

# Fact sheet

## Heritage

### **Your property has been proposed for entry in the Queensland Heritage Register**

*This fact sheet sets out an owner's rights and responsibilities when their property becomes the subject of an application for entry in the Queensland Heritage Register under the Queensland Heritage Act 1992.*

Anyone can apply to have a place considered for entry in the Queensland Heritage Register (the Register), with or without the consent of a place's owner. Applicants can be individuals, corporations or unincorporated groups and associations. When making an application an applicant must provide a reasoned argument about why a place is of cultural heritage significance to Queensland by referring to the relevant cultural heritage criteria in the *Queensland Heritage Act 1992* (Heritage Act). Once an application is made, the department undertakes a process of assessment and recommendation according to statutory requirements and timeframes set out in the Heritage Act. As an independent, statutory body, the Queensland Heritage Council (QHC) then makes the final decision whether to enter or not enter a place in the Register. For information about the QHC's functions and current members go to [www.qld.gov.au/environment/land/heritage/](http://www.qld.gov.au/environment/land/heritage/).

#### **Definition of an 'owner'**

Under the Heritage Act, the definition of 'owner' covers a range of interests in land or property, such as:

- registered owners of freehold title
- those who hold a mining interest over land
- pastoral lessees
- those holding State land under another Act, and under an interest less than fee simple, and conferring a right to possession
- mortgagees in possession of land
- those holding a deed of grant in trust
- local governments controlling roads and public reserves
- the Queensland Government.

#### **Owner involvement in the application assessment process**

The department notifies an owner at key stages in the registration process:

- when an application is made
- when the department makes a recommendation about the application to the QHC
- when the final decision is made by the QHC.

Owners are encouraged to discuss the application and its assessment with the department at any time. Owners also have a number of opportunities to formally respond to the potential entry of the place in the Register during the application assessment process. These are described further in this fact sheet. Visit the Queensland Government website for a step-by-step guide on the process for entering a place in the Register.

#### **Notice of application**

When the department accepts an application, it sends all owners and the local government (where the place is located) a notice of application. At the same time the department informs the QHC that an application has been received, giving the names of the applicant and the place's owners. The department also publishes a public notice in a local newspaper and on the Queensland Government website. The public notice states how people can view a copy of the application and provides details on how to make a submission about the application.

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The notice of application sent to an owner:

- **Includes a copy of the application.**  
An applicant's name is not supplied to the owner unless the applicant has consented to the release of this information.
- **Includes an invitation to make a submission in response to the application.**  
A submission is an owner's first formal opportunity to respond to the potential entry of their place in the Register. In making a submission an owner must address whether their property satisfies any of the cultural heritage criteria outlined in the Heritage Act. The *Guideline: Assessing cultural heritage significance—Using the cultural heritage criteria* gives a detailed description of the Heritage Act's cultural heritage criteria and how they may be used to evaluate if a place is of state-level cultural heritage significance. The guideline is found at [www.qld.gov.au/environment/land/heritage/](http://www.qld.gov.au/environment/land/heritage/).
- **Stipulates the due date for making a submission.**  
On discussion with the department it may be possible to extend this date up to an additional 20 business days if required. If you are considering employing a consultant to undertake a professional heritage assessment for inclusion in a submission, contact the department first as the submission date may need to be extended. Once lodged, the submission is considered by the department before it makes its recommendation to the QHC, and then by the QHC when it makes its decision.
- **Informs of the requirement to advise of development plans and approvals.**  
An owner must advise the department if they have applied for, or received, a development approval for the place or are planning to submit a development application for the place. This is regardless of whether or not a submission on the application is made. It is an offence under the Heritage Act to withhold this information from the department and penalties apply.
- **Provides direct contact details of officers of the department responsible for the application.**  
Owners are encouraged to make contact with the departmental officer responsible for the application if they would like to discuss the application.

### Site assessment visit

When assessing an application, the department's Heritage Officers undertake comprehensive research into the history and significance of the place and, in almost all cases, will arrange with an owner to undertake a site assessment visit to the place. A Heritage Officer will contact the owner to arrange a mutually convenient time for this visit and will seek the owner's consent to photograph the place. Owners do not have to consent to a site assessment visit or to photographs being taken. Information about an owner's rights and what is involved in a site assessment visit can be found in *Fact sheet: Queensland Heritage Register – Site assessment visit* available at [www.qld.gov.au/environment/land/heritage/](http://www.qld.gov.au/environment/land/heritage/).

### Notification of recommendation and written response to the recommendation

On completing an assessment, the department makes a recommendation to the QHC about whether or not a place is eligible for entry in the Register. This recommendation must be made no more than 80 business days after the application is received, or no more than 120 business days after it is received if a more complex investigation must be undertaken. An owner is notified if additional time is required to complete the assessment.

The department notifies the owner of the recommendation and sends a copy of the heritage assessment on which the recommendation is based and copies of any submissions received. The recommendation is also published on the Queensland Government website. The statement of significance prepared as part of the department's recommendation almost always varies from that in the application.

On receiving department's notice of recommendation, an owner can choose to make a written response to it. The notice of recommendation provides details about how and when a response can be made. An owner's response to the recommendation is considered by the QHC when it decides whether to enter the place in the Register.

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The notice of recommendation also gives a date for the meeting at which the QHC will first consider the application and recommendation. The date of this meeting may be changed if an owner requires more time to prepare a written heritage response.

### **Oral representation with the QHC**

An owner has the right to request to make an oral representation to the QHC before it makes a decision on the department's recommendation and the application. The QHC will take all reasonable steps to enable an owner to make an oral representation, either in person or via teleconference. An application form to make a request for an oral representation to the QHC is included with the notice of recommendation as well as the due date by which this form must be submitted (within 10 business days).

### **Notification of decision**

The QHC meets regularly to consider applications and recommendations. Once the QHC makes a decision about whether to enter a place on the Register or not, the department sends a written decision notice to the owner within 10 business days. The decision is also published in the Government Gazette and on the Queensland Government website. On the day the decision is made, the department will telephone the owner and the applicant to inform them of the QHC's decision.

### **Appealing the decision**

An appeal against a decision may be lodged in the Planning and Environment Court. A fact sheet explaining this right of appeal is included with the decision notice the department sends to an owner.

### **Stop orders**

The Minister responsible for the Heritage Act has the power to issue a stop order to require a person to stop activities that have begun at a place currently subject to a heritage application, or to prohibit a person from starting stated work or an activities there.

To issue a stop order, the Minister must be satisfied on reasonable grounds that the place is likely to satisfy one or more of the cultural heritage criteria and that the work or activities will destroy or substantially reduce its cultural heritage significance.

There is a large maximum penalty associated with contravening a stop order and a person can be fined for minor breaches.

A stop order ceases when the Minister rescinds it, once the QHC has made its decision, or on the date stated in the order (the maximum duration of a stop order is 60 business days).

### **Privacy**

An owner's name is not disclosed to the public by the department or the QHC. The names of owners and their contact details may appear on documents held on file by the department, which may be requested under Right to Information legislation. When these requests are made, the owner is contacted to ask their permission for release of these details.

If a place is entered in the Register, it is a requirement of the Heritage Act that an entry (including information about the history and cultural heritage significance) for the place is published online on the Queensland Government's website. Where the QHC enters a place in the Register, accepting the recommendation of the department, the entry for the place in the Register is almost identical to the assessment on which the recommendation is based.. The entry includes details about the location of a place but does not include owner details.

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### **If a place is entered in the Register**

Entry in the Register means a place is of importance to the people of Queensland and enriches understanding of the state's history and heritage. Information about owning a place on the Register is available at [www.qld.gov.au/environment/land/heritage/](http://www.qld.gov.au/environment/land/heritage/).

### **If a place is not entered in the Register**

If the QHC decides not to enter a place in the Register, a new application to have it considered for entry cannot be made for five years after the date of the decision, unless substantial new evidence about the cultural heritage significance of the place is revealed.

If the department considers a place has local heritage value, it may recommend to the relevant local government that the place be recognised in its planning scheme or on its local heritage register. This triggers a separate assessment and decision-making process administered by the local government.

### **Further information**

- email [heritage@des.qld.gov.au](mailto:heritage@des.qld.gov.au)
- call 13 QGOV (13 74 68) and ask to speak to the Applications Co-ordinator, Heritage Branch
- visit [www.qld.gov.au/environment/land/heritage/](http://www.qld.gov.au/environment/land/heritage/)