

USING QUEENSLAND LAW TO PROTECT YOUR COUNTRY

Aboriginal Cultural Heritage Act 2003

Torres Strait Islander Cultural Heritage Act 2003

What is cultural heritage?

In Queensland, **Aboriginal and Torres Strait Islander cultural heritage** is protected under the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*.

Cultural heritage is defined as “objects and places that are significant to Aboriginal and Torres Strait Islander people under Aboriginal tradition or Ailan Kastom”.

Examples of significant objects

- spears
- stone tools
- grindstones
- fish traps and weirs
- rock art

Examples of significant areas

- birthing places
- burial sites
- massacre sites
- bora rings
- natural springs
- landscapes

How is cultural heritage protected?

There is a **cultural heritage duty of care** which requires land users to take all **reasonable** and **practicable** measures to make sure their activities do not harm cultural heritage. There is a penalty for breaching the cultural heritage duty of care. The duty of care can be met in a number of ways, including by complying with the **Cultural Heritage Duty of Care Guidelines**.

It is also an **offence** to:

- unlawfully harm cultural heritage
- unlawfully excavate, relocate or take away cultural heritage
- unlawfully possess cultural heritage

However, a person does **not** commit an offence if they are acting:

- under an approved cultural heritage management plan
- under a native title agreement
- in compliance with the cultural heritage duty of care guidelines
- in compliance with the cultural heritage duty of care

Visit the **Cultural Heritage Duty of Care Guidelines** for more information on the duty of care.

What can I do if cultural heritage is under threat?

1. Negotiate a Cultural Heritage Management Plan

A Cultural Heritage Management Plan or **CHMP** is an agreement between a landowner or project proponent and an **Aboriginal party** which sets out how activities are managed to avoid or minimise harm to cultural heritage.

For more information visit the [cultural heritage management plan guidelines](#)

2. Report concerns to the Department

You can report concerns about cultural heritage to the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts. They are responsible, with the Department of Environment and Science, for investigating activities that may be in breach of cultural heritage legislation.

You can contact the Department at:
1300 378 401
cultural.heritage@dssatsihp.qld.gov.au

3. Request a stop work order

The Minister for Aboriginal and Torres Strait Islander Partnerships can make a stop order if there are **reasonable grounds** for concluding that a person is, or is about to, carry out an activity that will harm cultural heritage or have a significant adverse impact on it. A stop order can be granted for **30 days** and renewed once up to a total of **60 days**.

You can email the Minister at:
treatyandcommunities@ministerial.qld.gov.au

4. Apply for an injunction in the Land Court

Traditional Owners may apply to the Land Court of Queensland for an injunction to stop a person from doing an act that is likely to be in breach of cultural heritage legislation.

We strongly recommend you seek legal advice before going to court, as it can be resource and time consuming with possible costs risks.

5. Apply to the Federal Government for a Declaration

If you have exhausted all options under Queensland legislation, you can apply for a declaration to protect cultural heritage under the *Aboriginal and Torres Strait Islander Heritage Protection Act*. Visit EDO's factsheet on **Using Federal Law to Protect Your Country** for more information.

To apply for a declaration:
1800 751 242
atsihpa@dcceew.gov.au

You can call the Environmental Defenders Office on **1800 626 239** for free legal advice.