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PROTECTING ARCHAEOLOGICAL HERITAGE THROUGH PUBLIC HERITAGE LISTS

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Introduction

There is a common perception that the Historic Places Act protects archaeological sites from damage or destruction. This legislation is often referred to as ‘blanket’ protection, as it covers all sites, regardless of whether they are identified in heritage lists or not. In reality, the archaeological provisions of the Act do not provide absolute protection, rather, they contain an assessment and consent process that is triggered by a recognised threat to the site. Once the consent process is activated an application is made to the Historic Places Trust which then makes a decision about the future of the site. It could be argued that the archaeological provisions of the Act encourage the avoidance of damage to sites, but there are many examples of significant archaeological sites that have been the subject of authority applications to enable their damage or destruction. In most cases consent is granted with conditions requiring the recovery of information but not the retention of the site *in situ*. This system is reactive and operates on a case by case basis. It can be seen as .the ambulance at the bottom of the cliff.. This paper considers one way—recognition through public heritage lists—to avoid the cliff altogether. We also look at some actions the New Zealand Archaeological Association Council has recently taken towards this goal and make some suggestions of ways that NZAA members may like to get involved.

World Heritage Site Status

World heritage status arises through a UNESCO convention that New Zealand has ratified. Listed sites are nominated by member states and assessed by a UNESCO process before being accepted. Sites may be listed for their cultural or natural heritage values, or a combination of both.

World Heritage status holds enormous influence in arguments for site protection. Legal action may also be taken if international treaties are being breached, but the process is likely to be very expensive.

New Zealand has three world heritage sites (<http://whc.unesco.org/heritage.htm#N>):

- Tongariro National Park
- Te Wahipounamu–South West New Zealand
- New Zealand Sub-Antarctic Islands

New Zealand has no sites listed for cultural values alone. This is in marked contrast to the rest of the world. New Zealand has only one site of the three (Tongariro) where there is a joint cultural/natural citation, which was accepted in 1990. Although the Sub-Antarctic Islands have sites of cultural heritage value, their nomination was made solely on natural heritage values. The last site added was in 1998. While cultural sites dominate in the rest of the world they are clearly under-represented in the New Zealand sites (Table 1).

Table 1. World heritage sites

	Natural Sites	Cultural Sites	Joint
World (2003)	144	563	23
New Zealand	2	-	1

It is also noticeable that the New Zealand sites are all parkland in public ownership. There is no restriction in the UNESCO system for heritage sites to be in public ownership. Indeed many of the existing World Heritage cultural sites are towns or landscapes and are in multiple ownership, much of it private.

There are many places in New Zealand that could be nominated in the cultural and joint categories.

Some suggestions:

- The Kerikeri historic precinct
- Inland Bay of Islands volcanic cones and stonefields (could be joint with natural character for their geological values)
- Auckland volcanic cones (ditto)
- Coromandel goldfields sites
- Napier art deco buildings
- South Island Maori rock art
- Central Otago goldfields sites and towns
- Oamaru whitestone business precinct.

These are outstanding cultural heritage sites that are worthy of nomination. The shortness of human history in New Zealand does not mean our heritage is

devalued in comparison to the rest of the world. The suggested sites have universal values that can be demonstrated to be important at an international scale.

The government agency responsible for nominations for World Heritage listing is the Department of Conservation. The first step in the process is the preparation of a Tentative List. This list contains details on each heritage place, including its heritage values and how it meets the UNESCO criteria. The Tentative List in itself is a useful document for promoting the values of sites it contains. One site a year may be nominated from the list for consideration by the UNESCO committee. New Zealand currently has no sites nominated, or even a Tentative List of possible sites for nomination. While the NZAA would like to see archaeological sites in a new nomination, getting a nomination of any historic heritage site would be a great start. You can support our concern by writing to the Director General to encourage action on the process, including preparation of a Tentative List, and to support the nomination of more cultural sites:

Director General
 Department of Conservation
 PO Box 10-420
 Wellington

Historic Places Act Registration

The Historic Places Trust is required by the Historic Places Act to keep a Register of Historic Places and Areas, Wahi Tapu and Wahi Tapu areas. The Register currently contains over 6000 items. A partial listing of registered places is on line at www.historic.org.nz/register.html, Trust offices also have a full list which can be consulted. Many of the non-archaeological sites in the register have interesting information about their history available on the web.

Registration gives some weak legal status to heritage places. When local government make plans under the Resource Management Act they must consider registered places. Also, if registered places are affected by a development proposal then the Trust must be notified. Real protection is achieved when local governments schedule registered places in their Plans (see below). The Historic Places Act also has a provision for interim registration of a place which acts as a stopper on development while the place is assessed. This is a useful provision which the Trust on occasion does use. However, it can only be used on previously unregistered places. While being registered gives only slight legal standing, inclusion in a credible national register has force when it comes to arguing the importance of protecting a site to a local Council or the Environment Court.

The Register currently holds archaeological sites added under different registration schemes from earlier versions of the Historic Places Act. One of these versions had a provision which allowed a comprehensive, rather than a

selective, list of archaeological sites to be held and did not require any assessment of the importance of the sites. The Trust in the past elected to use this precursor of the current Register in this all-inclusive way. As a result of this practice there are a large number of archaeological sites registered as Historic Places concentrated in relatively small areas. Many of the sites are quite unimportant and some no longer exist. From an archaeological perspective their continuing inclusion in the Trust's Register gives it little credibility as a source of information on archaeological sites. The Register is currently caught in a no-man's land as it is not a comprehensive list of all sites in the country, nor does it contain a systematic or coherent list of significant sites.

The NZAA Council is keen to see that the same rigour applies for the inclusion of archaeological sites and areas in the Register as applies to other historic places. The Register needs to be purged of inappropriate sites and to start including important archaeological sites. Information about such places should also be readily available in the on-line version of the Register. The current on-line focus on built heritage runs the risk of creating a public perception that archaeological heritage is not as important as other forms of heritage. The NZAA Council has lobbied the Government over funding for the Trust, arguing that the archaeological problems with the Register and completion of the on-line version are priorities.

The Trust is in the process of registering a collection of Chinese gold mining sites in Central Otago as an Historic Area. The NZAA Council has supported two proposals for Historic Areas: the Tahanga quarries and related sites on the Coromandel, and an area at Cape Kidnappers. In our experience the work required for proposing an area comprised of an assemblage of sites is not much greater than that for an individual site. The NZAA Council's intention is to encourage and support further proposals, but they do not need to come solely from the Council. Anyone may propose a site for registration. The NZAA Council would be happy to look at others' applications for endorsement if desired. One area high on the NZAA Council's priority list is the Nelson argillite quarries.

To guide members who might be interested in nominating sites themselves, or helping the NZAA Council write up nominations, there is an example of a nomination on the NZAA website (www.nzarchaeology.org) follow the heritage registration link. Nomination forms are available from the Trust.

Local Government Schedules and Inventories

The 2003 amendment to the Resource Management Act, making historic heritage a matter of national importance, has increased the possibility of protection for archaeological heritage under that Act. In the past some local

governments had chosen to use the Act to protect archaeological heritage, but others did not. Now it is likely all will have to.

In the long term the most effective way to raise public awareness about the values of sites and to achieve their protection is to get sites scheduled in the local authority Plan with appropriate policies, incentives and rules. However, plans are not made overnight and where there are existing plans these are not readily changed. To change a plan to include heritage sites requires a major review which only happens occasionally. Many Councils also maintain heritage lists for information purposes only.

Having sites scheduled is therefore a route that requires persistence on behalf of people outside the local authority. There are opportunities during the writing of plans to make submissions proposing scheduling or objecting to a lack of scheduled sites. It is best if the local authority initiates the task of scheduling sites, rather than having this task pushed upon them from outside. Submissions, though, are a good way of raising the awareness of staff and elected officers of the issues. The Association has not taken a large role in making submissions on Plans required by the RMA. Organisations that do, like the Royal Forest and Bird Protection Society, have much greater resources than the Association, including full time staff working on planning issues. This is not a role the Association is likely to take on, but members interested in tackling this task with a local plan are to be encouraged, and the Association could well make a submission in support of them.

The local authority needs to be able to defend its decision to schedule a site in the Environment Court, either against objections at the time the Plan is made, or against developers who seek to challenge decisions based on the Plan. Most Councils have chosen to undertake the process of listing heritage sites through the production of a heritage inventory. Archaeological sites are only one component of heritage inventories. The inventory may have standards about information requirements to enable criteria to be applied to determine if a site should be scheduled in the Plan or not.

At this point in time many Councils have heritage inventories, although most include archaeological sites for information purposes only. The Association believes that all Councils should have comprehensive inventories and it will be lobbying for this as good practice.

Councils must also take into account Iwi Management Plans when developing their plans. Iwi Management Plans may include cultural heritage inventories and are an emerging tool for resource management. Many include information on archaeological sites drawn from the NZAA Site Recording

Scheme. They often also include cultural heritage places that are outside the scope of archaeology, such as natural sites and sites of important events.

Local and regional councils are getting better at including the location of sites in their planning schemes. This means that information about sites is much more readily available to the public. Increasingly the location of known sites is included in Council GIS (Geographic Information Systems) computer systems. Including sites in a GIS enables council planners to easily check for sites when development proposals are received, but more usually this responsibility is put on the applicant. People who request Land Information Memoranda (usually called LIM reports) from the Council may also find out about sites if the Council system includes such information. When sites are included in heritage inventories then the information is certain to be transmitted.

An alternative approach

In contrast to identifying archaeological sites in public heritage lists, an approach sometimes adopted to protect sites is to limit the availability of information about them to as few people as possible. This approach presumes that destruction of sites arises from knowledge of their existence. This is an uninformed view in relation to archaeological investigation. Firstly, archaeologists rarely excavate so much of a site as to destroy it. Secondly, the body of known sites is so great that the present population of archaeologists could excavate 24/7, to use the modern vernacular, and never do more than scratch the surface. Thirdly, investigation of sites by archaeologists is controlled by the Historic Places Trust and the consent of various groups is required before it can take place. The numbers of sites destroyed by illegal excavation by people searching for artefacts is not known but is not believed to be high in the current climate. The Trust has recently taken prosecutions against individuals for doing so that will hopefully act as a deterrent. Today the destruction of sites arises almost entirely from ignorance of their existence or importance by the agents of their destruction. Secret sites are much more likely to be destroyed in ignorance than by design.

Effective protection for archaeological heritage also requires wider public awareness. The identification of archaeological heritage places before they are under threat allows their values to be accepted and appreciated without conflict by the community. Appreciation of the value of archaeological heritage by more than just archaeologists is an important aspect of heritage protection. Community engagement in heritage issues presents a much stronger case for protection than that able to be brought to bear by a small interest group.

The NZAA has long been an advocate of making information on the existence and importance of sites widely available and will continue in this.

Conclusion

This paper has outlined some of the ways in which archaeological sites can be included in public heritage lists and discussed possible roles for the NZAA and its members. The benefits of having sites on these lists are wide ranging, from raising public awareness of their value to achieving formal protection through local government planning processes. Table 2 below is an indication of the benefits each sort of listing may provide.

Lastly, by way of summary, Table 3 lists how the NZAA Council has been active in terms of getting archaeological sites recognised as worthy of protection, and where members could act in the same interest.

Editor's Note

The May issue of UNESCONewz, which came to hand as this issue of *AINZ* was being finalised, reports the visit to New Zealand in February of UNESCO Director-General Koïchiro Matsuura, who called for “increased representation of Pacific cultural and natural heritage on the World Heritage List in the years to come” (p. 3). Beside the three New Zealand sites, only one Pacific site is currently included. “‘We hope that the World Heritage List will be further enriched by the traditions and spirituality of the peoples of this region. Furthermore, we would like to see models of co-operative management that are grounded in spirituality, tradition and custom,’ Mr Matsuura said” (p. 3). In a related story, New Zealand was elected to UNESCO’s World Heritage Committee in Paris last October. The delegation, which represents “the interests and concerns of New Zealand and the South Pacific” (p. 4) is lead by Tumu Te Heuheu, Paramount Chief of Ngati Tuwharetoa.

Table 2: Public Heritage Lists

Type of list	Protection	Disadvantages / Weaknesses
World Heritage listing	Enormous moral suasion	Will only ever cover elite sites. Only one site a year may be nominated. Enforcing legal protection would be expensive
HPA Registration	Moral protection, means they are more likely to be protected in RMA plans, must be considered in RMA consents, and HPT notified of consent applications which affect registered sites	Takes time and effort, will only ever cover important sites/groups of sites or sites perceived to be under threat. Can be misunderstood as conferring protection
RMA Plan Schedules	Considerable legal protection depending on rules in Plan	Local Authorities need a defensible process for the sites being scheduled. The opportunity to have sites included is only easy when Plans are reviewed
Local Government Heritage Inventory	No legal protection but will ensure sites are advised in LIM reports and may form the basis of RMA Plan schedules	Requires a sustained effort by the TLA to create and maintain an inventory
Coverage by the HPA archaeological site definition	Opportunity for legal protection exists via consent process if sites will be affected by any activity	Reactive. Despite the consent process a lot of sites are lost because they were not known/not valued. Limited to sites covered by the HPA definition
NZAA SRS record	No legal protection via SRS, but makes it much more likely the HPA will be applied if site meets legal definition. Forms one source of information for local government heritage inventories	Information is rarely sufficient to directly feed a heritage inventory

Table 3. Actions

Type of List	NZAA Council Action	Members Role
World Heritage Sites	Advocating a Tentative List and a cultural site nomination, member of a DoC liaison committee	Help lobby for nominations
Trust Register	Lobbied for funding to complete the on-line register and review the existing archaeological sites on it	Help lobby for action
New Registrations on the Trust Register	Nominated two areas, supported a third on the Wairarapa coast, will propose more areas at about one per year	Members can make own nominations
Archaeological sites	Will advocate as good practice	Members can be effective by engaging in consultation and submissions on Plans when they occur
Local Authority Inventories	Will advocate as good practice	Submissions on Council Heritage annual plans advocating support of these will help
Site Recording Scheme	Our major activity. We are upgrading the data on sites in the scheme so it is more up to date and accurate and is more useful for planning purposes. We are considering how we can better make the information in the scheme available to users	Member support is vital, particularly that of our filekeepers. They welcome assistance