

## **PART B: Site planning controls**

### **Section B5 Historical archaeology**

#### **Table of contents**

1.0 Introduction.....	2
2.0 Application.....	2
3.0 Additional information.....	2
4.0 Objectives.....	3
5.0 Definitions.....	3
6.0 Application requirements.....	4
7.0 General provisions .....	6

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## 1.0 Introduction

Archaeology seeks to explain the past through the physical evidence studies. Many aspects of societies, environments, cultures and place, from various times in human history are studied, using excavated evidence, objects and other material. Historical archaeology deals with the archaeology of areas with written records as well as surviving archaeological evidence. Used together historical and archaeological evidence reveal a more complete understanding of the past.

The archaeological resource of the Newcastle city centre dates from the earliest period of European settlement in Australia. Newcastle is the third oldest colonial settlement after Sydney and Parramatta. Its archaeological resources yield information not only about Newcastle but potentially about the early colony and the experience of settler-colonial and convict life that could contribute to knowledge about life in colonial Australia and how it was governed and administered, including encounters with the local Aboriginal population.

The *Newcastle Archaeological Management Strategy 2015* found while Sydney, Hobart, and Brisbane, and some small centres such as Port Macquarie, were established as penal colonies, the level of archaeological survival was found to be lower than the survival of that for Newcastle. The *Newcastle Archaeological Management Plan 1997 (NAMP)* determined that, due to the low rates of site amalgamation and redevelopment and few buildings with basements, the potential for remains to survive was much higher than other cities of similar age and origin. As such, the Newcastle city centre's archaeological resource was found to have potentially outstanding significance.

Relics and archaeological sites are legally protected in NSW. There are many sites of archaeological significance some of which are listed in the heritage schedule of *Newcastle Local Environmental Plan 2012* ([LEP 2012](#)).

The *Heritage Act 1977* (the Act), administered by NSW State Government is the primary legislation for managing and conserving archaeological sites or relics. The Act makes it an offence to disturb or excavate land which will or is likely to discover, expose, move, damage or destroy a relic unless the disturbance or excavation is carried out in accordance with an excavation permit or otherwise complies with a relevant excavation permit exception under the Act.

## 2.0 Application

This section applies to all development where the proposal involves ground disturbance or excavation (including demolition works).

## 3.0 Additional information

### Associated Technical Manuals

- *Newcastle Archaeological Management Plan, 1997*, City of Newcastle.
- *Newcastle Archaeological Management Plan Review, 2013*, City of Newcastle.
- *Technical Manual Heritage*, City of Newcastle.

### References

- *Archaeological Assessments: Archaeological Assessment Guidelines*, 1996, Heritage Office, Department of Urban Affairs and Planning.
- *Assessing Significance for Historical Archaeological Sites and 'Relics'*, 2009, Heritage Branch of the Department of Planning.
- *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013, Australia ICOMOS, A.C.T.
- *Guidelines for the preparation of Archaeological Management Plans*, 2009, Heritage Branch NSW Department of Planning.
- *Historical Archaeology Code of Practice*, 2006, Heritage Office, Department of Planning.
- *Historical Archaeological Sites: investigation and conservation guidelines*, 1993, Department of Planning Heritage Council New South Wales.
- *Relics of local heritage significance: A guide for minor works with limited impact*, 2022, Department of Planning, Industry and Environment.

- *Relics of local heritage significance: A guide for archaeological monitoring*, 2022, Department of Planning, Industry and Environment.
- *Relics of local heritage significance: A guide for archaeological test excavation*, 2022, Department of Planning, Industry and Environment.
- *Revealing the Past: An Introduction to Historical Archaeology*, 2004, NSW Heritage Branch.

#### 4.0 Objectives

1. Ensure the archaeological potential of sites is identified and considered during the development assessment process.
2. Protect and preserve relics and archaeological sites of local, State, and potential National heritage significance.
3. Ensure archaeological sites are protected and retained in situ as much as possible, and their significance is interpreted and highlighted within the development.

#### 5.0 Definitions

A word or expression used has the same meaning as in [LEP 2012](#), unless otherwise defined. Other words and expressions include:

- **Archaeological assessment** – is a report prepared by a qualified archaeologist that conforms to the current reporting requirements of the NSW Office of Environment and Heritage.
- **Archaeological site** – is a site identified in the *Newcastle Archaeological Management Plan 1997* or the *Newcastle Archaeological Management Plan Review 2013*; or a site listed as an archaeological site in the [LEP 2012](#); or the place or site of a relic or relics as defined in the *NSW Heritage Act 1977* as amended and has the same meaning as in the [LEP 2012](#).
- **Burra Charter** – is the publication Australia ICOMOS the Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance.
- **Conservation** – is all of the processes of looking after a place to retain its heritage significance as defined by the Burra Charter including retention or reintroduction of use, retention of associations and meanings, maintenance, preservation, restoration, reconstruction, adaptation, and interpretation.
- **Form** – the overall shape and volume of the building and the arrangement of its parts.
- **Heritage buildings, places, sites and elements** – are assessed to have natural or cultural heritage value and can include heritage items (including landscape and archaeological items, and building elements), and buildings, works, relics, gardens, trees and sites within heritage conservation areas, heritage landscapes and streetscapes.
- **In the vicinity** – means the surrounding context, environment or setting of a heritage item or archaeological site.
- **Interpretation** – means all the ways of presenting the heritage significance of a place.
- **Place** – is a geographically defined area that may include elements, objects, spaces and views. Place may have tangible and intangible dimensions.
- **Potential archaeological site** – is a place or site suspected of having a relic or relics present.
- **Preliminary archaeological assessment** – means a report that investigates the archaeological potential and levels of significance of land prior to determination of development consent.
- **Use** – the functions of a place, including the activities and traditional and customary practices that may occur at the place or are dependent on the place.

## 6.0 Application requirements

Development proposals are grouped into three categories, which determine the level of information required with a development application.

Development category	Application requirements	Explanatory notes
<p><b>Category 1:</b> Any proposal involving ground disturbance or excavation (including demolition works) and where the development site is not within the NAMP study area and is not identified as an archaeological site or potential archaeological site by Schedule 5 of LEP 2012.</p>	<p>1.1 - No further information is required to be submitted.</p>	<p>The NAMP study area relates to the inner area of the Newcastle local government area (LGA). The NAMP consists of the <i>Newcastle Archaeological Management Plan 1997</i> and the <i>Newcastle Archaeological Management Plan Review 2013</i>.</p> <p>Standard conditions alerting the developer to the legislative requirements under the <i>Heritage Act 1977</i> in the event of an unexpected find will be included in the development consent.</p> <p>If any historical archaeological relic or site is found or disturbed during any development works which are not identified and considered in the application, all work must cease immediately in the affected area(s), and permission sought from the relevant state government authority under the <i>Heritage Act 1977</i>, before any work can continue in the affected area(s). Severe penalties can be applied to corporations or individuals who are found to be in breach of the <i>Heritage Act 1977</i>.</p> <p>Under the <i>Heritage Act 1977</i>, 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.</p>
<p><b>Category 2:</b> Any proposal involving ground disturbance or excavation (including demolition works) and where the development site is in the NAMP study area and is not identified as an archaeological site or potential archaeological site by the NAMP or Schedule 5 of LEP 2012.</p>	<p>2.1 - No further information is required to be submitted.</p>	<p>Refer to above explanatory note for Category 1.</p>

<p><b>Category 3:</b> Any proposal that involves ground disturbance or excavation (including demolition works) and where the development site is identified as an archaeological site or potential archaeological site by the NAMP or Schedule 5 in LEP 2012.</p>	<p>3.1 - Submit a Preliminary Archaeological Assessment Report. The report should identify whether archaeological remains and deposits may survive on a site and indicate whether physical investigation and conservation of those remains may be warranted.</p> <p>3.2 - The Preliminary Archaeological Assessment Report should be prepared by suitably qualified and experienced archaeological consultant(s) and conform with Office of Environment and Heritage (OEH) codes of practice and guidelines and the principles and processes of the Burra Charter.</p>	<p>To ensure that you are managing relics well, it is necessary to have a basic understanding of the nature of the site, the likelihood that it contains relics and if so, what the impacts of a proposal would be.</p> <p>A Preliminary Archaeological Assessment Report is an initial assessment, not intended to provide comprehensive data but to identify appropriate management actions, including the need for further investigation and assessment.</p> <p>The level of research or investigation required for a Preliminary Archaeological Assessment Report will vary but may include:</p> <ul style="list-style-type: none"> <li>• a review of available historical information</li> <li>• some historical research</li> <li>• the identification of historical themes</li> <li>• a field survey / site inspection</li> <li>• preliminary conclusions about archaeological potential</li> <li>• preliminary significance assessment</li> <li>• an analysis of client needs and objectives</li> <li>• management recommendations including recommendations for further work.</li> </ul> <p>The required detail in the Preliminary Archaeological Assessment Report should reflect the scale and complexity of the proposal, the proposed extent and depth of ground excavations and the likelihood for extant archaeological remains and deposits to have survived past development and activity.</p> <p><u>Examples of minor site disturbance</u></p> <ol style="list-style-type: none"> <li>1. Excavation proposed by the development may be limited to a few shallow footings located in imported fill material with archaeological remains and deposits located at a sufficient depth in the natural ground level below the proposed works so as not to be disturbed by the proposed development</li> <li>2. The archaeological remains and deposits at the site may have been unambiguously and totally or grossly disturbed by the recent development of an extensive basement level car park. In such circumstances it may be sufficient for a brief one or two page Preliminary Archaeological Assessment Report.</li> </ol> <p>If the proposal will or is likely to discover, expose, move, damage or destroy a relic, an excavation permit or supporting information to demonstrate compliance with a relevant exception will be required under the <i>Heritage Act 1977</i>. These excavation permit and excavation permit exceptions are separate to a development consent. It is your responsibility to seek the necessary excavation permit approval from the relevant state government authority or self-assess an excavation permit exception under the <i>Heritage Act 1977</i>, separate to the development assessment process.</p>
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## 7.0 General provisions

<b>Objectives</b>		
1. Provide for the timely identification of potential archaeological sites. 2. Ensure that the findings of the Newcastle Archaeological Management Plan are considered when planning development in the inner area of Newcastle. 3. Ensure that high quality archaeological interpretation is an outcome of development activity.		
<b>Controls (C)</b>	<b>Acceptable solutions (AS)</b>	<b>Explanatory notes</b>
C-1.Archaeological sites are conserved, and significant archaeological remains are protected.	AS-1.Development located in the inner area of Newcastle LGA is designed to consider the findings of the NAMP.	An understanding is required of what impact the proposed works are likely to have on the identified heritage significance of the place and its relics.
C-2.Protection of potential archaeological sites and conservation of any relics is considered.	AS-2.Relevant legislation requirements and OEH Codes of Practice and guidelines have been appropriately applied to the design of the development and supporting documentation.	The NAMP identifies areas of European/Non-Indigenous/historical occupation from the Colonial and later periods where high concentrations of potential archaeological remains are likely to be found. It provides a high level of assessment and management advice for the future development of sites that contain significant historical archaeological remains and deposits.
C-3.Development is based on an understanding of the heritage significance of the archaeological site and conservation of its relics.		
C-4.Conservation of an archaeological site incorporates heritage interpretation at the site to improve understanding and sense of place within the community.	AS-1.Development provides high quality archaeological heritage interpretation at the site, appropriate for the level of heritage significance.	Interpretation of the site may include the use of historic artefacts, the in-situ retention of relics, signage, artwork, public access, guided walks, electronic media, architectural design and built form etc.
C-5.Minimise impacts on relics in close proximity to development.	AS-2.Development adjacent to or in the vicinity of a relic is designed to minimise the impact on that relic.	Mitigation measures should be proposed wherever possible to minimise impact such as the redesign or repositioning of the works to avoid relics and ensure they are retained in-situ.