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APPLICATION REF
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7. Statutory Controls

7.1 Queensland Heritage Register

Section 2 of the Queensland Heritage Act states (among other things) that is an object of the Act 'to provide for the conservation of Queensland' cultural heritage for the benefit of the community and future generations. The Act establishes the Queensland Heritage Council and the Queensland Heritage Register as important mechanisms for heritage to be protected for present and future generations.

McWhirters is a place of State heritage significance (QHR 600214).

The *State Development Assessment Provisions State Code 14: Queensland Heritage* (SDAP14) provides assessment benchmarks for development on (and adjoining) a state heritage place, and development proposals are required to demonstrate that the development would meet with these assessment benchmarks.

For places entered in the QHR, development refers to all types of work on a place including reconfiguring a lot, material change of use, operational work, and building work.

7.1.1 SDAP14

The SDAP14 regulates development on and adjoining a State heritage place in order to ensure that development conserves its cultural heritage significance for the benefit of the community and future generations (DES 2022). Specifically, SDAP14 seeks to ensure development:

1. on a Queensland heritage place:

a. protects the identified elements of the Queensland heritage place that are of cultural heritage significance by substantially reducing unavoidable impacts;

b. promotes the preservation of identified elements of the Queensland heritage place that are of cultural heritage significance;

c. where practical, restores the identified elements of the Queensland heritage place that are of cultural heritage significance; and

d. aligns with the ongoing conservation management of the Queensland heritage place where adaptation is proposed.

2. involving a material change of use adjoining a Queensland heritage place:

a. maintains or substantially reduces unavoidable impacts on, the setting and/or streetscape where these form part of the cultural heritage significance of the Queensland heritage place; and

b. avoids direct adverse impacts on the cultural heritage significance of the Queensland heritage place.

(DES 2022).

As noted in Part 4.1, the subject escalator is captured within the QHR boundary of McWhirters and therefore, the proposed scope of works outlined in Part 6 is subject to assessment against the SDAP14's Performance Outcomes (POs).

Table 4. Proposal response to Table 14.2-14.4: Development of Queensland heritage place. Source: DES (2022).

Performance outcomes	Proposal responses
14.2 Development on a Queensland heritage place.	
PO1 Development minimises adverse impacts on the cultural heritage significance of a Queensland heritage place.	The subject escalators are identified as an element of High relative heritage significance, representative of a suite of modernisation and improvements undertaken in the mid-twentieth century. The proposal seeks to refurbish and reinstate the subject escalators which have been decommissioned and damaged through previous partial demolition works.
PO2 Development on a Queensland heritage place with identified archaeological potential manages adverse impacts on artefacts	
PO3 Development employs methods and utilises materials that are compatible with the conservation of built and landscape features that form part of the cultural heritage significance of the Queensland heritage place.	The proposal is prepared in response to SARA pre-lodgement advice dated 2 April 2025 (2503-45067 SPL) and guided by an experienced heritage architect (Extent Heritage) The refurbishment prioritises reinstallation of original fabric. Where fabric needs to be replaced due to permanent loss or poor condition, this will be done so in a like-for-like manner in terms of materiality, form, profile, and placement. Where discrete removal of fabric is required, the affected elements will be carefully salvaged and securely retained on site in a location to be nominated, allowing for their potential future reinstatement. Surrounding original / early building fabric such as the marble wall cladding will not be impacted by the proposed works and will remain in-situ. The proposal seeks to convert and adaptively reuse the decommissioned escalator into a fire stair. This would reinstate the original circulation function of the subject escalator. Through the above methods the proposal minimises adverse impacts on the cultural heritage significance on the Queensland heritage place.

Performance outcomes	Proposal responses
	Continued use of the subject escalators further activates the entrance corner and improves passive surveillance. McWhirters does not contain any identified archaeological potential. The proposal is limited to the refurbishment of the subject escalator only.
Development proposing to destroy or substantially reduce the cultural heritage significance of a Queensland heritage place.	
PO4 Development proposing to destroy or substantially reduce the cultural heritage significance of the Queensland heritage place must demonstrate that there is no reasonable alternative to the development that would conserve the cultural heritage significance of the Queensland heritage place.	The proposal does not seek to destroy or substantially reduce the cultural heritage significance of McWhirters. However, some removal of fabric will be required to facilitate construction of the new compliant stair. This is limited to the steel treads and discrete parts of the subframe. Affected elements will be carefully salvaged and securely retained on site in a location to be nominated, allowing for their potential future reinstatement.
14.3 Reconfiguring a lot on land containing a Queensland heritage place.	
PO5 Development does not result in a lot size or configuration which adversely impacts the aspects of the setting that form part of the cultural heritage significance of the Queensland heritage place.	The proposal does not involve the reconfiguration of a lot on land containing a Queensland heritage place.
PO6 Development does not result in a lot size and configuration which adversely impacts the ongoing conservation management of the Queensland heritage place.	
Where the relationship between built and open spaces form part of the cultural heritage significance of the place.	
PO7 Development on a place where the relationship between built and open spaces form part of the cultural heritage significance of the place, maintains a lot size and configuration which facilitates the conservation of these relationships	The proposal does not result in a change of the relationship between built and open spaces.

Performance outcomes	Proposal responses
14.3 Material change of use on land adjoining a Queensland heritage place or on a lot containing a Queensland heritage place, but not carried out on the Queensland heritage place.	
PO7 Development is located, designed and scaled so that its form, bulk and proximity minimises adverse impacts on the cultural heritage significance of the Queensland heritage place.	The proposal does not involve a material change of use.

7.2 Brisbane City Council City Plan 2014

The *Brisbane City Council City Plan 2014* (the City Plan) provides for the conservation of heritage places in the BCC Local Government Area (LGA) through the provision of the BCC Heritage Overlay (Part 8.2.12) and the establishment of the BCC Local Heritage Register.

However, under the *Queensland Planning Regulation 2017* (Part 8, Heritage Places, Division 1 Local Heritage Places, Subdivision 1 Assessable Development 14: Assessable Development):

> Development on a local heritage place, other than a Queensland heritage place, is assessable development, unless—
>
> the development is building work carried out by or for—
>
> the State; or
>
> a public sector entity; or
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> the development is carried out by the State on designated premises; or
>
> the development is stated in schedule 6; or an exemption certificate under the Heritage Act has been given for the development by the Chief Executive Officer of the local government for the local government area where the place is.

Therefore, the proposed works to the subject escalator within the QHR boundary of McWhirters (i.e. a Queensland heritage place) are *not* also assessable under the local planning scheme heritage provisions of the City Plan.

7.3 Conservation management policies

Table 5 assesses the proposal against the relevant conservation policies in Part 6 of the CMP (Converge 2021).

able 5. Assessment of the proposal against the relevant conservation policies of the CMP (2021, 84-90).

Relevant CMP policies (Converge 2021)	Proposal response
Policy 4: Future Works and Developments	
4.2 New work is to be clearly identifiable e.g., by use of sympathetic but clearly modern/different materials, date stamping and/or through photographic recording and/or clearly defined architectural drawings. Evidence of such changes should be retained as part of the document file for the place. This provides a useful future reference and is consistent with the Burra Charter.	The refurbishment of the subject escalator prioritises the retention and reinstallation of original fabric and limits removal of fabric wherever practicable. Where replacement is required due to permanent loss or deterioration, new elements will be reconstructed on a like-for-like basis, matching the original materiality, form, profile, and detailing to ensure compatibility with the historic fabric. To ensure new work remains identifiable, replacement components may be discreetly date stamped as part of the fabrication process. The escalator has also been recorded through digital photography and architectural drawings, providing a clear record of the works and condition.
4.3 There is to be no upgrading that involves changes to any significant fabric without prior consultation with DES and, where applicable, a suitably experienced heritage consultant.	The proposal is prepared in response to SARA pre-lodgement advice dated 2 April 2025 (2503-45067 SPL) and guided by an experienced heritage architect (Extent Heritage).
4.4 New work should not intrude into the spaces / features of Exceptional or High significance. Likewise, any new work should be conducted to carefully manage any impacts on the overall amenity of the place, inclusive of views from and to McWhirters.	The proposed works are confined to the reinstatement and adaptive reuse of the former escalator and will not adversely affect adjoining elements or spaces of Exceptional or High heritage significance. The works are designed to retain the surrounding significant fabric, with no alterations proposed to the established internal or external configuration of McWhirters. The conversion of the escalator to a fire stair will reinstate an active circulation function within the building, contributing to

Relevant CMP policies (Converge 2021)	Proposal response
	the activation of the corner entrance and enhancing the overall amenity of the place. Importantly, the proposal will not alter the setting of McWhirters or impact significant views to or from the building, ensuring its heritage character and presentation are preserved.
4.5 The demolition of all or part of any feature intrinsic to the significance of the place (refer to Section 4.3) should not occur except where all 'prudent and feasible' measures are examined first. Prior to any demolition works being undertaken to elements of significance it should be demonstrated that: ▪ The element is so structurally unsound as to be beyond reasonable economic repair; or ▪ the existing condition of the element poses a significant health or safety risk that is beyond reasonable economic repair. In such cases, a structural report should be prepared by a heritage engineer. The structural report must clearly and succinctly outline the process of exploring all 'prudent and feasibly' alternative and the subsequent justification for proceeding with the demolition of all or part of any feature considered intrinsic to the significance of the place.	The subject escalator has remained decommissioned for an extended period and has been subject to ongoing deterioration and wilful damage. Its condition has been further compromised by previous unauthorised works. Where targeted removal of fabric is required to facilitate construction of the new compliant stair, the affected elements will be carefully salvaged and securely retained on site in a location to be nominated. Importantly, the proposal seeks to conserve, refurbish and reinstate this significant heritage element, with a primary focus on the retention, reinstallation of surviving original fabric wherever practicable, and adaptive reuse as a compliant stair
4.6 Changes to McWhirters which have the potential to impact on the heritage fabric or values of the place will require the development of a Heritage Impact Statement and approval from DES (see Section 5.3).	This HIS report is prepared in support of the DA and statutory assessment process.
4.7 Internal changes should be undertaken with caution. There is likely to be original fabric concealed behind some modern elements. These features should be retained in-situ.	The proposed works are limited to the refurbishment of the escalator structure and its interfaces with adjoining wall and floor elements. Any original fabric encountered or exposed during the works will be

Relevant CMP policies (Converge 2021)	Proposal response
Where possible, consider exposing original features.	carefully protected and managed to avoid unnecessary impacts. All refurbishment works will be undertaken in accordance with conservation best practice, ensuring that adjoining heritage fabric is retained and any temporary construction impacts are appropriately managed and minimised.
4.8 Development of the McWhirters complex should be undertaken in consideration of its significant values and should be preceded by the preparation of a Heritage Impact Statement.	The proposed works have been informed by a heritage architect (Extent Heritage) and understanding of the relative heritage significance of the subject escalators. This HIS report is prepared in support of the DA and statutory assessment process.
Policy 5: Conservation Works and Repairs	
5.1 Repair to heritage fabric should use the same or similar materials to that used in the construction of the building. Expert advice should be sought as to the correct specification of materials and methods of repair.	The refurbishment of the subject escalator prioritises reinstallation of original fabric. Where fabric needs to be replaced due to permanent loss or poor condition, this will be done so in a like-for-like manner in terms of materiality, form, profile, and placement. The proposed works have been informed by a heritage architect (Extent Heritage) and understanding of the relative heritage significance of the subject escalators.