



New Zealand
Historic Places Trust *Pouhere Taonga*

Archaeological Guidelines Series No. 5

Guidelines for Section 17 Approval, *Historic Places Act 1993*



**New Zealand Historic Places Trust
Pouhere Taonga**

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Cover image: Noel Hill and David Rudd working at Papamoa, September 2006
Rachel Darmody, 2006

1. Introduction

These guidelines have been prepared by the New Zealand Historic Places Trust ('NZHPT') to clarify to the archaeological community how the Trust interprets section 17 of the *Historic Places Act* 1993, relating to the granting of approval to an archaeologist to undertake archaeological work required as a condition of an authority.

The NZHPT is charged with the responsibility of administering the Historic Places Act 1993 (the 'HPA') and, in particular, the authority process which allows for the research and recovery of cultural information on behalf of New Zealand. In order for this to contribute to public knowledge, it must be ensured that it meets scientific standards, and thus these guidelines are a response that recognises the NZHPT's responsibility to the cultural heritage.

They have been developed in consultation with the archaeological community.

2. Interpretation of Section 17, *Historic Places Act* 1993

2.1 Section 17

Section 17 of the HPA states:

17 Rights and duties under authority applications

- (1) With the prior consent in writing of the Trust, the holder of an authority granted under section 14 of this Act may engage any person approved by the Trust to carry out any work required as a condition of the authority and nothing in section 15(3) of this Act shall thereafter apply.*
- (2) The Trust may refuse consent under subsection (1) of this section if not satisfied that the person proposed by the holder of the authority to carry out the work—*
 - (a) has sufficient access to appropriate institutional and professional resources; or*
 - (b) is sufficiently skilled and competent and is in every way capable of ensuring the proposed work is carried out satisfactorily.*
- (3) In every case, the Trust or a person approved by the Trust for the purpose shall, to the satisfaction of the Trust, compile a report on the work done and furnish a copy of it as soon as practicable to—*

- (a) *The holder of the authority and to the owner if that person is not the owner; and*
- (b) *The Trust, if it has not carried out the work.*

2.2 The Section 17 approval process

An applicant for an authority has the right to choose an archaeologist to carry out the work under the authority.

The NZHPT may not decline approval of a proposed archaeologist if that person meets the criteria in s17(2).

Principles of natural justice must be followed in dealing with a s17 approval request and particularly when a request is to be refused.

These principles require the NZHPT person making the recommendation and the decision maker to:

- ◆ be fair ,which includes observing natural justice and being impartial;
- ◆ be reasonable;
- ◆ be legal; that is, decided within the criteria set out in s17(2).

To achieve this, the process should include:

- (a) the archaeologist seeking approval must be informed that there is a recommendation against approval and the opportunity given to argue their case for approval and time given for that to occur;
- (b) the response from the archaeologist must be given due weight;
- (c) the decision should be properly documented and reasons given in terms of the criteria in s17(2); and
- (d) the decision being made by someone who is not biased or perceived to be biased, and who has not pre-determined the application.

With regard to s17(2)(b), the NZHPT in making a decision will give due regard to the proven experience of the proposed archaeologist in carrying out similar archaeological work, especially in the areas of buildings or urban archaeology. The assessment accompanying an authority application may be used as an indicator of the archaeologist's knowledge and skills. Where no evidence of experience is available, references may be sought from experienced archaeologists or the approach set out below in the final paragraph may be considered.

When an owner or developer seeks a recommendation of an archaeologist to carry out some work, the NZHPT will refer them to the New Zealand Archaeological Association website for a list of archaeologists in their region. The NZHPT will give no preference to any particular archaeologist or company or group of archaeologists.

The NZHPT may suggest in certain circumstances to a proposed archaeologist that, for the work contemplated, a supervisor, or mentor is involved to ensure the criteria in s17 are met.

3. Minimum Requirements to Gain S17 Approval

3.1 Field archaeology and reporting

Section 17(2) of the HPA does not define any criteria by which the NZHPT can measure an archaeologist's suitability to undertake the work required for an authority. The NZHPT is, therefore, moving to establish minimum levels of qualification to satisfy the requirements of s17(2) in an open and transparent manner.

For archaeologists who train in archaeology in New Zealand, the following minimum standards apply to gain the approval under s17, all of which must be satisfied:

- NZ Masters degree in archaeology, *and*
- 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*
- Minimum of three reports written either as author or co-author on fieldwork carried out in New Zealand, to the satisfaction of the NZHPT.

The NZHPT recognises that there are increasing numbers of overseas trained archaeologists who wish to practice in New Zealand. For those archaeologists, the minimum standards are:

- Masters (or equivalent) degree in archaeology from a university outside of New Zealand approved by the NZ Immigration Service. See: <http://www.immigration.govt.nz/migrant/general/formsandfees/formsandguides/lorq> , *and*
- Minimum of 2 years fieldwork experience in the country where the above Masters degree was obtained, *and*

- Minimum of three reports written as author or co-author on fieldwork carried out in the country where the Masters degree was obtained, *and*
- Minimum of 10 weeks of fieldwork in New Zealand, of which at least three weeks must be relevant to the work undertaken as part of the authority, *and*
- Minimum of two reports written either as author or co-author on fieldwork carried out in New Zealand, to the satisfaction of the NZHPT.

Where an overseas trained archaeologist emigrates to New Zealand immediately or soon after finishing their MA, it is expected that they will fulfil the NZ trained archaeologist requirements in order to gain s17 approval. CV's have to be supplied to confirm the above requirements are met, as well as names and contact details of referees or references as necessary.

These requirements will not be applied retrospectively to archaeologists currently practicing in New Zealand, but will apply for any 'new' archaeologist seeking s17 approval after 1 July 2009.

3.2 Specialist analysis and reporting

There are some types of analysis that require specialist knowledge and input, which many archaeologists will probably not have. These include the fields of (among others): pollen analysis, tephra analysis, wood and charcoal identification, and most bone analysis. When archaeologists have material of this nature in their sites, they should endeavour to use specialists for the analysis and reporting.