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GUIDELINES SERIES No. 11

Guidelines for the declaration of an archaeological site

SECTION 43 HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014



HERITAGE NEW ZEALAND
POUHERE TAONGA

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Cover image: Propellers on the beach of the Norwegian Whalers' Base, Stewart Island (Heritage New Zealand Pouhere Taonga).

1. Introduction

This guide states the process by which a cultural heritage site that post-dates 1900 may be declared an archaeological site under section 43 of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act). Declaring an archaeological site gives the same legal protection as that given to an archaeological site as defined in the HNZPT Act. Heritage New Zealand Pouhere Taonga seeks to ensure that the declaration process is rigorous and transparent so that all parties involved are aware of the purpose and legal outcomes of such declarations.

Heritage New Zealand Pouhere Taonga is New Zealand's lead national heritage agency, and is the statutory authority for the identification, regulation, and protection of archaeological sites in New Zealand. Post-1900 sites may be of such significance that it is desirable to have the archaeological provisions under section 43 of the HNZPT Act apply to the site.

The following criteria are set out in section 43(1) of the HNZPT Act by which Heritage New Zealand Pouhere Taonga may, on reasonable grounds, declare a place to be an archaeological site. If the place –

- a. was associated with human activity in or after 1900 or is the site of a wreck of any vessel where the wreck occurred in or after 1900; and
- b. provides, or may be able to provide, through investigation by archaeological methods, significant evidence relating to the historical and cultural heritage of New Zealand.

This guide has been developed to set out clearly the key matters that must be considered in promoting a site to be declared an archaeological site, and the procedure that must be followed to ensure that the declaration process follows the correct legal requirements.

2. Purpose of declarations

2.1. Background

The appropriate protection and management of significant heritage sites is of high importance to the present and future generations of New Zealanders.

A declaration may be necessary or proposed for a number of reasons, including where:

- A post-1900 site is identified, where if archaeological methods were utilised on that site it would make an important contribution to our understanding of history in New Zealand.
- A place may possess significant sites dating from both the pre- and post-1900 period of New Zealand history, which together tell the story of an important historic event (or events).
- A place may possess a significant archaeological site overlain by (or intertwined with) a post-1900 heritage site where damage, modification or destruction of the post-1900 site will impact on the significant archaeological site.
- A landowner requests a post-1900 heritage site of significance be protected due to their concern that the site may be at risk of damage, modification or destruction.

Case Study – Ng King Brothers Chinese Market Garden Settlement

The Ng King Brothers Chinese Market Garden Settlement was established in 1921 by Charlie King, George Boe, James King, Ng Fook Ying and Ng King Yau (Young King) who had emigrated from the Hoisan Province in China to New Zealand. The business went from strength to strength, growing quickly to become the largest Chinese market garden in the South Island. The settlement not only served the market garden business, but also acted as an introduction to New Zealand life, offering employment and companionship to later Chinese immigrants. As the business flourished, a settlement grew on the land, with sleeping quarters for the single men, communal spaces with a kitchen and living area, food storage, a wash house with boiler for hot water supply, sheds and garages for the vehicles, a retail shop to sell produce locally, and hen and duck houses.

Even though a number of buildings have been removed since their original construction and the land to the southeast is now a residential subdivision, it is still an impressive set of original buildings, largely in its original setting. With the surrounding land that the Ng family initially used as a market garden, the settlement still provides a unique opportunity to tell the story of early 20th century Chinese settlers in rural New Zealand towns and the activities undertaken by them.

With the support of the descendant families and the Ashburton District Council, Heritage New Zealand Pouhere Taonga declared the Ng King Brothers Chinese Market Garden Settlement an archaeological site in 2019, recognising that archaeological analysis of the remnant structures and subsurface remains would contribute to our understanding of the history of Chinese culture and market gardening in New Zealand.

It is hoped the declaration will enable the Ashburton District Council to raise funds that will assist with its restoration plan and ongoing maintenance. When considered appropriate, it will be possible to open the site to visitors to tell the story of Chinese market gardening in small town New Zealand in the early to mid-20th century.



Remnant buildings at Ashburton's Ng King Market Garden site (Heritage New Zealand Pouhere Taonga).

3. Heritage New Zealand Pouhere Taonga process

3.1. Identification

Heritage sites that merit protection through a declaration are identified by Heritage New Zealand Pouhere Taonga in two ways:

- They can be brought to the attention of Heritage New Zealand Pouhere Taonga by any member of the public, or a group or organisation. Any evidence of the historic value of the site should be provided where possible.
- They may also be identified by Heritage New Zealand Pouhere Taonga through the course of its regular functions and advocacy work.

Once it has been established that a post-1900 site fulfils one of the criteria set out in section 43(1) of the HNZPT Act, the following process will apply.

3.2. Consultation

Heritage New Zealand Pouhere Taonga will apply a consistent and collaborative approach by working with owners and affected parties:

- Heritage New Zealand Pouhere Taonga will consult with, and give consideration to, the views of the landowner before approving a declaration.
- Heritage New Zealand Pouhere Taonga will also notify and endeavour to consult those with a registered interest in the site, affected parties, and appropriate iwi and hapū, before approving a declaration.

3.3. Proposal

For a declaration proposal to proceed to the Board of Heritage New Zealand Pouhere Taonga, it must:

- Clearly describe the site being proposed for declaration and why it has merit to be protected as a site under the HNZPT Act.
- Ascertain, and provide evidence of, the landowner's views on the declaration.
- Ensure evidence is provided of any consultation with those who have a registered interest in the site and affected parties.

3.4. Notification

Once the Heritage New Zealand Pouhere Taonga Board has declared a site as an archaeological site, the decision must be notified (section 43(2)) by:

- Notice in the *New Zealand Gazette*; and
- Public notice in one or more newspapers circulating in the area or via the Heritage New Zealand Pouhere Taonga website.

Within 10 working days of the Board's decision, Heritage New Zealand Pouhere Taonga must give a notice setting out the terms of the declaration (section 43(3)):

- (a) To the affected owner (and the occupier, if different from the owner);
- (b) To every other person with a registered interest in the site;
- (c) To the appropriate iwi or hapū; and
- (d) To the relevant local authorities.

3.5. Listing

Given the significance of the site being considered for a declaration (as stated in section 2 "Purpose of declarations" above), it then follows that the identified values should be recognised by being considered for entry on the New Zealand Heritage List/Rārangī Kōrero.

3.6. The archaeological authority process

Any person may still apply for an archaeological authority to modify or destroy a declared archaeological site. As with standard authorities the impact of the proposal on the historic and cultural heritage value of the archaeological site will be considered (section 59(1)(a)).

3.7. Appeals

Under section 58 of the HNZPT Act any person who is directly affected by the declaration of a site has the right to appeal the decision to the Environment Court. This appeal must be lodged within 15 working days of notification.

Appendix 1 – Legislative context

Section 43 of the HNZPT Act (2014) states:

- (1) Heritage New Zealand Pouhere Taonga may, on reasonable grounds, declare any place to be an archaeological site if the place –
 - a. was associated with human activity in or after 1900 or is the site of the wreck of any vessel where that wreck occurred in or after 1900; and
 - b. provides, or may be able to provide, through investigation by archaeological methods, significant evidence relating to the historical and cultural heritage of New Zealand.
- (2) A declaration under subsection (1) must be made –
 - a. by notice in the *New Zealand Gazette*; and
 - b. by public notice.
- (3) As soon as practicable after a declaration is made, Heritage New Zealand Pouhere Taonga must give a notice setting out the terms of the declaration –
 - a. to the affected owner (and the occupier, if different from the owner); and
 - b. to every other person with a registered interest in the site; and
 - c. to the relevant local authorities; and
 - d. to the appropriate iwi or hapū.