



NEW ZEALAND  
ARCHAEOLOGICAL  
ASSOCIATION

## ARCHAEOLOGY IN NEW ZEALAND



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Submission re Historic Places Act Review

From N.Z. Archaeological Association Inc

Preamble

The conservation of archaeological sites (as part of New Zealand's cultural heritage) is one of the stated objectives of the N.Z. Archaeological Association.

In this submission the Association specifically comments on archaeological sites (as defined in the existing Act), but also offers comments on historic places and the legislation where appropriate.

The Association recognises the Maori as 'tangata whenua and holds that legislation should have due regard to Maori interests and concerns, particularly as they pertain to the preservation and maintenance of Maori sites.

Underlying Principles

The existing Historic Places Act 1980 embodies five main principles concerning archaeological sites and site protection. These are:

1. Archaeological sites (Maori and European) are non-renewable taonga.
2. Each archaeological site has an inherent range of values which differ according to the perspective of the observer. They include scientific, traditional, spiritual, historical, educational and scenic/aesthetic values.
3. Blanket protection of archaeological-historic places is essential because surface features are an unreliable indicator of a site's merit in terms of most of the above values, e.g. its spiritual significance to local Maori people, or its scientific/historical information potential.
4. The blanket protection provisions of the Act allow all sites, whether identified, recorded or unrecorded, to be evaluated in terms of the above values when threatened.
5. Any agency wishing to modify/destroy a site should pay for the privilege, by funding an investigation or recording. This has two facets:
  - a/ it acts as a deterrent against wanton destruction;
  - b/ it enables information to be recovered from sites which would otherwise be lost.

The N.Z. Archaeological Association supports these principles and seeks their retention in any revised site protection legislation.

**"Historic Places Review: Issues for Public Comment" document**

Comments on specific matters raised (under same section numbers):

**Definition & Scope**

1.1 The Association supports broadening of historic places to include features such as those incorporated in the 'cultural property' definition as recommended by UNESCO.

1.2 The Association believes the definition of historic places should be expanded to include values such as architecture, aesthetic, scientific, cultural, and spiritual aspects.

1.3a The Association favours the expansion of the list of sub-definitions to include Maori and European traditional sites (such as landing sites), historic gardens and trees, natural features with historic/traditional connections (e.g. anchor stones), and historic cemeteries/graves.

1.3b The Association believes all sites over 100 years old should have blanket protection. The reason for this (particularly with regard to Maori sites) is that it is not possible to determine their significance solely from surface features. Nominated sites less than 100 years old should also be afforded legal protection.

**Suggested Revised Definition of an Archaeological Site**

We favour a revised definition of an archaeological site along the following lines:

An archaeological site is any place in New Zealand:

- a/ which was associated with human activity which occurred more than 100 years ago (or a lesser time in the case of individual sites which are deemed to be significant and are specifically nominated).
- b/ archaeological sites consist of various combinations of above surface and subsurface features including cultural deposits, earthworks, structural relics and machinery. Structural remains on archaeological sites are usually abandoned, obsolete, and ruinous.
- c/ which is the site of the wreck of any vessel which was wrecked over 100 years ago (or a lesser time in the case of individual sites which are deemed to be significant and are specifically nominated).

- d/ archaeological sites have inherent values including traditional, spiritual, ethnic, scientific, technological, historic, educational, recreational, and aesthetic, all of which must be evaluated when a site is threatened.

### Traditional Sites

The Association acknowledges that many pre-European archaeological sites are 'traditional sites', that is, places or sites that are important by reason of their historical significance or spiritual or emotional association with the Maori people or any section or group thereof (Historic Places Act 1980). These sites have three forms: locations where there are no physical manifestations (and unlikely to be any in the event of archaeological investigation); those which are known from oral traditions (and further evidence might be uncovered by archaeological investigations); and those which are unknown to present Maori tribal authorities but are found either in the course of archaeological investigations, or inadvertently by persons undertaking any sort of excavating (e.g. drain laying). Traditional sites also embrace the Maori concepts of 'wahi tapu' or 'wahi noa'.

The Association considers that Maori views are paramount in the management and protection of 'Maori values' in traditional sites, but favours the protection of such sites from an overall heritage perspective by the Historic Places Trust working in conjunction with its Maori advisors and local tribal authorities.

### Classification of Sites

1.4-1.6 The Association does not support the wholesale or total classification of all archaeological sites because:

- a/ surface indications are an unreliable guide as to the merits of an archaeological site;
- b/ site 'values' change over time.

The Association favours the evaluation or re-evaluation of sites according to immediate threat situations.

The Association would support a 'national monument' concept whereby specific historic places (including archaeological sites and historic areas/landscapes) which are regarded as of national or regional significance are given 'permanent protection' because they are considered to have exceptional historic, visual, educational, cultural or traditional values. Such recognition would not be a replacement for the blanket protection provisions which must continue to apply to all archaeological sites.

### Protection Mechanisms

2.1 The Association considers that it is essential the NZHPT has the authority to impose restrictions or encumbrances on landowners in order to protect significant sites, but it is also appropriate that landowners should have rights of appeal against restriction or encumbrances on the use of their property. There should be no direct financial compensation in the event that a landowner has been refused consent to destroy an archaeological site, but the Association supports planning measures such as rating relief for those who protect or maintain historic places. Paying any form of direct financial compensation would involve substantial public funding.

The Trust must have the authority to mark sites on land titles at its discretion and expense.

2.2 It is essential that the principles of requiring archaeological recording and investigation at the applicants' expense as per Section 46 (6) of the existing Historic Places Act are retained. This helps reduce wanton destruction, and also provides a return of information (which is valuable in its own right), in instances where the destruction of a site is authorised. The Association believes only one agency, the NZHPT, should be responsible for the implementation and compliance with site protection legislation. This ensures impartiality and 'quality control'.

The Association believes that archaeological survey(s) (at the applicants' expense) should be a statutory requirement prior to the approval of large scale development projects (such as dam construction, forestry proposals, mining applications, and housing/commercial estate developments).

### Interim Protection Measures

2.3 Past experience has shown:

- a/ the need for "interim protection measures" for historic places which can be applied 'immediately' in situations where sites (classified, recorded, or not) are deemed to be under imminent threat;
- b/ the extension of such protection to sites or places less than 100 years old in instances where the Trust believes specific sites warrant protection.

### Protection of Archaeological Sites

2.4 Archaeological sites have many values which need to be spelt out clearly in new legislation. These minimally include spiritual, traditional, ethnic, aesthetic, scientific, historical, and educational values.

The principal objectives of any revised legislation with regard to archaeological sites should be:

- a/ preservation of archaeological sites (to retain the above mentioned values);
- b/ to record information (historic and scientific) in situations where destruction is unavoidable or considered acceptable.

2.42 The maintenance of a 'national index' of archaeological and traditional sites is essential for management purposes including the compilation of County Inventories of Historic Places. These documents alert planners (and to a lesser extent land developers and owners) of the presence of archaeological sites.

2.43 The Trust Board as the authority responsible for the implementation of the Historic Places Act is the most suitable body to decide what level of modification to a site requires consent. They should evaluate each application and give due and fair regard to all considerations. The Trust Board should have adequate professional staff at its disposal (or through DOC) to undertake its responsibilities.

The NZAA supports the retention of a system whereby permits and authorities are required prior to the modification of archaeological sites. This system should be expanded to include other forms of historic places, e.g. traditional sites.

The Association believes there should be some control over foreign researchers. Specifically, any foreign researcher requiring an excavation permit should:

- a/ have their research proposal approved by HPT on payment of a fee;
- b/ be affiliated with an approved N.Z. institution;
- c/ be compelled to deposit all recovered artefacts and fauna/floral material in approved New Zealand institutions, as well as copies of research notes, photographs, manuscripts, and published papers relating to work carried out in New Zealand.

2.44 In situations where the presence of an archaeological site is contested, a reasonable level of proof of the presence of a site prior to modification should be:

- a/ having 'reasonable cause to believe' (such as in instances where there are or were sites in the immediate vicinity);
- b/ documentary, pictorial, or other recorded evidence.

In situations where there is 'reasonable cause to believe' a site exists, the Trust must have a satisfactory means of

funding limited preliminary investigations to determine the existence/significance of cultural remains before making an authority decision.

2.45 The Association is strongly opposed to any notion that sites should only qualify for protection after a landowner has been notified of their presence. The 'notification of landowners' about important sites on their properties should be an extra protective measure, in addition, to the blanket protection of archaeological sites whether they are recorded or not. Notifying all landowners of sites on their properties (and updating) would be an impossible administrative burden.

### The Historic Places Act and Other Legislation

3.1 The Association supports 'stand alone' legislation such as the Historic Places Act 1980 for the protection of historic places.

3.3 Responsibility for the administration of special purpose historic places legislation should lie with the Historic Places Trust Board. The Trust should have primacy with regard to historic places protection.

Other statutes, such as the Town & Country Planning Act and the Resource Management Planning Act, should recognise the provisions of the Historic Places Act. The Association favours changes which will increase the effectiveness and compatibility of heritage protection statutes. Thus far, the application of the Town & Country Planning Act has been rather ineffective at protecting historic places. The Association is concerned that the Resource Management Law Reform document substantially excludes cultural and historic values from consideration.

3.7 Local authorities should be obliged to comply with the Trust's designations on historic places. Local authorities should have appeal rights.

3.8 NZAA supports the concept of 'historic areas' and considers more 'archaeological-historic' areas should be established. The concept should be expanded to include 'historic landscapes'.

4.0 We support the principle of land tax concessions and rate rebates as incentives to preserve New Zealand's cultural heritage.

### Maori Perspectives

5.1 While acknowledging the special status of the Maori as tangata whenua and their primacy re Maori site matters, the Association believes legislation should also recognise the

interests and concerns of other cultural groups re historic places (Maori and European).

5.2 Revised legislation should be based on a more holistic view of all the values which are inherent in a historic place, and be cognizant of the interests of all New Zealanders (past, present, and future) in such places.

5.4 The Maori Land Court should be nominated to adjudicate in situations where there are disputes re traditional ownership or tenure of lands on which there are historic places.

5.5 We consider Maori traditional sites (specifically locations where there are no physical manifestations) should be nominated by local tribal authorities and should be protected by the Trust in conjunction with tribal authorities.

#### The Optimum Administrative Structure for Protecting Historic Sites

6.0 We believe the best administrative structure to secure direct funding and the protection and preservation of historic places is a centralised independent body (such as NZHPT) serviced and funded by a government department. We are not opposed to a name change for such a body.

Experience has shown that historic resource management has a very low priority within Department of Conservation (3% of the total budget). This is unacceptable, given the Department's mandate. The Association feels that 'cultural resource management' is only included in the Conservation Act on sufferance. The Department of Conservation is overwhelmingly concerned with the protection of natural resources.

6.2 The Trust should maintain all its present roles including advising government on heritage matters, regulatory functions, trustee role re gifts and bequests, property management, public relations, showpiece functions, membership organisation, and preservation advocate at all levels.

While these roles are often divided between several agencies in overseas situations, we believe N.Z. is too small for such developments.

The Trust provides a unique avenue through which the public can be directly involved in protecting New Zealand's historic heritage.

6.5 Assuming the Trust stays with DoC, it should receive a greater allocation for historic resource management purposes, and be less dependent on lottery grants. The Trust should also

be able to appoint its own staff, independent of the Department of Conservation.

#### Regional Committees

There is a very uneven distribution of public archaeologists in the regions. This makes delegation and servicing the Trust's responsibilities re archaeological sites very difficult in some areas. The Trust should have a professional and administrative staff to service its historic resource management responsibilities.

#### Concluding Comment

The N.Z. Archaeological Association favours further measures which will give New Zealand's cultural heritage greater recognition and protection. We would welcome the opportunity to meet with the Historic Places Act review team to discuss or clarify any queries arising from this submission.

Michelle Horwood  
Secretary  
N.Z. Archaeological Association  
15 March 1989