection (1), the declaration may be made for repair or maintenance work.

Examples of repair or maintenance work

1 Painting a place in a colour that conforms to the existing colour scheme.

2 Repairs to a place using the same types of materials and construction methods as originally used.

Part 3.4 Stop work orders

79 Application of Part

This Part applies if a heritage officer is satisfied:

(a) a person is carrying out, or is about to carry out, work; and

(b) the work constitutes a serious and imminent threat to the heritage significance of a heritage place or object; and

(c) an order under this Part is necessary for the conservation of the place or object.

80 Issuing order

The heritage officer may, by written notice (a ***stop work order***), given to the person:

(a) order the person to stop the work stated in the notice; or

(b) prohibit the person from starting the work stated in the notice.

81 Application to Tribunal

(1) Within one business day after issuing the stop work order, the heritage officer must apply to the Tribunal for an order confirming it.

(1A) The following persons are parties to a proceeding for an application for the confirmation of a stop work order:

(a) the Territory;

(b) each interested person for the heritage place or object to which the application relates.

(2) In this section:

business day means a day other than a Saturday, Sunday or public holiday.

82 Revocation of order

If, after issuing the stop work order, a heritage officer is no longer satisfied grounds exist for issuing the order, the officer must immediately:

(a) revoke the order by written notice given to the person; and

(b) if application has been made to the Tribunal for the confirmation of the order – lodge with the Registrar of the Tribunal a copy of the notice.

83 Duration of order

(1) The stop work order ends 30 days after it is given to the person unless confirmed by the Tribunal.

(2) However, the Tribunal may extend the duration of the order pending the hearing of the application for an order confirming it.

84 Offence to contravene order

(1) A person commits an offence if:

(a) the person knows a stop work order has been issued for a place or object; and

(b) the person engages in conduct that results in a contravention of the order.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) If a court finds a person guilty of an offence against subsection (1), the court may, in addition to a penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day the offence is committed.

Part 3.5 Repair orders

85 Application of Part

This Part applies if the Minister is satisfied:

(a) repair or maintenance work is required to be carried out on a heritage place or object; and

(b) an order under this Part is necessary for the conservation of the place or object.

86 Issuing order

(1) The Minister may, by written notice (a ***repair order***), require the owner of the heritage place or object to carry out stated work at the owner's expense.

(2) However, the Minister may issue the order only if the Minister:

(a) has consulted with the owner about the nature and extent of the work required to be carried out; and

(b) is satisfied the owner has the financial capacity to carry out the work.

(3) The order may state the materials to be used to carry out the work and the way in which the work is to be carried out.

(4) The order must include an information notice.

87 Offence to contravene order

(1) A person commits an offence if:

(a) the person knows a repair order has been issued for a heritage place or object; and

(b) the person engages in conduct that results in a contravention of the order.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) If a court finds a person guilty of an offence against subsection (1), the court may, in addition to a penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day the offence is committed.

88 Territory may carry out work if owner contravenes order

(1) This section applies if:

(a) the owner of a heritage place or object does not comply with a repair order for the place or object; and

(b) either:

(i) the period allowed for starting an appeal against the decision to issue the repair order has ended and no appeal has been started; or

(ii) an appeal against the decision to issue the repair order has been finally decided and is unsuccessful.

(2) A heritage officer may enter the place, or place where the object is located, and have the work carried out.

(3) The reasonable cost incurred by the Territory in carrying out the work is a debt owing to the Territory by the owner.

(4) In addition, if the order relates to a heritage place comprising land, the order is an overriding statutory charge, as defined in section 4 of the *Land Title Act 2000*, on the land.

Part 3.6 Removal of heritage objects from Territory

89 CEO may give approval for removal

(1) The CEO may give approval for a heritage object to be removed from the Territory for one of the following purposes:

(a) public display, for example, in a museum;

(b) scientific research or educational purposes;

(c) a purpose prescribed by regulation.

(2) The CEO may give the approval subject to the conditions, and for the period, the CEO considers appropriate.

(3) However, if the object is an Aboriginal or Macassan archaeological object, the approval may be given only if the person or group who, according to Aboriginal tradition, have a right to possess it, consent to the removal in accordance with the approval.

Chapter 4 Reviews and appeals

Part 4.1 Tribunal reviews

90 Reviewable decisions and affected persons

(1) A ***reviewable decision*** is a decision mentioned in Schedule 1.

(2) An ***affected person***, for a reviewable decision, is a person mentioned in Schedule 1 for the decision.

91 Application to Tribunal for review

(1) An affected person may apply to the Tribunal for a review of a reviewable decision.

(2) The following persons are parties to a proceeding for an application to review a reviewable decision:

(a) the applicant;

(b) the Territory.

Part 4.2 Appeals to Supreme Court

93 Appealable decisions and affected persons

(1) An ***appealable decision*** is a decision mentioned in Schedule 2.

(2) An ***affected person***, for an appealable decision, is a person mentioned in Schedule 2 for the decision.

94 Information notice

(1) An ***information notice***, for an appealable decision, is a written notice stating the following:

(a) the decision and the reasons for it;

(b) that an affected person may appeal against the decision to the Supreme Court on a question of law only;

(c) the period allowed for starting the appeal;

(d) how to start the appeal.

(2) The validity of an appealable decision is not affected by a failure to give an information notice to an affected person for the decision.

95 Appeal on question of law

(1) An affected person for an appealable decision may appeal against the decision to the Supreme Court.

(2) The appeal may be made in relation to a question of law only.

96 Starting appeal

The appeal is started by filing a notice of appeal in the Supreme Court in accordance with applicable rules of court.

97 Appeal procedure

The appeal must be decided on the evidence before the Minister when the appealable decision was made.

98 Decision on appeal

In deciding the appeal, the Supreme Court may:

(a) make any incidental order it considers appropriate; and

(b) if it allows the appeal:

(i) refer the matter back to the Minister for reconsideration; and

(ii) give any directions in law and recommendations it considers appropriate.

Chapter 5 Enforcement

Part 5.1 Preliminary matters

99 Definitions

In this Chapter:

connected, see section 100.

enter, a place, includes re-enter and board the place.

occupier, of a place, includes a person who reasonably appears to be an occupier of the place.

place includes an aircraft, vehicle or vessel.

Note for section 99

*Section 4 defines **on** to include at or in a place and so a reference in a provision to a thing on an aircraft, vehicle or vessel includes a thing in the aircraft, vehicle or vessel.*

100 When thing is *connected* with offence

For this Part, a thing is ***connected*** with an offence if:

(a) the offence has been committed in relation to the thing; or

(b) the thing will afford evidence of the commission of the offence; or

(c) the thing was used, is being used or is intended to be used for the purpose of committing the offence.

Part 5.2 Powers of heritage officers to enter places

101 Entry of place – general

(1) For the administration or enforcement of this Act, a heritage officer may enter:

(a) a place (other than residential premises) at any reasonable time; or

(b) any place at any time:

(i) with the consent of the occupier of the place; or

(ii) under a search warrant issued under this Part for the place.

(2) An appointed heritage officer who enters a place under subsection (1) must not remain on the place if the officer does not produce the officer's identity card when asked by the occupier of the place.

102 Consent to entry

(1) A heritage officer seeking the consent of an occupier of a place to enter the place must:

(a) give the occupier the reasons why entry is sought; and

(b) inform the occupier that the occupier may refuse to give consent; and

(c) if the officer is an appointed heritage officer – show the officer's identity card to the occupier.

(2) If:

(a) it is material in proceedings for a court to be satisfied the occupier consented to entry under this Part; and

(b) written consent of the occupier is not produced in evidence;

the court may presume, in the absence of evidence to the contrary, the occupier did not give consent.

103 Entry of place – search warrant

(1) A heritage officer may apply to a Local Court Judge, by information on oath, for a search warrant for a place if the officer reasonably believes an offence against this Act is about to be, is being or has been committed on the place.

(2) The Local Court Judge may issue a search warrant only if satisfied about the matters set out in the information.

(3) The warrant authorises the officer named in the warrant, and any other person helping the officer, to enter the place and to exercise a heritage officer's powers under this Chapter.

(4) The warrant must state:

(a) the purpose for which it is issued; and

(b) the nature of the offence or contravention for which the entry is authorised; and

(c) the hours during which entry to the place is authorised or state that the entry is authorised at any time of the day or night; and

(d) the date, within 30 days after the warrant's issue, the warrant ceases to have effect.

(5) The heritage officer executing the warrant must, if asked by the occupier of the place or another person on the place, produce the warrant for the person's inspection.

104 Additional powers for entry of aircraft, vehicle or vessel

(1) This section applies if a heritage officer has reasonable grounds for suspecting:

(a) an aircraft, vehicle or vessel is being, has been or is likely to be, used in the commission of an offence against this Act; or

(b) an aircraft, vehicle or vessel, or a thing on an aircraft, vehicle or vessel, may provide evidence of the commission of an offence against this Act.

(2) For entering the aircraft, vehicle or vessel under this Part, the heritage officer may require the person in control of the aircraft, vehicle or vessel:

(a) to stop, move or not to move it; or

(b) to bring it to a stated place and remain in control of it until the officer permits it to depart; or

(c) to give the officer reasonable help.

(3) A person commits an offence if the person engages in conduct that results in a contravention of the heritage officer's requirement.

Maximum penalty: 100 penalty units.

(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

Part 5.3 Powers of heritage officers on entry of places

105 Powers on entry of place

(1) A heritage officer who enters a place under Part 5.2 may do any of the following:

(a) inspect or examine the place or anything found on the place;

(b) break open and search fixtures and fittings, furniture and furnishings or boxes, packages and other containers found on the place;

(c) take measurements of, or conduct tests in relation to, the place or anything found on the place;

(d) take photographs, films or audio, video or other recordings of the place or anything found on the place;

(e) take and remove from the place:

(i) an object the officer reasonably believes is a heritage object for the purpose of the conservation of the object; or

(ii) samples for analysis of anything found on the place;

(f) take copies of, or extracts from, documents found on the place;

(g) require a person on the place to:

(i) answer questions or provide information; or

(ii) make available documents kept on the place; or

(iii) give the officer reasonable help to exercise powers under this section;

(h) subject to section 106:

(i) seize anything found on the place; or

(ii) if the place is an aircraft, vehicle or vessel – seize it.

(2) After taking a sample under subsection (1)(e)(ii) or seizing a thing under subsection (1)(h), the heritage officer must give a receipt for the sample or thing to:

(a) the occupier of the place; or

(b) the person whom the heritage officer reasonably believes was in possession of the sample or thing immediately before it was taken or seized.

(3) A requirement under subsection (1)(g) must be given by written notice.

(4) When making the requirement, the heritage officer must inform the person it is an offence not to comply with the requirement unless the person establishes a reasonable excuse.

(5) A person commits an offence if the person engages in conduct that results in a contravention of the requirement.

Maximum penalty: 100 penalty units.

(6) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

(7) Without limiting subsection (6), it is a reasonable excuse for an individual to fail to answer a question under subsection (1)(g)(i) if complying with the requirement might tend to incriminate the individual.

106 Seizure of things

(1) A heritage officer may seize a thing under section 105(1)(h) only if the officer reasonably believes the thing:

(a) is connected with an offence against this Act and the seizure is necessary to prevent the thing from being:

(i) concealed, lost, damaged or destroyed; or

(ii) used to commit the offence; or

(b) is connected with an offence against this Act and the seizure is necessary to conduct tests for adducing evidence for a prosecution for the offence.

(2) After seizing the thing, the heritage officer may:

(a) take, or direct another person to take, the thing to the place stated by the officer; or

(b) give directions about handling and storing the thing that the officer considers appropriate.

(3) A person commits an offence if the person:

(a) interferes with or disposes of the seized thing; or

(b) removes the seized thing from:

(i) the place on which it was seized; or

(ii) the place to which it was taken by or under the direction of the heritage officer.

Maximum penalty: 100 penalty units.

(4) Subsection (3) does not apply if the person has the written consent of the CEO.

107 Retention of things seized

The following provisions apply in relation to a thing seized:

(a) it must be held by the heritage officer for adducing evidence for a prosecution for an offence against this Act unless the CEO authorises its release to its owner or the person who had possession of it immediately before its seizure;

(b) if, on a prosecution for an offence against this Act, the defendant is found guilty of the offence, the court may order the thing be forfeited to the Territory;

(c) the officer must release the thing to its owner or the person who had possession of it immediately before its seizure if:

(i) a prosecution for an offence against this Act is not started within the period provided by section 52 of the *Local Court (Criminal Procedure) Act 1928*; or

(ii) on a prosecution being started within that period, the defendant is not found guilty or the court does not make an order under paragraph (b).

108 Heritage officer may use help and force in exercising powers

A heritage officer may exercise a power under this Chapter with the help, and using the force, that is reasonable in the circumstances.

Part 5.4 Other powers of heritage officers

109 Power to require name and address

(1) This section applies if a heritage officer:

(a) finds a person committing an offence against this Act; or

(b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or

(c) has information that leads the officer to reasonably suspect a person has just committed an offence against this Act.

(2) The heritage officer may require the person to state the person's name and address.

(3) When making the requirement, the heritage officer must inform the person it is an offence to contravene the requirement unless the person establishes a reasonable excuse.

(4) The heritage officer may require the person to give evidence of the correctness of the person's name or address if the officer reasonably suspects the name or address given is false.

(5) A person commits an offence if the person engages in conduct that results in a contravention of a requirement given to the person under this section by a heritage officer.

Maximum penalty: 100 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

110 Power to require information from certain persons

(1) This section applies if a heritage officer reasonably suspects:

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The heritage officer may require the person to give information about the suspected offence.

(3) When making the requirement, the heritage officer must inform the person it is an offence to fail to give the information unless the person establishes a reasonable excuse.

(4) A person commits an offence if the person engages in conduct that results in a contravention of the requirement.

Maximum penalty: 100 penalty units.

(5) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

(6) Without limiting subsection (5), it is a reasonable excuse for an individual to fail to answer the question if complying with the requirement might tend to incriminate the individual.

Part 5.5 Heritage offences

111 Causing damage to heritage place or object

(1) A person commits an offence if the person:

(a) knows a place or object is a heritage place or object; and

(b) engages in conduct that results in damage to the place or object.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person commits an offence if the person engages in conduct that results in damage to a heritage place or object.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) Subsections (1) and (2) do not apply if:

(a) the object is in the possession of a person or group who, according to Aboriginal tradition, have a right to possess it; and

(b) the person engages in conduct in accordance with Aboriginal tradition.

(5) In addition, subsections (1) and (2) do not apply if the person:

(a) engages in conduct in accordance with:

(i) a heritage agreement; or

(ii) a work approval; or

(iii) work authorised under the declaration of heritage place or object; or

(iv) a repair order; or

(b) carries out exempt work.

(6) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

(7) If a court finds a person guilty of an offence against subsection (1) or (2), the court may, in addition to a penalty imposed for the offence, order the person:

(a) to pay an amount for the damage caused by committing the offence; or

(b) to make good the damage caused by committing the offence.

(8) An amount that is not paid in accordance with the order is a debt payable by the person.

112 Removal of part of heritage place

(1) A person commits an offence if the person:

(a) knows a place is a heritage place; and

(b) removes a part of the place.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person must not remove a part of a heritage place.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) Subsections (1) and (2) do not apply if:

(a) the object is in the possession of a person or group who, according to Aboriginal tradition, have a right to possess it; and

(b) the person removes the part of the heritage place in accordance with Aboriginal tradition.

(5) In addition, subsections (1) and (2) do not apply if:

(a) the removal is carried out in accordance with:

(i) a heritage agreement; or

(ii) a work approval; or

(b) the removal is authorised under the declaration of the heritage place or object; or

(c) a repair order; or

(d) the removal is exempt work.

(6) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

113 Removal of heritage objects from Territory

(1) A person commits an offence if the person:

(a) knows an object is a heritage object; and

(b) removes the object from the Territory.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person must not remove a heritage object from the Territory.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) Subsections (1) and (2) do not apply if:

(a) the object is in the possession of a person or group who, according to Aboriginal tradition, have a right to possess it; and

(b) the person removes the object in accordance with Aboriginal tradition.

(5) In addition, subsections (1) and (2) do not apply if the object is removed in accordance with the CEO's approval under section 89.

(6) Also, it is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

114 Discovery of archaeological places and objects

(1) A person commits an offence if the person:

(a) discovers a place or object the person knows is an Aboriginal or Macassan archaeological place or object; and

(b) does not, as soon as practicable after the discovery, give the CEO a written report stating the following:

(i) a description of the place or object;

(ii) its location;

(iii) the person's name and address;

(iv) if known by the person – the name and address of the owner or occupier of the place or place where the object is located.

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

(3) A person is taken to have complied with subsection (1) if the person gives the report to the CEO within 7 days after the discovery.

115 Alternative verdicts

(1) This section applies if, on the trial of a person charged with an offence against a provision mentioned in the following Table (the ***prosecuted offence***), the trier of fact:

(a) is not satisfied beyond reasonable doubt the person committed the prosecuted offence; but

(b) is satisfied beyond reasonable doubt the person committed the offence, or the offence of attempting to commit the offence, mentioned in the Table opposite the prosecuted offence (the ***alternative offence***).

(2) The trier of fact may find the person not guilty of the prosecuted offence but guilty of the alternative offence.

Table Alternative verdicts

Prosecuted offence	Alternative offence
section 111(1)	section 111(2)
section 112(1)	section 112(2)
section 113(1)	section 113(2)

Part 5.6 Other offences

116 Misleading information or document

(1) A person commits an offence if:

(a) the person gives information to another person; and

(b) the other person is an official; and

(c) the person knows the information is misleading; and

(d) the person knows the official is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) A person commits an offence if:

(a) the person gives a document to another person; and

(b) the other person is an official; and

(c) the person knows the document contains misleading information; and

(d) the person knows the official is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the official's attention; and

(b) to the extent to which the person can reasonably do so – gives the official the information necessary to correct the document.

(4) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

official means:

(a) the CEO; or

(b) a heritage officer.

117 Obstruction of person acting in official capacity

(1) A person commits an offence if the person:

(a) obstructs a heritage officer, or person assisting a heritage officer, acting in an official capacity; and

(b) knows the heritage officer is, or person is assisting a heritage officer, acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

(3) In this section:

obstruct includes resist and hinder.

118 Falsely representing to be heritage officer

(1) A person commits an offence if:

(a) the person represents, by words or conduct, that the person or another person is a heritage officer; and

(b) the person or other person is not a heritage officer; and

(c) the person makes the representation with an intention to deceive.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

Part 5.7 Criminal liability for offences

119 Definitions

In this Part:

declared provision means any of the following provisions:

(a) section 84(1), 87(1), 110(4), 111(1) and (2), 112(1) and (2), 113(1) and (2), 114(1), 116(1) or (2), 117(1) or 118;

(b) a provision of the Regulations prescribed by regulation.

representative, of a person, means an employee or agent of the person.

120 Conduct of representative

(1) This section applies to a prosecution for an offence against a provision of this Act.

Note for subsection (1)

This section deals with prosecutions of individuals. Part IIAA, Division 5, of the Criminal Code contains provisions about corporate criminal responsibility.

(2) Conduct engaged in by a representative of a person within the scope of the representative's actual or apparent authority is taken to have been also engaged in by the person.

(3) However, subsection (2) does not apply if the person proves the person took reasonable steps to prevent the conduct.

(4) In deciding whether the person took reasonable steps to prevent the conduct, a court must consider:

(a) any action the person took to ensure the representative had a reasonable knowledge and understanding of the requirement to comply with the contravened provision; and

(b) the level of management, control or supervision that was appropriate for the person to exercise over the representative.

(5) Subsection (4) does not limit the matters the court may consider.

(6) If it is relevant to prove a person had a fault element in relation to a physical element of an offence, it is enough to show:

(a) the conduct relevant to the physical element was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the fault element in relation to the physical element.

(7) A person may rely on section 43AX of the Criminal Code in relation to conduct by a representative that would be an offence by the person only if:

(a) the representative was under a mistaken but reasonable belief about the facts that, had they existed, would have meant that the conduct would not have constituted an offence; and

(b) the person proves the person exercised due diligence to prevent the conduct.

Note for subsection (7)

Section 43AX of the Criminal Code provides a person is not criminally responsible if the person engaged in conduct under a mistake of fact in relation to an offence of strict liability.

(8) A person (the ***defendant***) may not rely on section 43BA of the Criminal Code in relation to a physical element of an offence brought about by another person if the other person is a representative of the defendant.

Note for subsection (8)

Section 43BA of the Criminal Code provides a person is not criminally responsible in circumstances of an intervening conduct or event.

(9) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (2) or (6).

(10) In this section:

fault element includes intention, knowledge, recklessness, opinion, belief and purpose, but does not include negligence.

person means an individual.

121 Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if:

(a) the body corporate commits an offence (a ***relevant offence***) by contravening a declared provision; and

(b) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and

(c) the officer failed to take reasonable steps to prevent the contravention; and

(d) the officer was reckless about whether the contravention would happen.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the contravention):

(i) the body corporate arranged regular professional assessments of the body corporate's compliance with the declared provision;

(ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);

(iii) the body corporate's representatives and contractors had a reasonable knowledge and understanding of the requirement to comply with the declared provision;

(b) any action the officer took when the officer became aware that the contravention was, or could be, about to happen.

(3) Subsection (2) does not limit the matters the court may consider.

(4) This section does not affect the liability of the body corporate.

(5) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.

(6) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

(7) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

Part 5.8 Evidentiary matters

122 Judicial notice

In any proceeding, a signature purporting to be the signature of the CEO is evidence of the signature it purports to be.

123 Evidentiary certificate

In a proceeding for an offence against this Act, a certificate signed by the CEO stating any of the following matters is evidence of the matter:

(a) a stated place or object is a heritage place or object or is a place or object of a protected class of heritage place or object;

(b) a stated person was a heritage officer on a stated day;

(c) a stated notice or other document was made, given or issued on a stated day;

(d) a stated document is a copy of a heritage agreement, work approval, stop work order or repair order.

Chapter 6 Administrative matters

Part 6.1 Heritage Council

Division 1 Establishment, functions and powers

124 Establishment

The Heritage Council is established.

125 Functions

The functions of the Council are as follows:

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

(b) to recommend to the Minister the declaration of places and objects to be heritage places and objects;

(c) to recommend to the Minister the revocation of the declaration for heritage places and objects;

(d) to advise the Minister on the conservation, use and management of heritage places and objects;

(e) to advise the Minister about the carrying out of work on a heritage place or object and to decide applications for work approvals other than applications for major work;

(f) to promote, as it considers appropriate, the public use and enjoyment of heritage places and objects in a way that is consistent with the conservation of the heritage significance of the places and objects;

(g) to facilitate public education and programs about the Territory's cultural and natural heritage;

(h) to advise the Minister on financial incentives or concessions for heritage agreements (either in general or on particular agreements);

(i) to advise the Minister on matters affecting the Territory's cultural and natural heritage;

(j) to perform other functions conferred under this or another Act or as directed by the Minister.

126 Powers

The Council has the powers necessary to perform its functions.

127 Delegation

The Council may delegate any of its powers and functions to the CEO.

Division 2 Provisions about membership

128 Membership of Council

(1) The Council consists of at least 7 and no more than 9 members appointed by the Minister.

(2) The Minister may appoint a person to be a member if the Minister is satisfied that the person has the appropriate skills, knowledge and experience to make a contribution to the work of the Council.

(3) In appointing members, the Minister must, as far as practicable, ensure at least 2 of the members are of Aboriginal descent.

129 Nominations for appointment of member

(1) Before appointing a member under section 128(1), the Minister must invite nominations for appointment.

(2) The invitation may be made by public advertisement or in another way the Minister considers appropriate.

130 Duration of appointment

A member holds office for the period, not exceeding 3 years, stated in the instrument of appointment.

131 Conditions of appointment

A member holds office on the conditions stated in the instrument of appointment.

132 Chairperson and deputy chairperson

(1) The Minister must appoint a member to be the chairperson.

(2) The members must elect a member to be the deputy chairperson.

133 When member ceases to hold office

(1) A member ceases to hold office if:

(a) the member resigns by giving written notice of resignation to the Minister; or

(b) the member's term of office comes to an end and the member is not reappointed; or

(c) the member is convicted of an indictable offence or sentenced to imprisonment for an offence; or

(d) the member is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council; or

(e) the member is removed from office under subsection (2).

(2) The Minister may remove a member from office for:

(a) mental or physical incapacity to carry out official duties satisfactorily; or

(b) neglect of duty; or

(c) breach of a condition of appointment; or

(d) dishonest or dishonourable conduct.

Division 3 Conduct of business

134 Holding meetings

(1) The Council must meet as often as is necessary for the exercise of its powers and the performance of its functions.

(2) For subsection (1), the Council must meet at least 4 times in each year.

(3) The chairperson must call a meeting of the Council if asked to do so by the Minister or a majority of members.

(4) The chairperson must make the arrangements that enable the Council to meet.

135 Presiding member at meetings

(1) The chairperson must preside at all meetings of the Council at which he or she is present.

(2) If the chairperson is absent from a meeting, the deputy chairperson must preside.

(3) If the chairperson and deputy chairperson are absent from a meeting, the members present must elect a member to preside.

136 Procedures at meetings

(1) A quorum for a meeting of the Council is a majority of members of the Council, including the chairperson.

(2) A question arising for decision at a Council meeting must be resolved according to the opinion of a majority of the members present at the meeting and, if they are equally divided in opinion, the chairperson has a casting vote.

(3) The Council must keep proper minutes of its proceedings and decisions.

(4) Subject to this Part, the Council may decide its own procedures.

137 Disclosure of interest

(1) If a member of the Council has a direct or indirect interest in a matter being considered or about to be considered by the Council, the member must disclose the nature of the interest at a Council meeting as soon as practicable after the relevant facts come to the member's knowledge.

(2) The disclosure must be recorded in the Council's minutes.

(3) The member must not, while having that interest:

(a) take part in any deliberation or decision of the Council relating to that matter; or

(b) form part of the quorum of the Council in any deliberation or decision of the Council relating to that matter.

(4) However, subsection (3) does not apply if the Council resolves the subsection does not apply to the member.

(5) Despite the resolution, the member may refuse to take part in any deliberation or decision of the Council relating to the matter.

Division 4 Miscellaneous matters

138 Annual report

(1) Within 3 months after the end of each financial year, the Council must report to the Minister on this Act's administration for the year.

(2) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

139 Register of heritage places and objects

(1) The Council must keep a register for this Act.

(2) The register may be kept in the way the Council considers appropriate, including for example, in an electronic form.

(3) The register must contain details of the following:

(a) heritage places and objects declared under Part 2.2;

(b) protected classes of heritage places and objects;

(c) heritage agreements.

(4) An entry in the register for a heritage place or object declared under Part 2.2 must:

(a) state its location; and

(b) contain a description of it; and

(c) contain a statement of its heritage value.

(5) However, the register must not include information that under Aboriginal tradition must be kept secret.

140 Public access to register

Anyone may inspect the register and copy or take extracts from the register.

Part 6.2 Heritage officers

141 Who is heritage officer

(1) A ***heritage officer*** is:

(a) a person appointed under subsection (2) as a heritage officer (an ***appointed heritage officer***); or

(b) a police officer.

(2) The CEO may appoint as a heritage officer:

(a) a public sector employee of the Agency; or

(b) a public sector employee of another Agency under an arrangement with the Chief Executive Officer of that Agency; or

(c) an officer or employee of a statutory corporation or local government council under an arrangement with the corporation or council; or

(d) an officer or employee of another jurisdiction, or an authority of another jurisdiction, under an arrangement with the jurisdiction or authority.

(3) An appointed heritage officer has the powers and functions of a heritage officer under this Act as stated in the appointment.

(4) A police officer has all the powers and functions of a heritage officer.

(5) In this section:

another jurisdiction means the Commonwealth, a State or another Territory.

142 Identity cards

(1) The CEO must give each appointed heritage officer an identity card stating the person's name and that the person is a heritage officer.

(2) The identity card must:

(a) show a recent photograph of the officer; and

(b) show the card's date of issue and expiry; and

(c) be signed by the officer.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

143 Production of identity card

An appointed heritage officer exercising a power or performing a function under this Act in relation to a person must, if asked by the person, produce the officer's identity card for the person's inspection.

144 Return of identity card

(1) A person who ceases to be an appointed heritage officer must return the person's identity card to the CEO within 21 days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the person establishes a reasonable excuse.

Chapter 7 Miscellaneous matters

145 Approved forms

The CEO may approve forms for this Act.

146 Delegations by Minister and CEO

(1) The Minister may delegate any of the Minister's powers and functions under this Act to a person.

(1A) Despite subsection (1), the delegation cannot be made to the Council or a member of the Council.

(2) The CEO may delegate any of the CEO's powers and functions to a heritage officer.

147 Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

(a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and

(b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

148 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

(a) a member of the Council;

(b) a member of a committee of the Council;

(c) a heritage officer;

(d) a person assisting a heritage officer under Chapter 5.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

149 Regulations

(1) The Administrator may make regulations under this Act.

(2) A regulation may provide for the following:

(a) regulating access to heritage places;

(b) the identification of archaeological places;

(c) applying, adopting or incorporating (with or without changes) a matter contained in another instrument as in force or existing at a particular time or from time to time;

(d) fees payable under this Act;

(e) an offence against a regulation to be an offence of strict or absolute liability but not with a penalty exceeding 100 penalty units.

Chapter 8 Repeal of Acts and transitional matters

Part 8.1 Repeal of Acts

150 Repeals

The following Acts are repealed:

(a) *Heritage Conservation Act 1991* (Act No. 39 of 1991);

(b) *Heritage Conservation Amendment Act 1998* (Act No. 17 of 1998).

Part 8.2 Transitional matters

Division 1 Heritage Act 2011

151 Definitions

In this Part:

commencement day means the day on which section 150 commences.

repealed Act means the *Heritage Conservation Act 1991* as in force immediately before the commencement day.

152 Register

The Register kept under the repealed Act is taken to be the register under this Act.

153 Heritage places and objects

(1) Subject to subsection (2), a prescribed archaeological place under the repealed Act is taken to be a heritage place declared under Part 2.1 of this Act.

(2) A heritage place declared under section 26 of the repealed Act is taken to be a heritage place declared under Part 2.2 of this Act.

(3) Subject to subsection (4), a prescribed archaeological object under the repealed Act is taken to be a heritage object declared under Part 2.1 of this Act.

(4) A heritage object declared under section 26 of the repealed Act is taken to be a heritage object declared under Part 2.2 of this Act.

154 Pending assessments for declaration of heritage places and objects

(1) This section applies if:

(a) before the commencement day:

(i) an application had been made under the repealed Act to have a place or object declared to be a heritage place or object; or

(ii) the Council had decided of its own motion, or was directed by the Minister, to assess the heritage value of a place or object; and

(b) immediately before the commencement day, the assessment process under Part 4 of the repealed Act had not been completed for the place or object.

Note for subsection (1)

Under Part 4 of the repealed Act, the assessment process for declaring a place or object to be a heritage place or object includes the following:

(a) assessment of the place or object by applying relevant heritage assessment criteria;

(b) seeking comments about the declaration;

(c) considering comments received;

(d) making a recommendation to, and decision by, the Minister about making the declaration.

(2) Despite its repeal, the repealed Act continues to apply in relation to the assessment process for the place or object.

(3) However, if the Minister decides to declare the place or object to be a heritage place or object:

(a) the declaration must be made under section 34; but

(b) section 40 does not apply to the declaration.

Note for subsection (3)

Because of subsection (2), notice of the declaration is given under section 26(2) of the repealed Act and Part 8 (Appeals) of the repealed Act continues to apply to the decision made in relation to the assessment of the place or object.

(4) In addition, the Council must decide whether or not to recommend the declaration of the place or object:

(a) within 12 months after the commencement day – if the Council had complied with section 24(2) before the commencement day; or

(b) within 2 years after the commencement day – if:

(i) the application for the declaration was made under section 21 of the repealed Act; and

(ii) the Council had not complied with section 24(2) before the commencement day.

155 Pending assessments for revocation of declaration of heritage places and objects

(1) This section applies if:

(a) before the commencement day:

(i) the Minister has requested the Council to assess whether the Minister should revoke all or part of the declaration of a heritage place or object; or

(ii) a request or application had been made under the repealed Act for an assessment as to whether the Minister should revoke all or part of the declaration of a heritage place or object; and

(b) immediately before the commencement day, the assessment process under Part 6A of the repealed Act had not been completed for the place or object.

Note for subsection (1)

Under Part 6A of the repealed Act, the assessment process for revoking the declaration of a heritage place or object includes the following:

(a) assessment of the place or object by having regard to relevant heritage assessment criteria;

(b) seeking comments about the revocation;

(c) considering comments received;

(d) making a recommendation to, and decision by, the Minister about making the revocation.

(2) Despite its repeal, the repealed Act continues to apply in relation to the assessment process for the heritage place or object.

(3) However, if the Minister accepts the recommendation to revoke the declaration of the heritage place or object:

(a) the declaration must be made under section 64; and

(b) section 65 does not apply to the declaration.

Note for subsection (3)

Because of subsection (2), notice of the declaration of revocation is given under section 39H(4) of the repealed Act and Part 8 (Appeals) of the repealed Act continues to apply to the decision made in relation to the assessment of the place or object.

156 Interim conservation orders

(1) This section applies to an interim conservation order in force immediately before the commencement day for a heritage place or object.

(2) The order is taken to be a provisional declaration of the place or object to be a heritage place or object under this Act.

157 Conservation management plans

(1) This section applies to a conservation management plan in force immediately before the commencement day for a heritage place or object.

(2) The work permitted to be carried out on the place or object, or the moving of the object, under the plan is taken to be a work approval for the place or object subject to the conditions stated in the plan.

(3) However, the work approval expires 2 years after the commencement day.

158 Heritage agreements

A heritage agreement under the repealed Act is taken to be a heritage agreement under this Act.

159 Applications for approval for works etc. on heritage places and objects

(1) This section applies to an application that:

(a) was made under section 39J(1) of the repealed Act for approval to do something mentioned in the section in relation to a heritage place or object; and

(b) had not been decided immediately before the commencement day.

(2) Despite its repeal, the repealed Act continues to apply in relation to the application.

160 Authorisations for works etc. on heritage places and objects

(1) This section applies to an authorisation given under section 39K of the repealed Act whether given:

(a) before the commencement day; or

(b) after the commencement day under section 159.

(2) The authorisation has effect as if it were a work approval and continues in force until it would have ended under the repealed Act as if that Act had not been repealed.

161 Directions to repair or maintain heritage places and objects

Despite its repeal, the repealed Act continues to apply in relation to a direction under section 49 of that Act to repair or maintain a heritage place or object.

Division 2 Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014

163 Definitions

In this Division:

commencement means the commencement of Part 11 of the *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014*.

former legislation means the following as in force immediately before the commencement:

(a) this Act;

(b) the *Lands, Planning and Mining Tribunal Act 1998*.

former Tribunal means the Lands, Planning and Mining Tribunal as in existence under the *Lands, Planning and Mining Tribunal Act* immediately before the commencement of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

new legislation means the following as in force after the commencement:

(a) this Act;

(b) the *Northern Territory Civil and Administrative Tribunal Act 2014*.

164 Review of Council's or Minister's decision made before commencement

(1) This section applies if:

(a) before the commencement, the Council or Minister had given a person a review notice for a reviewable decision; and

(b) one of the following circumstances applies:

(i) immediately before the commencement, the review period for the decision had not expired and the person had not applied for a review of the decision;

(ii) before the commencement, the person had applied for a review of the decision and the proceeding for the review had not been decided.

(2) If the circumstance mentioned in subsection (1)(b)(i) applies, the former legislation continues to apply in relation to the entitlement of the person to apply for a review of the decision within the review period.

(3) The former legislation continues to apply in relation to the functions and powers of the former Tribunal in conducting and deciding a proceeding for the review regardless of whether the proceeding:

(a) was being conducted before the commencement; or

(b) is started after the commencement within the review period.

(4) In this section:

review period means the period within which a person given a review notice is entitled to apply for a review of the reviewable decision mentioned in the notice.

165 Council's or Minister's decision made after commencement

(1) This section applies if:

(a) a person had made an application to the Council or Minister before the commencement; and

(b) the Council or Minister makes a reviewable decision for the application after the commencement.

(2) The new legislation applies in relation to:

(a) giving a review notice for the decision; and

(b) a person's entitlement to apply for a review of the decision.

166 Applications before former Tribunal

(1) This section applies if, before the commencement:

(a) a person had made an application to the former Tribunal for the review of the merits of a reviewable decision; and

(b) the former Tribunal had not completed the review.

(2) The former Tribunal must continue to deal with the review in accordance with the former legislation.

Division 3 Heritage Amendment Act 2026

167 Definition

In this Division:

amending Act means the *Heritage Amendment Act 2026*.

168 Application of amendments to section 21

Section 21 as amended by the amending Act, applies in relation to a nomination under section 21(1) that was made but not accepted or refused by the Council before the commencement of section 8 of the amending Act.

169 Application of amendments to section 23

Section 23 as amended by the amending Act, applies in relation to the assessment period for an assessment of the heritage significance of a place or object that was accepted, initiated or directed under section 23(1) but not decided before the commencement of section 10 of the amending Act.

170 Continuation of provisional declarations

(1) A provisional declaration made under section 37 that is in force immediately before the repeal, has effect on and after the repeal as if the declaration was made under section 36 as in force after the repeal.

(2) In this section:

repeal means the repeal of section 37 by section 16 of the amending Act.

171 Work approval applications made before commencement

(1) Despite the amendments to Part 3.2 made by the amending Act, that Part, as in force immediately before the commencement, continues to apply in relation to an application under section 72 that was made before the commencement.

(2) In this section:

commencement means the commencement of section 24 of the amending Act.

172 Continuation of appointments

(1) Despite the commencement, a person holding office as a member of the Heritage Council immediately before the commencement, continues to be a member of the Heritage Council after the commencement, in accordance with the terms of their appointment.

(2) In this section:

commencement means the commencement of section 27 of the amending Act.

Schedule 1 Reviewable decisions

section 90

Item	Reviewable decision	Affected person
1	A decision under section 25(1) that a place or object is not of heritage significance on a heritage nomination	The person who made the nomination
2	A decision under section 27(1) not to recommend declaration of a place or object as a heritage place or object	A person entitled under section 29(1) to be given a review notice for the decision
3	A decision under section 74(1) on application for work approval	A person entitled under section 77(1) to be given a review notice for the decision

Schedule 2 Appealable decisions

section 93

Item	Appealable decision	Affected person
1	A decision under section 32(1) not to declare a place or object to be a heritage place or object	A person entitled under section 35(3) to be given an information notice for the decision
2	A decision under section 32(1) to permanently declare a place or object to be a heritage place or object	A person entitled under section 40(1) to be given an information notice for the decision
3	A decision under section 36(2) to provisionally declare a place or object to be a heritage place or object	A person entitled under section 40(1) to be given an information notice for the decision An interested person for any place or object the use or value of which is directly affected by the decision
4	A decision under section 62(1) to revoke a declaration of a heritage place or object	A person entitled under section 65(2) to be given an information notice for the decision An interested person for any place or object the use or value of which is directly affected by the decision
5	A decision under section 62(1) not to revoke a declaration of a heritage place or object	A person entitled under section 66(3) to be given an information notice for the decision
6	A decision under section 86(1) to issue a repair order for a heritage place or object	The owner of the heritage place or object

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Heritage Act 2011* (Act No. 34, 2011)**

Assent date	15 November 2011
Commenced	1 October 2012 (*Gaz* S43, 31 July 2012)

***Local Government Amendment Act 2013* (Act No. 28, 2013)**

Assent date	8 November 2013
Commenced	8 November 2013

***Local Government Amendment Act 2014* (Act No. 19, 2014)**

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014 (s 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014* (Act No. 35, 2014)**

Assent date	13 November 2014
Commenced	pts 4, 9, 10 and 19: 1 June 2015 (*Gaz* S53, 29 May 2015, p 2); rem: 1 January 2015 (*Gaz* G51, 24 December 2014, p 7)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

***Lands, Planning and Environment Legislation Amendment Act 2025* (Act No. 25, 2025)**

Assent date	12 September 2025
Commenced	pt 6: 6 October 2025 (s 2(2) and *Gaz* G20, 2 October 2025, p 1); rem: 13 September 2025 (s 2(1))

***Heritage Amendment Act 2026* (Act No. 15, 2026)**

Assent date	4 June 2026
Commenced	30 September 2026 (*Gaz* 19, 24 September 2026, p 1)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 40, 65, 67, 68, 70, 88, 107, 151 and 163.

4 LIST OF AMENDMENTS

s 4	amd No. 35, 2014, s 61; No. 15, 2026, s 4
s 6	amd No. 15, 2026, s 5
s 8	amd No. 15, 2026, s 6
s 9	amd No. 15, 2026, s 7
s 21	amd No. 15, 2026, s 8
s 22	sub No. 15, 2026, s 9
s 23	sub No. 15, 2026, s 10
s 25	amd No. 15, 2026, s 11
s 26	amd No. 25, 2025, s 12; No. 15, 2026, s 12
s 29	amd No. 15, 2026, s 13
s 35	amd No. 25, 2025, s 13; No. 15, 2026, s 14
s 36	amd No. 15, 2026, s 15
s 37	rep No. 15, 2026, s 16
s 39A	ins No. 15, 2026, s 17
s 40	amd No. 25, 2025, s 14; No. 15, 2026, s 18
s 41	amd No. 15, 2026, s 19
s 41A	ins No. 15, 2026, s 20
s 45	amd No. 28, 2013, s 61; No. 25, 2025, s 15; No. 15, 2026, s 21
s 50	amd No. 15, 2026, s 22
s 51	amd No. 25, 2025, s 16
s 59	amd No. 25, 2025, s 17
s 65	amd No. 25, 2025, s 18; No. 15, 2026, s 23
s 72	amd No. 15, 2026, s 24
s 74	amd No. 15, 2026, s 25
s 77	amd No. 15, 2026, s 26
s 81	amd No. 35, 2014, s 62
s 91	sub No. 35, 2014, s 63
s 92	rep No. 35, 2014, s 63
s 103	amd No. 8, 2016, s 45
s 107	amd No. 8, 2016, s 45
s 128	sub No. 15, 2026, s 27
ss 129 – 133	amd No. 15, 2026, s 33
s 134	amd No. 15, 2026, s 28
s 136	amd No. 15, 2026, s 29
s 141	amd No. 19, 2014, s 26
s 146	amd No. 15, 2026, s 30
ch 8	
pt 8.2	
div 1 hdg	ins No. 35, 2014, s 64
s 162	exp No. 34, 2011, s 162(5)
ch 8	
pt 8.2	
div 2 hdg	ins No. 35, 2014, s 65
ss 163 – 166	ins No. 35, 2014, s 65
ch 8	
pt 8.2	
div 3 hdg	ins No. 15, 2026, s 31
ss 167 – 172	ins No. 15, 2026, s 31

ch 9 hdg	exp No. 34, 2011, s 171
ch 9 pt 9.1 hdg	exp No. 34, 2011, s 171
ch 9 pt 9.2 hdg	exp No. 34, 2011, s 171
ch 9 pt 9.3 hdg	exp No. 34, 2011, s 171
ch 9 pt 9.4 hdg	exp No. 34, 2011, s 171
sch 1 – 2	sub No. 15, 2026, s 32
sch 3	exp No. 34, 2011, s 171