

ARCHAEOLOGICAL
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Guidelines for approval of person to carry out activity

SECTION 45 HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014



HERITAGE NEW ZEALAND
POUHERE TAONGA

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Cover image: Archaeological investigation at the Wall Street Mall site, Dunedin. The wooden causeway was laid across a stream course or muddy swale in the 1850s.

Image: Heritage New Zealand Pouhere Taonga

1. Introduction

These guidelines have been prepared by Heritage New Zealand Pouhere Taonga (Heritage New Zealand) to clarify how it interprets section 45 (s45) of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) relating to the approval of a person to carry out an activity under an archaeological authority.

Heritage New Zealand is a Crown Entity which has the responsibility of administering the HNZPT Act 2014, including the authority process which allows for the research and recovery of archaeological information.

Section 45 of the HNZPT Act does not define any criteria by which Heritage New Zealand can measure suitability of a person to undertake an activity required for an archaeological authority. These guidelines have been developed to assist with clarifying this and were initially developed in consultation with the archaeological community in 2009. They have been updated to reflect legislative changes following the introduction of the HNZPT Act 2014, and feedback from tangata whenua and the archaeological community in 2014 and 2015.

These guidelines recognise Heritage New Zealand's purpose to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.

2. Legislation

Section 45 of the HNZPT Act replaced the Section 17 provisions under the Historic Places Act 1993 (HPA) for the approval of a person to carry out any work required as a condition of an authority.

Section 45 of the HNZPT Act 2014 states:

Application for approval of person to carry out activity

- (1) At any time before an activity in relation to an archaeological site is carried out under an authority, the person applying for the authority (or the holder of an authority) must apply to Heritage New Zealand Pouhere Taonga for approval of any person nominated to undertake the activity under an authority.*
- (2) A person must not be approved to carry out an activity under subsection (1) unless Heritage New Zealand Pouhere Taonga is satisfied that the person-*
 - (a) has sufficient skill and competency, is fully capable of ensuring that the proposed activity is carried out to the satisfaction of Heritage New Zealand Pouhere Taonga, and has access to appropriate institutional and professional support and resources; and*
 - (b) in the case of a site of interest to Maori-*
 - (i) has the requisite competencies for recognising and respecting Maori values; and*
 - (ii) has access to appropriate cultural support.*

3. The approval process

3.1 Background

An applicant for an archaeological authority may choose a person to carry out the work under an authority but Heritage New Zealand can only approve that person if they meet the legislative requirements outlined in s45 of the HNZPT Act.

These guidelines also apply when an application is made to replace a person who has previously been approved to carry out an activity under an authority.

The approval process for a person to carry out work associated with an authority is a separate approval to the authority application approval and is granted on a case by case basis. An authority application can be determined without having an approved person in place.

Approval to carry out an activity under an archaeological authority can be given to an individual person or to the director of a company if that person meets the criteria in s45. There may be instances where specialist skills are required, for example buildings archaeology, in which case the approved person must have those skills.

Where the approval is given to the director of a company who is not undertaking the work in person, they are responsible for the quality of the archaeological work required by the conditions of the archaeological authority. They can employ an archaeologist who has appropriate skills to undertake the work on their behalf but they must spend some time on site and understand what work is being undertaken, and oversee the final report.

3.2 Approving an application

People who have not previously been approved under s45 (or section 17 under the HPA) to carry out activity for an authority must provide a curriculum vitae to confirm the criteria outlined in this guideline are met. The curriculum vitae will be reviewed by Heritage New Zealand's Senior Archaeologist in discussion with Heritage New Zealand's Regional Archaeologists and Maori Heritage Advisors.

Anyone who has not held s45 approval to carry out work associated with an authority since the HNZPT Act was passed in 2014 may need to undertake a session with Heritage New Zealand's regional staff in order to ensure appropriate understanding of the legislation and current processes.

When an applicant for an archaeological authority seeks a recommendation of a person to carry out an activity under an authority, Heritage New Zealand will refer them to the New Zealand Archaeological Association website (<https://nzarchaeology.org/>) for a list of contract archaeologists. Heritage New Zealand does not give preference to any particular person, company, or group.

3.3 Declining an application

Principles of natural justice are followed in dealing with a request to approve a person to undertake an activity associated with an archaeological authority, and particularly when a request is refused.

These principles require Heritage New Zealand to be:

- fair, which includes observing natural justice and being impartial
- reasonable
- legal; that is, decisions are made in accordance with the criteria.

To achieve this, the process should include the person seeking approval:

- being informed that there is a recommendation against approval and the reasons why
- being given the opportunity to argue their case for approval and time for that to occur
- having their response given due weight
- being given the resulting decision which is properly documented and reasons given in terms of the legislative criteria, and
- having the decision made by someone who is not biased or perceived to be biased, and who has not pre-determined the application.

4. Minimum requirements for those previously approved

Section 45 of the HNZPT Act 2014 requires that a person must only be approved by Heritage New Zealand to carry out an activity under an authority if Heritage New Zealand Pouhere Taonga is satisfied that they meet the criteria outlined in the HNZPT Act. These criteria refer to skill, competency, access to institutional support, and in the case of sites of interest to Maori, competency in recognising and respecting Maori values and access to appropriate cultural support.

These criteria also apply when considering an application to replace a person who has previously been approved to carry out an activity under an authority.

4.1 Section 45 (2) (a) Skill and competency

Heritage New Zealand considers adherence to current archaeological practice to be evidence of skill and competency. Current archaeological practice is identified as the use of careful excavation techniques, documentation, preservation, and reporting procedures that have been developed over the past century, and are updated as new technologies become available.

Procedures for all archaeological investigation including buildings, include documenting exactly what was done in the field; analysing and describing in detail all that was found that might be pertinent to a wide range of questions regarding human and environmental history; obtaining and analysing samples of material relevant to those questions (for example, wood, soils, pollen, micro faunal remains, and charcoal or other organic materials); comprehensively documenting, describing, and analysing of all recovered artefacts; developing a catalogue of artefacts and other material taken from the site; preparing field notes each day that include referenced and dated photographs and drawings with scale; managing all artefacts and materials in accordance with current best practice; and writing a report that describes all the above activities and provides an interpretation of what was found in the context of current research questions and interests. This information should be reported back to the public where appropriate.

Heritage New Zealand in making a decision will give due regard to the proven experience of the proposed person in carrying out similar archaeological work, for example, in the area of buildings archaeology. The assessment accompanying an authority application may be used as an indicator of the person's knowledge and skills. Where no evidence of experience is available, references may be sought.

Heritage New Zealand will also take into account compliance with previous authority conditions, including the production of final archaeological reports, in its determination on whether to approve a person for the archaeological work associated with an authority.

An approved person must be a member of a heritage organisation with a Code of Ethics.

4.2 Section 45 (2) (b) Additional skills required for a site of interest to Māori

For s45 (2) (b) (i) *has the requisite competencies for recognising and respecting Māori values* - Heritage New Zealand will assess evidence demonstrating how Māori values have satisfactorily been recognised and respected by the person to carry out the activity under an authority, in the following ways:

- The person, with the applicant's agreement, has engaged with tangata whenua early in the consent and authority application process, and:
 - Engaged at a marae or by other means identified by tangata whenua
 - Discussed the archaeological authority application
 - Explained the archaeological assessment report, process and timeframes
 - Discussed the tikanga protocols to be followed on-site
 - Discussed with tangata whenua if they will agree in principle to provide cultural support
 - Discussed with tangata whenua the extent of the person's involvement with tikanga protocols
 - Developed a process related to reporting back the findings of the activity where appropriate
 - Discussed the process in place for the management of archaeological material.
- Tangata whenua and the person have discussed and established the tikanga protocols as appropriate to the site and proposed activity.
- If appropriate the person, with the applicant's agreement, has invited tangata whenua to visit the site (if they so wish), to:
 - Inspect the proposed site and explain the archaeology identified
 - Identify and record sites of significance to Māori.

For s45 (2) (b) (ii) *has access to appropriate cultural support* - Heritage New Zealand will assess if there is evidence from tangata whenua, where appropriate, that they will provide appropriate cultural support for the person undertaking the activity associated with the authority.

If tangata whenua choose not to provide cultural support, Heritage New Zealand will:

- Inform the person of the tangata whenua view that cultural support is not available
- Support both parties to resolve concerns and develop steps to provide adequate cultural support.

5. Minimum requirements to gain approval if not held previously

5.1 For people who trained in New Zealand

Section 45 of the HNZPT Act 2014 requires that a person must not be approved by Heritage New Zealand unless they are satisfied that that person meets the legislative criteria. For people who have not previously held approval under s45 (or under s17 of the Historic Places Act 1993) the following minimum standards apply, all of which must be satisfied:

- A New Zealand Masters degree in archaeology, and
- A minimum of 26 weeks of accumulated fieldwork experience (survey and excavation) in New Zealand, of which at least four weeks must be relevant to the work to be undertaken as part of an authority, and
- A minimum of three reports related to the archaeological authority process. These should include at least one assessment report and one final report which relate to the type and scale of archaeological work required by the authority the application relates to, and should be approved to the satisfaction of Heritage New Zealand, and
- Be a member of a heritage organisation with a Code of Ethics.

5.2 For people who trained overseas

Heritage New Zealand recognises that there are increasing numbers of overseas trained people who wish to practice in New Zealand. For those people the following minimum standards apply, all of which must be satisfied:

- A Masters degree (or equivalent) degree in archaeology or an associated discipline with an archaeological component from a university outside of New Zealand, and
- A minimum of 26 weeks of accumulated fieldwork experience (survey and excavation) in New Zealand, of which at least four weeks must be relevant to the work undertaken as part of the authority, and
- A minimum of three reports related to the archaeological authority process. These should include at least one assessment report and one final report which relate to the type and scale of archaeological work required by the authority the application relates to, and should be approved to the satisfaction of Heritage New Zealand, and
- Be a member of a heritage organisation with a Code of Ethics.

Overseas equivalence to a New Zealand Masters degree is considered to involve:

- A three year undergraduate degree, and
- A two year post graduate study in archaeology or an associated discipline.
- This post graduate study should include a research component which is a piece of writing in the form of a dissertation or thesis, or
- substantial research project completed post study.