

ARCHAEOLOGY FACT SHEET

Heritage Places Act 1993



Fact Sheet No. 4

Development and archaeology

Archaeological sites have enormous potential to contribute to a further understanding of the State's history, which can provide information that is not available in other sources. This fact sheet provides developers with information on the statutory requirements to avoid or mitigate any proposed impacts to archaeological artefacts.

Protection of artefacts

Significant archaeological artefacts are protected under the *Heritage Places Act 1993* (the Act). The Act protects those artefacts that are deemed to be 'significant'. Under the Act it is unlawful without a permit to:

- excavate or disturb a State Heritage Place (SHP) designated as a place of archaeological significance
- excavate or disturb *any* land with the intention of searching for or recovering archaeological artefacts of heritage significance
- excavate or disturb *any* land knowing or having reasonable cause to suspect that the excavation or disturbance will or is likely to result in an archaeological artefact of heritage significance being discovered, exposed, moved, damaged or destroyed
- damage, destroy or dispose of an object (such as an archaeological artefact) entered in the South Australian Heritage Register
- alter an object (such as an archaeological artefact) entered in the South Australian Heritage Register in a way that would materially affect its heritage significance.

Refer to [Fact Sheet 3: What are Significant Artefacts?](#) to find out what defines objects as 'significant'.

For further information on archaeological assessment, download the [Archaeological Provisions Guideline](#) from the [Heritage South Australia, DEW](#) website.



Image courtesy: Austral Archaeology

The largely intact remains of a brick-lined well, excavated during a car park development in 2017, is a significant tangible artefact of the original Encounter Bay Whaling Station (1837–1851). The site has since been registered as a SHP and designated as a site of archaeological significance (SHP 26454)

Archaeological deposits are not always obvious

Collections of *in-situ* archaeological artefacts often are referred to as 'archaeological deposits' or 'sites'. It is often assumed that, because a site cannot be seen on the ground surface or because there is a standing structure, no archaeological deposits are present. Even where deposits are known to be present, it is easy to assume they are not significant. This often is not the case. Significant deposits may be found wherever people have lived or worked in the past. It takes a skilled assessment or investigation by a trained archaeologist to understand the actual archaeological potential of any land.

The Act includes penalties of up to \$75,000 for unlawful impacts to significant archaeological deposits.

Archaeology and State Heritage Places

Developments within land subject to a State Heritage listing or adjacent to a State Heritage Place (SHP), whether or not the SHP is designated as a place of archaeological significance, that require development approval are automatically referred to Heritage SA for assessment of impacts under the *Planning, Development and Infrastructure Act 2016* (PDI Act). In cases where archaeological deposits are known or are potentially present, an archaeological assessment may be required before a development approval is issued. In cases where impacts to an archaeological site cannot be avoided, mitigation of the impacts may be required in the form of an archaeological excavation to offset the impacts. In such cases, the mitigation works will be restricted to the development footprint.



Image courtesy: Australian Heritage Services

Archaeology and land outside SHPs

A permit also may be required if significant archaeological deposits on *any land* outside a SHP are to be impacted by excavation and/or disturbance. Therefore, when developing any parcel of land in the State, it is important to consider the potential that works may impact on archaeological artefacts and consider engaging a consultant archaeologist to assess the land prior to development. This process will help determine if significant archaeological deposits are present and if they will be impacted by the development, and whether an archaeological permit may be required.



Image courtesy: Independent Heritage Services

Even realignment and construction of Gawler Place, Adelaide, did not destroy the remains of the stone and brick west wall of the c.1870 F. & S. Sach Ironmongers building that fronted what is now Rundle Mall

Archaeological investigations of the Morialta Winery Complex (SHP 13458) in 2016, during the redevelopment of Morialta Barns

Caution: In its current form, the PDI Act does *not* refer developments to Heritage SA for works that are not within, or adjacent to, State Heritage Places. It is the developer's responsibility to ensure that the proposed works will not impact significant archaeological deposits on other land. The *Heritage Places Act 1993* carries substantial penalties for excavation or disturbance where there could be a reasonable expectation that the works could disturb, damage or destroy significant objects.

Underwater sites

The Act makes no distinction between archaeological sites that are on land and those that are underwater. For example the remains of former piers and jetties, or other maritime structures, may be present in marine, riverine or lake environments. In South Australian waters, shipwrecks and artefacts associated with them are protected by separate legislation, the *Historic Shipwrecks Act 1981*. In marine areas outside the Gulfs and historic bays and below low tide, archaeological sites may also be protected by the Commonwealth's *Underwater Cultural Heritage Act 2018*.

Archaeological assessment

To ensure that you do not inadvertently disturb, damage or destroy significant objects, you should consider engaging a qualified archaeologist to assess your development area prior to submitting a development application. Archaeologists are trained to investigate the archaeological potential of a land parcel and can provide appropriate advice to guide you through the process.

Archaeological assessment, and particularly any mitigation works such as excavation, can be a lengthy process, and it is best to start this process as early as possible to avoid critical path delays.

Permits

A permit issued by the South Australian Heritage Council under the *Heritage Places Act 1993* is required for impacts, or potential impacts, to significant objects. Refer to the Heritage SA permits page (<https://www.environment.sa.gov.au/topics/heritage/sa-heritage-council/permits>) to download permit application forms. You can get further information on permits from *Fact Sheet 5: When Do I Need a Permit?*

Project example: U2 on Waymouth

The development of a 23-story apartment building was proposed on vacant land adjacent to the State Heritage-listed Queens Theatre (SHP 10770). The Heritage Impact Statement that was commissioned for the project only focussed on the assessment of potential impacts to the adjacent SHP, with no consideration given to the potential archaeology of the vacant site. That site was the location of the so-called 'New Queens Theatre', built in 1846, an 1852 extension of the Temple Tavern, and subsequent small workshops, retail premises, row houses and the Horse Bazaar. In 1977, all remaining structures were removed and the site was used as an open air carpark. A condition of the development approval for the new apartment required that the developers commission an archaeological assessment of the vacant site.

As a result, a test excavation in 2015 identified significant buried structural remains of the New Queens Theatre and the Horse Bazaar, and a subsequent salvage



excavation of the site in 2017 found that the archaeological resource was even greater, older and more intact than was originally assessed. The archaeological investigation made a significant contribution to our understanding of the lives of early settlers in Adelaide, which is important considering Adelaide's unique settlement pattern, so different from the rest of Australia.

Importantly, the entire assessment and salvage was carried out before construction work commenced, so the developers were able to commence work with an archaeologically sterile site, with no further need for archaeological works to be done as part of, and during, the critical

More information

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