Fact sheet

Heritage

Queensland Heritage Register – registering a State Heritage Place

This fact sheet outlines the process to enter a place in the Queensland Heritage Register.

Under the *Queensland Heritage Act 1992* (Heritage Act), for a heritage place to be entered as a State Heritage Place in the Queensland Heritage Register (Heritage Register), it must undergo a registration process.

Legislation

Under the Heritage Act, a place that is entered as a State Heritage Place in the Heritage Register must satisfy one or more of the following criteria:

a) the place is important in demonstrating the evolution or pattern of Queensland's history

b) the place demonstrates rare, uncommon or endangered aspects of Queensland's cultural heritage

c) the place has potential to yield information that will contribute to an understanding of Queensland's history

d) the place is important in demonstrating the principal characteristics of a particular class of cultural places

e) the place is important because of its aesthetic significance

f) the place is important in demonstrating a high degree of creative or technical achievement at a particular period

g) the place has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons

h) the place has a special association with the life or work of a particular person, group or organisation of importance in Queensland's history.

The registration process

The Heritage Act sets out a staged process for entering places in the Heritage Register. All timeframes outlined in this process are legislative requirements of the Heritage Act.

Step 1: An application is made

Any person or entity, including individuals, community groups, local governments or State Government departments, may apply to enter a place in the Heritage Register.

To do so, the applicant prepares an application form, including supporting information, and lodges it with the department. The applicant can nominate whether or not they wish to have their personal details publicly released in association with the application.

Step 2: The department receives an application

If the application complies with the requirements of the Heritage Act, it is accepted by the department and legislative timeframes for the registration process commence.

An incomplete application or an application with inadequate or insufficient supporting information will be returned to the applicant as non-complying.

Step 3: Notification of receipt of application

The applicant is sent a notice of application to acknowledge that the application has been received and accepted.

Within 10 business days of receiving a valid application, the department is required to supply a copy to the owner and the relevant local government and invite them to comment.

Step 4: Call for submissions

The department is required to advertise the application within 10 business days from the date of notification.

Notification of the application is placed on the Queensland Government website, in the form of a public notice.

The public notice invites written submissions from interested parties who wish to provide comment. Applications can be viewed on the Queensland Government website.

Submissions must relate to the suitability of the place under the criteria specified in the Heritage Act. They must be lodged within 20 business days of advertising, however with agreement from the department this may be extended to 40 business days.

Submissions are considered by the department when making its assessment and by the Queensland Heritage Council (Heritage Council) when making its decision.

Step 5: Assessment

The application is assessed by the department's Heritage Officers who undertake further research to determine the cultural heritage significance of the place. As part of this research, a Heritage Officer from the department contacts the owner of the place to arrange an onsite assessment visit.

The research and site assessment enables the department's Heritage Officers to determine the eligibility of the place in terms of the cultural heritage criteria set out in the Heritage Act.

The department is required to complete its assessment no more than 80 business days after an application is received that complies with the requirements of the Heritage Act. However, if more time is required to make a thorough assessment, this period may be extended to 120 business days.

Step 6: Recommendation

Within 80 (or 120) business days of receiving a complying application, the department makes a recommendation to the Heritage Council about whether or not to enter the place in the Register. This recommendation includes a:

- statement of the significance of the place
- statement of the history of the place
- description of the place
- proposed heritage boundary.

Within 10 business days, the department is required to advise the owner, the applicant, the relevant local government and anyone else who made a submission in relation to the application of its recommendation to the Heritage Council. The recommendation is also published on the Queensland government website.

On receiving the department's notice of recommendation, an owner can choose to make a written heritage response within 20 days of receiving the notice. This period may be extended by up to 10 business days with the agreement of the Heritage Council. When an owner notifies the Heritage Council of the intention to make a heritage response, the time in which the QHC has to decide the matter is increased to 100 business days. An owner's response to the recommendation is considered by the Heritage Council when it decides whether to enter the place in the Register.

Step 7: Consultation with the Heritage Council

Anyone who receives a copy of the recommendation may request to make an oral representation to the Heritage Council to discuss the department's heritage recommendation.

The Heritage Council will take all reasonable steps to hear from the owner. When receiving requests from others, the Heritage Council must consider whether there is new information relevant to the assessment.

Step 8: The Heritage Council's decision

The Heritage Council is an independent decision-making body, and has the right to make a decision that differs from department's recommendation.

The Heritage Council has 60 business days to decide whether to enter the place on the Heritage Register. However, this timeframe can be extended to 100 days if the owner consents or elects to make a written response to the recommendation.

If the Heritage Council fails to make a decision within the statutory timeframe, it constitutes a decision not to enter the place in the Heritage Register.

The owner, the applicant, the local authority and anyone who made a submission in relation to the application is notified of the outcome by letter. An advertisement is also placed in the Queensland Government Gazette and the decision is published on the Queensland Government website. In the case where the Heritage Council decides not to enter a place in the Register, a further application cannot be considered until five years from the date of the decision.

Step 9: Appealing the decision

Owners (and applicants if the Heritage Council failed to make a decision on the application within the statutory timeframe) may appeal the decision in the Planning and Environment Court. An appeal can only be made on the grounds that the place does or does not satisfy the cultural heritage criteria specified in the Heritage Act.

An appeal must be started within 20 business days of the decision notice being given, or from when the owner or applicant is made aware of the decision.

For more information about the court process for appealing a Heritage Council decision refer to the *Planning and Environment Court Act 2016*.

Further information

For more information or advice regarding the process for entering a place on the Heritage Register:

- email heritage@detsi.qld.gov.au
- call 13 QGOV (13 74 68) and ask to speak to a heritage officer in the Planning and Heritage Branch
- visit www.qld.gov.au/environment/land/heritage/

Human rights compatibility

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this procedure, officers must comply with that obligation (refer to *Comply with Human Rights Act*).