

Relics of local heritage significance: a guide for archaeological test excavation



Archaeological test excavation in Parramatta. (Photography by F. Barry, Heritage NSW)

Introduction

This guideline sets out the requirements for undertaking test excavation of relics of local heritage significance, relying on exception 2(d) made under section 139(4) of the *Heritage Act 1977* (exception 2(d)), published in the NSW Gazette on 18 February 2022 (the order).

Under the *Heritage Act 1977*, a 'relic' means any deposit, artefact, object or material evidence that:

- relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- is of State or local heritage significance.

Relics are protected under *the Heritage Act 1977*. Excavation and disturbance of land may require an excavation permit under section 140 or otherwise fall within an exception under section 139(4).

Exception 2(d) provides an exception from the requirement to hold an excavation permit for:

“Any disturbance or excavation of land for archaeological test excavation of relics of local heritage significance completed in accordance with the guideline *Relics of local heritage significance: a guide for archaeological test excavation* published by Heritage NSW

Archaeological test excavation under the section 139(4) exception 2(d) must be in accordance with this guideline. The works must also meet the general conditions prescribed for the exceptions. See the [order](#) published in the NSW Gazette for full details.

This guideline sets out the test excavation requirements, including:

1. what test excavation is,
2. how to conduct test excavation under an exception, and
3. how to ensure the work is of an appropriate standard and the results are clearly documented.

These exceptions **do not** apply to relics of State heritage significance. See the [s140 application](#) information on the Heritage NSW website if relics of State heritage significance are predicted.

Archaeological relics may also be listed on the State Heritage Register. These exceptions **do not** apply to any relic that is State Heritage Register listed or subject to an interim heritage order. See the [s60 application](#) information on the Heritage NSW website for more information.

There are penalties under the *Heritage Act 1977* for failing to obtain an approval, excavation permit or comply with a relevant exception, such as a fine of up to \$1.1 million, or in serious cases, imprisonment for up to 6 months. It is therefore important to ensure you understand the requirements that apply.

If Aboriginal objects are suspected to be present on the site, management under the *National Parks and Wildlife Act 1974* is required. Visit the Heritage NSW website for more information on managing [Aboriginal cultural heritage](#).

What is archaeological test excavation?

Archaeological test excavation is the process of verifying and assessing site conditions to establish the integrity, extent, and significance of relics and to determine appropriate further action. Test excavation should be limited to the smallest impact required to understand the archaeological resource and answer the testing research design.

The purpose of test excavation under exception 2(d) is to complete this basic investigation to guide the next steps for the understanding and management of any relics.

An archaeologist must direct the test excavation and recording of relics of local heritage significance during the operation. The relics may be part of a wider archaeological site or discrete features in the landscape. The program may result in the preparation of a report.

If there are known or predicted relics of State heritage significance, the test excavation exception 2(d) **does not** apply. A section 140 application may be required for your works. See the [historical archaeology](#) information on the Heritage NSW website.

If your project area has a relic that is subject to an interim heritage order or a listing on the State Heritage Register, the test excavation exception 2(d) **does not** apply. A section 60 application will be required for your works. See the works applications information for [State Heritage Register items](#) on the Heritage NSW website.

Step 1: Assess the archaeological relics

To conduct a test excavation relying on exception 2(d) and this guideline, you must assess and document the relics in a heritage management document (a heritage impact statement, archaeological assessment, etc). This document must provide:

- a short description of the type of relics and their significance against the Heritage Council guideline *Assessing Significance for Historical Archaeological Sites and Relics*
Note - If relics of State heritage significance are identified, or they are State Heritage Register listed, or subject to an interim heritage order, exceptions **do not** apply.
- a short description of the proposed activities/works with at least one map or diagram to show the location of the test trenches and their sizes
- a description of any previous archaeological works in the area and the cumulative impact of the works (see cumulative impact section below)
- a short discussion of the test excavation and how it will answer questions to guide the understanding and management of the relics
- a test excavation research design and excavation methodology in accordance with steps 2 and 3 below
- the name and contact details of the historical archaeologist who will complete the archaeological works
- confirmation that information on the test excavation will be submitted to the Heritage Council under section 146 of the *Heritage Act 1977* if relics are identified.

The Heritage Council has guidelines which provide information on preparation of an historical archaeological assessment in NSW *Archaeological Assessments 1996*, *Historical Archaeology Code of Practice 2006* and *Assessing Significance for Historical Archaeological Sites and 'Relics' 2009*.

Heritage NSW has also provided a template Record of Use form that may be used in the recording of exceptions. Attach any professional advice sought for your records.

Cumulative Impact

As archaeology is non-renewable, ongoing or repeated excavation and disturbance of archaeology will deplete this resource. Consequently, the cumulative impact of activities/works on archaeology must be assessed. A cumulative impact assessment must carefully analyse any previous works at

the site and their impact over time, along with the effect of the proposed activities/works to be undertaken now.

One project by itself may be of minor impact, however several activities/works that impact archaeology, when combined, may present an unreasonable overall impact by eroding or entirely removing the resource or heritage value. Preparation for minor works using an exception must address the cumulative impact of the works. The works will not fall under the exception if they may generate more than a limited impact to relics of local heritage significance.

Strategies that can minimise cumulative impact must be considered when planning your work, such as:

- reusing existing service trenches and utility corridors,
- consolidating ground disturbance areas, or
- building up not down.

Step 2: Prepare the test excavation research design

The research design is the framework for the investigation and identifies questions which will be addressed during the test excavation. The research questions below must be addressed as part of the archaeological program. Additional questions may be added at the discretion of the archaeologist.

The aim of archaeological testing under exception 2(d) is not to address a long list of research questions. However, the testing may highlight the potential the site has to address important substantive research questions in the future. It may be helpful to divide questions into descriptive, analytical, and interpretative sections to ensure that the test excavation is able to provide clarity on the relics of local heritage significance.

The required research questions are:

- What was identified at the site? What kinds of features and deposits?
- When were these features or deposits created? How are they phased against the site historical analysis?
- What site formation processes have occurred?
- What happened at the site?
- How does this site compare to others?
- What contexts, phases, and activity areas are evident, and how are these demonstrated by the various excavation units (trench/square/context/feature)?
- Where were the relics located?
- Compare the results with other relevant sites, related projects, and current research; how does the project fit into broader, regional frameworks and theoretical models if they exist?
- Indicate how and/or why the subject site differs from other sites.

Step 3: Prepare the test excavation methodology

The development of the test excavation methodology must consider the extent of any proposed impacts, the perceived significance of the site, the research design questions, levels of resourcing, site constraints and other factors. The methodology must describe how the project area will be excavated, record spatial and stratigraphic information, and if needed, remove limited relics. It must also explain why these methods have been chosen and how they will help address the research design.

A test excavation methodology must be written which covers the following aspects of investigation:

- the location of test excavation trenches and reason for selection,
- trench size and dimensions (test excavation units may be combined and excavated as necessary to understand the site characteristics),
- excavation techniques (for example, backhoe stripping, hand excavation, etc),
- site recording including:
 - site photographs including north arrow and scale
 - sketch plans to scale
 - stratigraphic matrix showing context relationships
 - relic management including a catalogue
 - establishment of the site datum for maps and plans including levels reduced to Australian Height Datum for identified features/contexts, with top and base of excavation
 - context recording and a logical numbering sequence for the site (e.g. grid system)
 - illustrative maps, plans, sections, and photos, including full site plan showing location of all trenches and excavated features
 - relic records must include trench, feature, context and phase information so that activity areas can be identified as comprehensively as the integrity of the site permits.

Step 4: Complete and report on the works

If after reading this guideline you consider the proposed archaeological test excavation meets the requirements of exception 2(d), you must document your decision and a summary of the works and keep your records for a reasonable time in accordance with the general conditions. See the order published in the NSW Gazette for full details.

Heritage NSW has information on what to include in an [archaeological report](#) on the Heritage NSW website. This provides a guide to information that may be appropriate to include in a testing report.

Discovery of a relic

You **do not** need to notify the Heritage Council if no relics are found. If relics are found, notification of the relic's location under section 146 of the *Heritage Act 1977* is required. As noted in general condition (h):

“A person who is aware or believes that he or she has discovered or located a relic, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), must notify the Heritage Council in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).”

Having used exception 2(d) the process of section 146 notification should occur within a reasonable time and take the form of an email to the Heritage Council heritagemailbox@environment.nsw.gov.au identifying that the relic was discovered when relying on the exception referred to above and providing:

- the GPS location of the relic,
- a photograph of the relic in its location (for context), and
- a short summary of the test excavation results (no more than 500 words).

No formal acknowledgment of the notification will be provided.

If the test excavation identifies that further archaeological work is required, e.g. a salvage excavation, then a section 140 excavation permit may be necessary. See the [s140 information](#) on the Heritage NSW website. We recommend you submit any documentation relating to the exception, such as your completed Record of Use, with your application.