

# ARCHAEOLOGY FACT SHEET

*Heritage Places Act 1993*

**Fact Sheet No. 5**

## When do I need a permit?

**The *Heritage Places Act 1993* (the Act) protects significant objects, including archaeological artefacts, from disturbance, damage, destruction and alteration without a permit. This fact sheet provides guidance for when you need to get one.**

An archaeological artefact is defined by the Act as:

any matter forming part of an archaeological deposit, or any artefact, remains or material evidence associated with an archaeological deposit, that relates to the non-Aboriginal settlement of South Australia, or to an activity undertaken by a person as part of the exploration of South Australia, but does not include the remains of a ship or an article associated with a ship.

In other words, it includes any article, whether it be a small child's toy, a farm implement, or a remnant piece of a building's structure, such as its foundation, that provides evidence of past colonial occupation. It can also be something entirely ephemeral, such as filled-in post holes or evidence of cultivation.

Permits are issued by the South Australian Heritage Council in situations where there will be, or potentially will be, an impact on a significant object.

For further information on what makes an artefact 'significant', see [Fact Sheet No. 3: What are significant objects?](#)

### 1. Works on land within a designated SHP

You will need a permit under Section 26 of the Act any time you wish to excavate or create any land disturbance in a State Heritage Place (SHP) that is designated as a place of archaeological significance (see Example 1).

For more information on designated places, see [Fact Sheet No. 6: What are designated places of archaeological significance?](#)

#### Example 1: Work in a designated place

You are the owner of a parcel of land that has been entered into the South Australian Heritage Register as a place of archaeological significance. You wish to demolish some standing structures and build a new shed. The new shed is not substantial and does not need any foundation, just a slab on the ground. However, the previous land-use was industrial and contaminated the soil with toxic substances. You have been compelled to clear away the rubble of the existing structures and remove any contaminated soil. Even though you will not be 'excavating' for new foundations, you will still be disturbing the land, so you will need to apply for a Section 26 permit.



*Image courtesy: Explore Oz website*

*The lime kilns in farmland at Stansbury, Yorke Peninsula, designated a place of archaeological significance in 1999 (SHP 16680)*



## 2. Works on any land in South Australia outside a designated SHP

It is commonly believed that permits are only needed if proposed works or development will impact a SHP, or be located adjacent to one. Rather, the Act provides protection for significant archaeological objects on *any* land in South Australia, meaning the land does not need to have been identified already as having archaeological significance through a designation.

You will need a permit under Section 27 of the Act to:

- search for or recovery objects, such as archaeological artefacts of heritage significance (Section 27[1][a]). This applies to the excavation or disturbance of any land where there is the intention of searching for, or recovering, archaeological artefacts of heritage significance (see Example 2).
- Excavate or disturb any land knowing, or having reasonable cause to suspect, that the excavation or

### Example 2: Buried bottle-collecting

You are a keen bottle collector and you have been told by another enthusiast that there is a substantial 'dump' where dozens of bottles are buried, located near the ruins of an old shepherd's hut. The hut was formerly part an extensive and sprawling pastoral run. Given the size of the 'bottle dump' and its location near an early ruin, there is a reasonable assumption that the bottles would provide significant information into the lifestyles of rural workers in the early days of pastoralism, so you will need to apply for a Section 27(1)(a) permit to excavate for them.



A cache of broken 'torpedo' bottles at a site on the Bellarine Peninsula in Victoria

disturbance will, or is likely to, result in an archaeological artefact of heritage significance being discovered, exposed, moved, damaged or destroyed. If you suspect that there are significant objects in your work area and they are likely to be impacted, you will need a permit issued under section 27(1)(b) of the Act (see Example 3, below, and Example 4, overleaf).

### Example 3: Previous knowledge/suspicion

You are a farmer who owns a substantial property in the mid-north of the state. You wish to excavate a small quarry in the side of a rocky hill to obtain rock for a new rock wall you are building. On top of the hill are the ruins of a small stone hut, the remains of a failed 19th-century pastoral venture. You know from past family connections that the hut was built and occupied by the very first Europeans to arrive in the area. It is therefore reasonable to expect that the ruins and surrounding land are likely to contain objects that will provide previously unknown information about this colonisation and that your quarry has the potential to impact significant archaeological deposits. Therefore you will need to apply for a Section 27(1)(b) permit .



Image courtesy: SA Tourism Commission (South Australia.com)  
Ruins of a settler's cottage in a farmer's field near Burra. There may be potential for significant archaeological objects at such sites

### Did you know?

The Act also has provisions to protect SHPs designated as places of geological, palaeontological and speleological significance.

#### Example 4: Previous knowledge/suspicion

You are a developer who has acquired a vacant lot in the Adelaide CBD and you wish to build a large, multi-storey apartment building. The lot has been used as a car park for the past 20 years and has a bitumen cap over the top. Given that it is a CBD location, there is a reasonable assumption that buildings once occupied the land and therefore you should, in the first instance, commission an archaeological assessment of the land's archaeological potential. Where the assessment indicates that there is some potential for significant archaeological artefacts and features to still be present (often, former buildings are only demolished to ground level, leaving buried features, such as foundations, cellars, and artefact deposits intact), you will need to obtain a Section 27(1)(b) permit. A likely condition of that permit will be to conduct further archaeological investigations, such as test excavation, to confirm the significance of the deposit and to identify its extent. Depending on the results, more comprehensive excavation may be required.



*Excavation of the former New Queens Theatre in Waymouth Street, Adelaide, showing the extent of intact remains beneath a former carpark*

### 3. Damage, destruction or disposal of objects

Objects from a SHP that are designated as places of archaeological significance are protected under the Act. Those that have previously been collected (whether lawfully or unlawfully) continue to enjoy protection long after they have been removed from the place. Objects may be listed individually or as a collection.

There are 3 scenarios where you would need a permit:

1. You will need to apply for a permit under Section 28(1)(b) of the Act to damage, destroy or dispose of an object, such as an archaeological artefact, that has been collected from a SHP designated as a place of archaeological significance, regardless of when it was collected (see Example 5).
2. You will need to apply for a permit under Section 28(2) of the Act to damage, destroy or dispose of an object, such as an archaeological artefact, entered in the register, either as a provisional or confirmed entry (see Example 6).
3. You will need to apply for a permit under Section 28(3) of the Act to alter or modify an object, such as an archaeological artefact, that has been entered in the register, in a way that would materially affect its heritage significance (see Example 7, overleaf).

The Act provides for penalties of up to \$75,000 for unlawful impacts to objects, such as archaeological artefacts of heritage significance.

#### Example 5: Disposal of objects

You are an archaeologist attached to a major South Australian university. Twenty years ago you collected some artefacts from along the shores of the River Murray in Stuart Reserve at Murray Bridge. In 2016 that area was designated as a place of archaeological significance and any artefacts that came from the site are now protected. You no longer need those particular artefacts for your research and you are approached by another researcher from a university interstate seeking to obtain those artefacts. To lawfully dispose of the artefacts, particularly to remove them from South Australia, you will need to apply for a Section 28(1)(b) permit.

#### Example 6: Disposal of objects

You are an antique collector and are the owner of some beautiful 19th-century furniture that has been conclusively associated with a State Heritage-listed pastoral homestead. Since the furniture is in excellent condition and its provenance is conclusive, it was listed on the South Australian Heritage Register as an object associated with the SHP. You now want to sell the furniture; however, because the furniture collection is a registered object, you will need to apply for a Section 28(2) permit.



## When a permit is not required

You will not need a permit if your works or development:

- will definitely not impact any significant objects; this may require some due diligence (archaeological assessment), the results of which should be submitted with your development application (see Example 8)
- are outside the limits of the state, such as in Commonwealth waters.

## Permit conditions

Section 29 of the Act allows the South Australian Heritage Council to impose any conditions it chooses on permits that are issued under the Act. Although the Act does not place any limits on those conditions, in practice any conditions would be the minimum required to adequately protect or mitigate against impacts to significant archaeological objects.

A series of standard permit conditions are outlined in the permit application, along with guidance on how they should be achieved. Additional conditions may be imposed on an application, depending on the circumstances. Many of the conditions relate to the need for, and implementation of, archaeological or other investigations prior to proposed impacts.



Excavation in 1994 of whale bone and other artefacts at Fowlers Bay Whaling Station, designated as a place of archaeological significance in 1997 (SHP 16226)

### Example 7: Alter or modify an object

An historic jinker housed in the main street of Burra was the first moveable object to be entered as an object in the SA Heritage Register. The jinker was entered in 2015 because of its conclusive associations with the Burra Copper Mine (SHP 10970). Any works that could materially affect the heritage significance of the jinker would need a Section 28(3) permit. Examples of such works could include, but are not limited to, cleaning, sanding, sandblasting, polishing or replacing faulty parts or fabric.



The 10-metre-long Burra (or Woollacott) Jinker, used to transport heavy machinery and ore between Port Adelaide and the Burra Mine in the mid-19th century, now on display in Burra.

### Example 8: No permit required

You are developing a site in the Adelaide suburbs. You are aware that the suburb was first established in the 19th century, so you commission an archaeological assessment of the land. The assessment finds no documentary or physical evidence of any historical development on this property and concludes that there is little potential for any significant archaeological artefacts to be present. A permit under the Act will not be required.

**Note:** If archaeological features are discovered in the course of development, works will need to cease until further archaeological investigation is completed and, if required, a permit is issued.

## More information

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