

State Planning Policy – state interest guidance material

Cultural heritage

July 2017



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An electronic copy of this report is available on the Department of Infrastructure, Local Government and Planning's website at www.dilgp.qld.gov.au.

Using the SPP state interest guidance material

The Queensland Government established the State Planning Policy (SPP) to define the matters of state interest in land-use planning and development. State interests in the SPP consist of a state interest statement, state interest policies and, where applicable, assessment benchmarks.

This guidance material has been prepared to support the implementation of the SPP and the interpretation of the *Cultural heritage* state interest. Although the SPP broadly applies to a range of activities undertaken by state and local governments, the guidance material is particularly focused on assisting local governments when making or amending a local planning instrument and when applying the assessment benchmarks (to the extent relevant).

The SPP does not prioritise one state interest over another and thus provides flexibility for decision-makers to respond to specific regional and local circumstances. This allows for the state interests to be considered in their entirety rather than as individual or separate priorities. State interests are to be considered in the context of the guiding principles in the SPP, which promote an *outcome focused, integrated, efficient, positive* and *accountable* planning system.

The SPP guidance material is intended to be read in conjunction with the SPP and the relevant state interest. The SPP guidance material is not statutory in its effect and does not contain any new policy requirements. It is not mandatory for local governments to use the guidance material but it is provided to assist with the interpretation and application of the state interest policies and the assessment benchmarks contained in the SPP.



The SPP guidance material is structured as follows:

Part A: Understanding the state interest – This section briefly explains why a particular matter is a matter of state interest, describes the purpose of the relevant state interest statement and defines the core concepts associated with the state interest.

Part B: Integrating the state interest policies – This section provides background and further explanation for each of the state interest policies defined in the SPP. It also provides examples and options regarding how to appropriately integrate each state interest policy into a local planning instrument.

Part C: Mapping – This section identifies and explains the mapping layers contained in the SPP Interactive Mapping System (IMS) relevant to a particular state interest. It also clarifies how a local government can locally refine state mapping in certain instances and outlines where online mapping for the state interest can be accessed (if relevant).

Part D: Applying assessment benchmarks – In accordance with the Planning Regulation, an assessment manager or referral agency must have regard to the SPP when assessing a development application. For some state interests, there are also specific assessment benchmarks that must be used by a local government for development assessment. This section outlines the development applications to which the assessment benchmarks apply and how a development application may demonstrate compliance with these benchmarks, to the extent that these are relevant. The assessment benchmarks contained in this section will apply to assessable development in addition to any assessment benchmarks contained in a local planning instrument, to the extent of any inconsistency.

Part E: Example planning scheme provisions – This section provides example planning scheme provisions that a local government may choose to adopt, or to adapt, when making or amending a local planning instrument. It is important to note that the example planning scheme provisions provided may only be in relation to a particular aspect of a state interest, rather than addressing all of the particular state interest policy requirements.

Part F: Supporting information – This section provides a list of technical resources that a local government may wish to refer to when making or amending a planning scheme. This section also provides a glossary of terms and acronyms used throughout the SPP guidance material.

Where text in this guidance material is in a coloured text box, it is an excerpt from the SPP and is either the state interest statement, state interest policy or the assessment benchmarks applicable to the *Cultural heritage* state interest.

Any queries related to the SPP guidance material or the SPP should be sent to SPP@dilgp.qld.gov.au.

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Part A: Understanding the state interest

State interest statement

The cultural heritage significance of heritage places and heritage areas, including places of Aboriginal and Torres Strait Islander cultural heritage, is conserved for the benefit of the community and future generations.



Background

Australia has a four-tier system to identify and administer heritage places, as depicted in Figure 1.

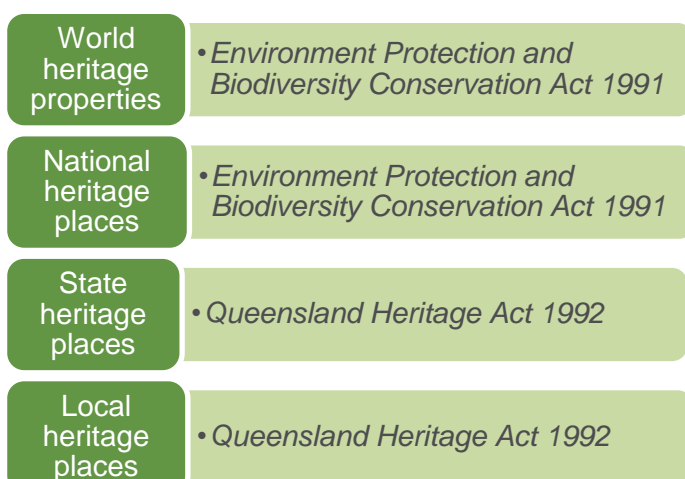


Figure 1: Four-tiered system for managing heritage in Australia

In addition, the *Aboriginal Cultural Heritage Act 2003 (ACHA)* and the *Torres Strait Islander Cultural Heritage Act 2003 (TSICHA)* affords blanket protection of significant Aboriginal and Torres Strait Islanders areas or objects.

World heritage properties are considered the most outstanding natural or cultural heritage places. They are selected by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and managed by the federal government through the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Australia's national heritage comprises exceptional natural and cultural places that help define Australia's national identity. The National Heritage List is a register of places with outstanding value to the nation and is administered through the EPBC Act. For the purposes of the state interest, world heritage properties and national heritage places with cultural or historic value are relevant. The state interest in cultural heritage does not include world or national heritage places recognised for their natural values.

State heritage places have cultural heritage significance to the State of Queensland and are entered in the Queensland Heritage Register. Administered by the Queensland Government, the *Queensland Heritage Act 1992 (Heritage Act)* provides for the conservation of state heritage places.

Local heritage places are those that are important to a local government area and do not meet the state heritage threshold. Local governments identify heritage places in their local planning scheme or in a local heritage register (made under the Heritage Act).

Local heritage areas are areas that have collective cultural heritage significance to the local community and are determined by the local government as requiring additional planning controls to protect their integrity.

The state interest in cultural heritage requires that planning schemes consider world, national, state and local heritage as well as Aboriginal and Torres Strait Islander cultural heritage. This document provides guidance for local governments on how to fulfil the state interest in cultural heritage in their individual planning schemes.

Note: *This guidance does not address local 'character' areas, as this is outside the scope of the state interest in cultural heritage.*

Core concepts

The following concepts will assist in understanding how to apply the state interest in cultural heritage.

Cultural heritage significance

The cultural heritage significance of a place, or feature of a place, means its aesthetic, architectural, historical, scientific, social or other significance to the present generation, or past or future generations. Cultural heritage significance is embodied in the place itself – its fabric, setting, use, associations, meanings, records, related places and related objects.

Each of these criteria may have tangible and intangible aspects and it is essential that both aspects be acknowledged. These values are frequently interdependent.

Note: *This definition is based on the Heritage Act and the Burra Charter. It does not relate to Aboriginal and Torres Strait Islander cultural heritage.*

The Burra Charter

The Burra Charter sets out the principles and procedures to be observed in the conservation of heritage places. Owners, custodians and managers use the charter to guide decisions and work undertaken at heritage places. The Queensland Heritage Council has adopted the Burra Charter as a 'best practice' conservation guide.

Note: *For further information about the Burra Charter, see the Australia ICOMOS website.*

Aboriginal and Torres Strait Islander cultural heritage

The ACHA and TSICHA provide for the recognition, protection and conservation of Aboriginal and Torres Strait Islander cultural heritage.

The ACHA and TSICHA define Aboriginal and Torres Strait Islander cultural heritage as anything that is:

- a significant Aboriginal or Torres Strait Islander area in Queensland
- a significant Aboriginal or Torres Strait Islander object in Queensland, or
- archaeologically or historically significant evidence of Aboriginal or Torres Strait Islander occupation of an area of Queensland.

An area or object is significant because of either or both of the following:

- Aboriginal or Torres Strait Islander tradition

- the history, including contemporary history, of any Aboriginal or Torres Strait Islander party.

The ACHA and TSICHA require anyone who carries out a land-use activity to exercise a duty of care. Land users must take all reasonable and practicable measures to ensure their activity does not harm Aboriginal and Torres Strait Islander cultural heritage. The requirements of the ACHA and TSICHA apply separately and in addition to the SPP.

The ACHA and TSICHA are administered by the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP). Information about the operation and administration of the ACHA and TSICHA can be found at www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage

World heritage property

A World Heritage property means a declared World Heritage property under the EPBC Act.

Properties are entered on the World Heritage List under the terms of the World Heritage Convention. These properties are recognised as having natural or cultural heritage value, or both.

Currently, Australia has 19 World Heritage places, with five of these located in Queensland. While none of the sites in Queensland are recognised by the World Heritage Convention for their cultural heritage value, a property's cultural heritage value can be recognised under the EPBC Act as a national heritage place. For example, the Wet Tropics World Heritage Area is recognised under the EPBC Act for its natural and cultural heritage values because it demonstrates the unique material culture of Aboriginal people who have lived continuously in the rainforest environment for at least 5000 years.

National heritage place

The National Heritage List records places of outstanding heritage significance to Australia. It includes natural, historic and Indigenous places that are of outstanding national heritage value to the nation. National heritage places with historic or Indigenous heritage values are relevant to the state interest in cultural heritage.

State heritage place

A state heritage place means a place entered in the Queensland Heritage Register under Part 4 of the Heritage Act. State heritage places contribute to our understanding of the wider pattern and evolution of Queensland's history and regional development, as well as the fundamental political, social and cultural forces that have shaped Queensland's society.

To be entered in the Queensland Heritage Register a place must satisfy one or more of the eight cultural heritage criteria set out in the Heritage Act.

The State Assessment Referral Agency (SARA) in the Department of Infrastructure Local Government and Planning (DILGP) assesses the impact of development on the cultural heritage significance of state heritage places.

The Queensland Heritage Register is available at www.qld.gov.au/environment/land/heritage/. The register does not include places of Aboriginal or Torres Strait Islander cultural heritage, unless the place has an overlap of Indigenous and non-Indigenous significance (such as occurs on certain mission stations).

Local heritage place

Under the Heritage Act, a local heritage place means a place that:

- (a) is of cultural heritage significance for a local government area; and
- (b) is identified as a place of cultural heritage significance in the local government's planning scheme or on the local government's local heritage register.

Examples of places of local cultural heritage significance include civic buildings such as town halls, cemeteries, rural homesteads, and the homes and gardens of prominent local people.

To reduce duplication in assessment, development on a local heritage place is not assessable when it is also within the boundary of a Queensland heritage place.

Local heritage area

A local heritage area is an area identified in a local planning scheme that has collective cultural heritage significance to the local community. It comprises an area that will have multiple, interdependent aspects of cultural heritage significance that are only realised collectively rather than as individual local heritage places. Local heritage areas have a quality or value over and above the attributes of a single heritage place.

The cultural heritage significance of a local heritage area may exist in the collection of buildings or objects in the area or in the activities and traditional and customary practices that may occur, or have occurred, in the area or depend on the area. For example, a local heritage area may include an intact historical commercial centre consisting of architecturally significant buildings that were built in support of an industry that helped establish the local economy. Its architectural, aesthetic, social and historical values demonstrate cultural heritage significance.

Local heritage register

A local heritage register is a list of places of cultural heritage significance to the local government area made under the Heritage Act.

Schedule 2 of the Queensland Heritage Regulation 2015 (Heritage Regulation) prescribes a code for development assessment involving local heritage places entered in a local heritage register and not applied, adopted or incorporated into a planning scheme.

Most local governments have chosen to include provisions in their planning scheme rather than use the code in the Heritage Regulation.

Part B: Integrating the state interest policies

When making or amending a local planning instrument, each local government is required to consider all state interests in the SPP and appropriately integrate those state interests applicable to their local area.

Appropriately integrating a state interest requires all state interest policies to be considered by a local government, but it does not necessarily mean a local government must address each and every state interest policy when making or amending a local planning instrument. For example, if a local government needs to balance competing state interests in a local planning instrument, it may not be possible to address all policies for a particular state interest.

This balancing of state interests may mean that the planning scheme preferences one state interest policy over another. This outcome will be considered as part of the state interest review and ministerial approval means the approach taken by the local government in balancing the state interest policies is endorsed by the state.

This section provides examples for how to appropriately integrate each state interest policy for the *Cultural heritage* state interest.

State interest policy 1

Aboriginal and Torres Strait Islander cultural heritage:

Matters of Aboriginal cultural heritage and Torres Strait Islander cultural heritage are appropriately conserved and considered to support the requirements of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*.

Background

Aboriginal and Torres Strait cultural heritage incorporates both areas and objects of cultural heritage significance, as defined under the ACHA and the TSICHA. Areas and objects of importance to traditional owners may include, for example, natural features such as a lake or mountain range, burial grounds, bora rings, and storytelling places.

Many Queensland local governments formally engage with Aboriginal and Torres Strait Islander groups during the preparation of strategic plans and studies, including community plans and open-space strategies. The challenge for all local governments is to better incorporate Aboriginal and Torres Strait Islander cultural heritage into the land-use planning process by considering these issues early in the plan-making process where possible.

Owing to the sacred or spiritual significance of an area or object, Aboriginal and Torres Strait Islanders may not wish to disclose information and specific details about these heritage values. However, some places of value to the local community may be able to be notated in the planning scheme, or spatially represented in a strategic map.

This information can better inform local government decision-making about appropriate land uses and the built environment in these areas, and also provide a starting point for development applicants to engage with local Aboriginal and Torres Strait Islander groups about features that are important to them.

Note: *The duty of care requirements under the ACHA and the TSICHA apply separately and in addition to the SPP.*

How to appropriately integrate the policy

- 1.1 Undertake consultation with Aboriginal and Torres Strait Islander groups in the local area and the Department of Aboriginal and Torres Strait Islander Partnerships early in the plan-making process.
- 1.2 Ensure the strategic framework recognises and conserves Aboriginal and Torres Strait Islander cultural heritage, and protects significant areas and objects, landscapes and natural features.
- 1.3 Where deemed appropriate, and in consultation with local Aboriginal and Torres Strait Islander groups, consider including a schedule or overlay map identifying culturally significant landscape features and/or areas or objects.
- 1.4 Consider making development on a site containing an area or object of Aboriginal and Torres Strait Islander cultural heritage assessable development, and include planning scheme provisions aimed at avoiding adverse impacts on areas or objects with cultural heritage significance to Aboriginal and Torres Strait Islander groups.

State interest policy 2

World and national cultural heritage:

Adverse impacts on the cultural heritage significance of world heritage properties and national heritage places prescribed under the *Environmental Protection and Biodiversity Conservation Act 1999* are avoided.

Background

Queensland contains one area on the World Heritage List that has been deemed to have outstanding cultural values: the Wet Tropics World Heritage Area.

National heritage places listed under the EPBC Act in Queensland for their cultural values include:

- Ngarrabullgan, Dimbulah (Indigenous values)
- Wet Tropics World Heritage Area (Indigenous values)
- Tree of Knowledge, Barcaldine
- QANTAS hangar, Longreach Airport
- Burke and Wills Expedition site, Bullah Bullah Crossing.

Under the Commonwealth's EPBC Act, both world heritage properties and national heritage places are considered matters of national environmental significance. Any action that has, or is likely to have, a significant impact upon them requires assessment and approval under the EPBC Act.

While Queensland state and local governments do not have a direct assessment role in relation to the cultural heritage significance of these places, local governments can assist in conserving their heritage significance by recognising their heritage values in local planning schemes.

How to appropriately integrate the policy

- 2.1 Ensure the strategic framework recognises and conserves the cultural heritage significance of World Heritage properties and national heritage places. Where appropriate, consider listing or mapping these areas in the planning scheme.
- 2.2 Include World Heritage properties and national heritage places in an appropriate zone where adverse impacts on their cultural heritage significance can most effectively be minimised – for example, in a conservation or environmental management zone.
- 2.3 Include appropriate planning scheme provisions aimed at avoiding adverse impacts upon the cultural heritage significance of World Heritage properties and national heritage places.

State interest policy 3

State cultural heritage:

Adverse impacts on the cultural heritage significance of state heritage places are avoided.

Background

Applications for development on a state heritage place, and some applications on sites adjoining a state heritage place, are referable to SARA, which will assess the development's impact upon the cultural heritage significance of the state heritage place. Nonetheless, planning schemes should still acknowledge the importance of state heritage places in their strategic framework, and map these places in an overlay or strategic framework map.

How to appropriately integrate the policy

- 3.1 Identify the location and extent of state heritage places in the local government area. If appropriate, consider mapping state heritage places in a strategic framework map or overlay, and clearly differentiate their heritage status from national or local heritage places.
- 3.2 Consider during plan-making the zoning of a state heritage place to assist in facilitating the appropriate use of the site and the retention of its heritage values into the future.
- 3.3 Ensure the strategic framework recognises the cultural heritage significance of state heritage places and their importance to the Queensland community as a whole.

Note: Provisions in the local planning scheme relating to development adjoining a state heritage place will only apply to development that does not require referral to SARA (refer to the Planning Regulation 2017).

State interest policy 4

Local cultural heritage:

Local heritage places and local heritage areas important to the history of the local government area are identified, including a statement of the local cultural heritage significance of the place or area.

Background

Local heritage place

Local heritage places can be identified in one of two ways:

- 1) on a local heritage register under the Heritage Act
- 2) in the planning scheme, with associated planning scheme provisions.

Local governments that identify and protect local heritage places through their planning schemes should clearly identify the full extent of the local heritage place in a schedule or map, prepare a statement of local cultural heritage significance for each local heritage place, and produce planning scheme provisions to be used in the assessment of development applications on these local heritage places.

Local heritage area

A local government may also elect to identify a local heritage area where the sum of a range of features (such as buildings and structures, trees and plantings, roads, and public and private open spaces) has collective cultural heritage significance to the local government area.

A local government needs to consider carefully the extent of any local heritage area and ensure it only includes buildings and/or features that have cultural heritage significance. A statement of local heritage significance must support the designation of a local heritage area to describe the significant aspects and features that require scrutiny when development is proposed.

Under the definition in the SPP, a local heritage area must include at least two heritage places. These can be local, state, national or World Heritage places, or any combination of such places.

Statement of local cultural heritage significance

A statement of local cultural heritage significance (commonly referred to as a 'citation') is required for all local heritage places and local heritage areas. The statement comprises a clear analysis and description of the elements of significance relating to the local heritage place or area. It highlights the aspects that are most important to the local community.

Through the process of investigating the place or area and assessing each of its values, it is possible to clearly describe why a place or area is important to the local government area. This description forms the basis for accurately assessing the impact of development on the cultural heritage significance of a place or area and underpins decisions about the appropriateness of development.

The statement of local cultural heritage significance should be supported by sound evidence and be sufficient in length and detail to understand the potential impact of a development proposal on its cultural heritage significance.

The Department of Environment and Heritage Protection (DEHP) has produced a guideline entitled *Assessing cultural heritage significance: Using the cultural heritage criteria*, which assists local governments in assessing local heritage significance and preparing a statement of local heritage significance. Full details of this document are provided in Part F of this guidance material.

How to appropriately integrate the policy

- 4.1 Undertake a local heritage survey to identify local heritage places and, where appropriate, local heritage areas (refer to the DEHP Guideline *Carrying out a local heritage survey*).
- 4.2 Identify the full extent of local heritage places and local heritage areas in the planning scheme in a schedule or map, and include a statement of significance for each place or area.
- 4.3 Consider whether it would be appropriate to include local heritage places and local heritage areas in a heritage overlay in the planning scheme, with an associated heritage overlay code that applies to the schedule or map of local heritage places and local heritage areas.

If a local government does not elect to use a heritage overlay code, alternatives are:
 - a 'general development' code that includes provisions addressing local heritage
 - a local plan or neighbourhood plan that includes local heritage provisions
 - local heritage provisions in relevant zone codes.
- 4.4 Consider where it would be appropriate to identify local heritage areas. These areas must demonstrate multiple, interdependent aspects of cultural heritage significance that are only realised in a collective group rather than as individual heritage places.
- 4.5 In determining the extent of the local heritage area, care needs to be taken to ensure that:
 - only buildings, features and areas that directly contribute to the cultural heritage significance of the area are included
 - in accordance with the SPP guiding principles, the provisions are directly related to the achievement of the state interest.

State interest policies 5 and 6

Local cultural heritage:

- 5) Development of local heritage places or local heritage areas does not compromise the cultural heritage significance of the place or area by:
 - a) avoiding adverse impacts on the cultural heritage significance of the place or area, or
 - b) minimising and mitigating unavoidable adverse impacts on the cultural heritage significance of the place or area
- 6) The conservation and adaptive re-use of places of local cultural heritage significance and local heritage areas are facilitated so that the cultural heritage significance of the place or area is retained.

Background

Land-use planning has an important role to play in ensuring that local heritage places and local heritage areas are used and adapted in a way that does not degrade their cultural heritage significance. Local government planning schemes are the most appropriate way of ensuring that the cultural heritage significance of local heritage places and areas is protected.

A local government should be aware that, where the original use of a local heritage place has ceased, the introduction of a new, compatible use is possible where it retains the cultural significance of the place. In these situations, consideration should be given to what uses would involve no impact, or minimal impact, on the cultural significance of the place.

Example planning scheme provisions are provided in Part E of this guidance material. Local governments may choose to adopt these, or adapt them to suit their local situation. The DEHP has produced a guideline entitled *Developing heritage places – Using the development criteria*, which also provides a useful reference when a local government is considering the preparation of planning scheme provisions.

Note: *The Planning Regulation states that any assessment benchmarks relating to local heritage places in a local instrument – that is, a planning scheme or TLPI, cannot be inconsistent with the code in the Heritage Regulation. The example planning scheme provisions in Part E of this guidance material have been drafted accordingly. If a local government chooses to draft its own planning scheme provisions, it should ensure that they are generally consistent with the code contained in the Heritage Regulation.*

How to appropriately integrate the policy

- 5/6.1 Adopt planning scheme provisions that seek to avoid adverse impacts on the cultural heritage significance of a local heritage place or local heritage area, and where this is not possible, impacts are minimised or mitigated. To this end, planning scheme provisions should ensure that:
- development does not substantially reduce or destroy the cultural heritage significance of the local heritage place or local heritage area, except where it is established that there is no prudent and feasible alternative (e.g. due to serious structural issues, health and safety concerns or other relevant considerations)
 - the cultural heritage significance of the local heritage place or area informs and influences the planning and design of the development

- development is consistent with local community interests in the cultural heritage significance of the local heritage place or area
 - development is compatible with conserving physical features, fabric and contents that contribute to the cultural heritage significance of the local heritage place or area.
- 5/6.2 Adopt provisions that encourage the conservation and adaptive reuse of local heritage places in a way that maintains and/or enhances the cultural heritage significance of the place into the future.
- 5/6.3 Ensure provisions about local heritage areas conserve the cultural heritage significance of the heritage area and, where practicable, enhance the appreciation of its heritage values. Provisions should aim to:
- protect attributes of the heritage area that contribute to an appreciation of its cultural heritage significance
 - ensure development is compatible with conserving cultural heritage significance
 - ensure development responds to the significant spatial patterns of the area
 - remove or mitigate the detrimental impact of incompatible features.
- 5/6.4 Consider the appropriate category of development for development applications on a local heritage place or in a local heritage area, particularly where the removal or demolition of a local heritage place is proposed. Community consultation during plan-making may help inform this decision.

Part C: Mapping

To support the SPP, wherever possible and to the extent relevant, matters of state interest are spatially represented as layers included in the SPP IMS. The mapping is necessary to help local government, the community and industry understand and interpret where and how state interest policies and assessment benchmarks included in the SPP apply.

Several mapping layers contained in the SPP IMS are prepared by entities other than the Department of Infrastructure, Local Government and Planning and may serve an additional purpose outside the Queensland planning system. Where relevant, the SPP IMS represents the single point of truth for the spatial representation of the state interests expressed in the SPP.

Appendix 1 of the SPP identifies three categories of mapping layers provided or referred to in the SPP IMS that are intended to be used in one of the following ways:

- Category 1** – State mapping layers that must be appropriately integrated in a local planning instrument in a way that achieves the relevant state interest policy.
- Category 2** – State mapping layers that must be appropriately integrated, and can be locally refined by a local government in a local planning instrument in a way that achieves the relevant state interest policy.
- Category 3** – State mapping layers that are provided for local government information purposes only.

The SPP IMS is located at: <https://planning.dilgp.qld.gov.au/maps>. Any queries related to the SPP mapping should be sent to mappingenquiries@dilgp.qld.gov.au.

This section provides clarity regarding the mapping layers on the SPP IMS relevant to the *Cultural heritage* state interest.

Mapping layers

State heritage place	
Purpose	To spatially represent State heritage places on the Queensland Heritage Register
Mapping category	Category 1
Data custodian	Department of Environment and Heritage Protection
Head of power	<i>Queensland Heritage Act 1992</i>

National heritage place	
Purpose	To spatially represent National heritage places in Queensland with cultural values, including indigenous and historic values
Mapping category	Category 1
Data custodian	Department of Environment and Energy (Commonwealth)
Head of power	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>

Part D: Applying assessment benchmarks

The SPP does not contain any specific assessment benchmarks for the *Cultural heritage* state interest.

However, for the purposes of development assessment, the assessment manager must have regard to the SPP (including the *Cultural heritage* state interest statement and policies) in accordance with the Planning Regulation 2017, where the planning scheme has not appropriately integrated the state interest. The SPP applies as a matter to have regard to where the assessment manager considers these matters are relevant to the proposed development and only to the extent of any inconsistency with the planning scheme.

Part E: Example planning scheme provisions

Example planning scheme provisions for the *Cultural heritage* state interest have been prepared. A local government may choose to adopt or otherwise adapt these when making or amending a planning scheme.

The example planning scheme provisions should not be seen as the only way to appropriately reflect the *Cultural heritage* state interest. It is not intended that a local government would use these example provisions verbatim, as responding to the local context is an essential part of adopting the SPP.

Where a local government seeks to adopt the example planning scheme provisions, variations will be required to reflect the local circumstances, opportunities and aspirations of each local government area.

Strategic outcomes

- Heritage places and areas, as important and highly valued features of established urban and rural environments, enhance regional identity and contribute to a vibrant lifestyle.
- Aboriginal and Torres Strait Islander cultural heritage values in the region, including objects and areas of significance to the local community, are retained and protected for future generations.
- Heritage places and areas are conserved and integrated in new and evolving communities.
- The conservation and re-use of local heritage places and local heritage areas are facilitated. Both built and natural landscapes that have spiritual and aesthetic values are conserved, or protected from development that diminishes their values.

Specific outcomes

- The cultural heritage significance of local heritage places and areas is protected by conserving their unique settings and contexts.
- Local heritage places and areas are identified, managed and conserved.
- Aboriginal and Torres Strait Islander cultural heritage values and traditional knowledge of the local area are protected. Aboriginal and Torres Strait Islander art and storytelling places are integrated in new development.
- Development with the potential to affect local heritage places and areas is appropriately planned and designed to incorporate the historical context.
- Development that incorporates the adaptive re-use of local heritage places is supported where the use will promote the conservation of the heritage place.

Categories of development

State heritage place

It is recommended that all aspects of development on a state heritage place be made assessable. Development applications over a state heritage place are referable to the SARA, which will assess the application against State code 9: Queensland heritage contained in the State Development Assessment Provisions.

Furthermore, a material change of use of premises, other than an excluded material change of use, on a lot that shares a common boundary with a lot that is or contains a state heritage place is also assessable development and requires referral to SARA.

Local heritage place and local heritage area

All aspects of development on a place of local cultural heritage significance, including building work for demolition, should be assessable development.

Aboriginal and Torres Strait Islander cultural heritage

Following consultation with Aboriginal and Torres Strait Islander groups, it may be appropriate to identify development on a site containing an area or object with Aboriginal or Torres Strait Islander cultural heritage significance as assessable development.

Example code: Cultural heritage

Application

This code applies to all development:

- a) on a local heritage place
- b) on land in a local heritage area
- c) on land of cultural heritage significance, or containing objects of cultural heritage significance, to Aboriginal or Torres Strait Islander people.

Purpose

The purpose of the cultural heritage code is to ensure that development:

- a) on a local heritage place, or
- b) in a local heritage area, or
- c) on a site containing areas or objects that have cultural heritage significance to Aboriginal and Torres Strait Islander people, is compatible with the cultural heritage significance of the place, area or object so that it is conserved for the benefit of the community and future generations.

The purpose of the cultural heritage code will be achieved through the following overall outcomes:

- a) development on a local heritage place or local heritage area is compatible with the heritage significance of the place or area by:
 - i. retaining a local heritage place, unless there is no prudent and feasible alternative to its demolition or removal
 - ii. maintaining or encouraging as much as possible the appropriate use or adaptive reuse of a local heritage place to provide for the future protection of its heritage values, while also protecting the amenity of adjacent uses
 - iii. protecting, as far as practicable, the fabric and setting of a local heritage place or area
 - iv. ensuring that development on, or in, a local heritage place or area is compatible with the cultural heritage significance of the place or area.
- c) areas and objects of Aboriginal and Torres Strait Islander cultural heritage significance are conserved and managed in a culturally appropriate manner
- d) the archaeological potential of the place or area is safeguarded.

Table 1: Assessment benchmarks for assessable development

Performance outcomes	Acceptable outcomes
Material change of use on a local heritage place or in a local heritage area	
<p>PO1 Development does not have a detrimental impact on the cultural heritage significance of the local heritage place or area, as defined in a statement of local heritage significance; or where it is demonstrated that this is not reasonably achievable, development:</p> <ul style="list-style-type: none"> a) minimises and mitigates detrimental impacts on cultural heritage significance, as defined in the statement of local heritage significance; and b) provides opportunities for public appreciation of its cultural heritage significance; and c) where adaptive reuse of a local heritage place is proposed, is compatible with ongoing conservation management of a local heritage place. 	<p>AO1.1 Development conserves and does not alter, damage, remove or conceal significant features, fabric or contents of the local heritage place or area, as defined in the statement of local heritage significance.</p> <p>OR</p> <p>AO1.2</p> <ul style="list-style-type: none"> (1) Development is guided by a conservation management plan approved by the local government and prepared in accordance with the DEHP guideline: Conservation Management Plans and Principles, which is outlined in the Burra Charter: The Australia ICOMOS Charter for Places of Cultural Heritage Significance; and (2) A Heritage Impact Statement prepared by a suitably qualified person and approved by the local government demonstrates how the development mitigates and minimises detrimental impacts on cultural heritage significance and supports ongoing conservation management of the local heritage place or area.
<p>PO2 Where open space, or the relationship between buildings and open space, contribute to a local heritage place or area's significance, as defined in the statement of local heritage significance, development maintains or enhances the significance of the setting, including views, circulation, access, spatial patterns and layout of the local heritage place or area.</p>	<p>No acceptable outcomes are provided.</p>
Reconfiguring a lot involving a local heritage place or local heritage area	
<p>PO3 Development:</p> <ul style="list-style-type: none"> a) maintains lot sizes and layout that permit viable adaptive reuse or conservation of local heritage buildings and open spaces; and b) does not result in a local heritage place being obscured from public view; and c) does not obscure or destroy a pattern of subdivision where this characteristic contributes to the cultural heritage significance of the local heritage place or area, as defined in the statement of local heritage significance; and d) does not reduce public access to the place or area. 	<p>No acceptable outcomes are provided.</p>

Performance outcomes	Acceptable outcomes
Building work for demolition or removal of a local heritage place	
<p>PO4 Development does not result in the demolition or removal of a local heritage place unless:</p> <ul style="list-style-type: none"> a) it is not capable of structural repair; or b) repair is not feasible having regard to economic or health and safety considerations; or c) any other relevant considerations. 	<p>No acceptable outcomes are provided.</p>
Building work or operational work involving a local heritage place or local heritage area	
<p>PO5 Development conserves and is subservient to the features and values of the local heritage place or area that contribute to its cultural heritage significance and does not adversely affect the character, setting or appearance of the local heritage place.</p>	<p>AO5.1 Development does not alter, remove or conceal significant features of the local heritage place or area, as defined in the statement of local heritage significance.</p> <p>OR</p> <p>AO5.2 Development is necessary to maintain a significant use, as defined in the statement of local heritage significance, for the local heritage place.</p>
<p>PO6 Changes to a place of local cultural heritage significance or heritage area are appropriately managed and documented.</p>	<p>AO6.1 Development is guided by a conservation management plan approved by the local government and prepared in accordance with the DEHP guideline: <i>Conservation management plans</i>, outlined in the Burra Charter;</p> <p>AND</p> <p>AO6.2 An archival quality photographic record is made of the features of the place or area that have been destroyed because of the development, which meets the standards outlined in the DEHP guideline: <i>Archival recording of heritage places</i>.</p>
<p>PO7 Development on a local heritage place with identified archaeological potential avoids or appropriately manages detrimental impacts on artefacts.</p>	<p>AO7 Development in areas not previously disturbed by excavation is in accordance with an archaeological investigation and management plan prepared by a suitably qualified person and approved by the local government.</p>
Development on a site of Aboriginal and Torres Strait Islander cultural heritage significance	
<p>PO8 Development avoids or minimises adverse impacts on an area or object that has cultural heritage significance to Aboriginal or Torres Strait Islander people.</p>	<p>No acceptable outcomes are provided.</p> <p>Note: A 'duty of care' applies to any activity where Aboriginal or Torres Strait Islander cultural heritage is located, regardless of whether it has been identified or recorded in a planning scheme or cultural heritage database. The cultural heritage duty of care guidelines can be viewed at www.datsip.qld.gov.au/ch.</p>

Part F: Supporting information

- World Heritage List <http://whc.unesco.org/en/statesparties/au>
- National Heritage List www.environment.gov.au/heritage/places/national-heritage-list
- State Heritage Register <https://environment.ehp.qld.gov.au/heritage-register/>
- The Burra Charter, Australia ICOMOS (International Council on Monuments and Sites) <http://australia.icomos.org/publications/charters/>
- *Assessing cultural heritage significance*, Department of Environment and Heritage Protection
www.qldheritage.org.au/assets/files/pdf/using-the-criteria.pdf
- *Carrying out a heritage survey*, Department of Environment and Heritage Protection
www.ehp.qld.gov.au/assets/documents/land/heritage/gl-heritage-survey.pdf
- *Developing heritage places – Using the development criteria*, Department of Environment and Heritage Protection
www.ehp.qld.gov.au/assets/documents/land/heritage/gl-heritage-development.pdf
- Aboriginal and Torres Strait Islander cultural heritage – Department of Aboriginal and Torres Strait Islander Partnerships
www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage

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