

13. APPROVALS RELATING TO THE HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014

13.1 INFORMATION REQUIREMENTS FOR ARCHAEOLOGICAL AUTHORITY

The following section sets out the information requirements for archaeological authorities in accordance with Schedule 8 (Clause 2) of the Act.

A legal description of the land or, if one is not available, a description that is sufficient to identify the land to which the application relates:⁴³⁸

The application relates to the entirety of the Project area as described in Section 2 of this report. The legal descriptions for the Project area are set out in Section 3.3.4 of this report, with a copy of the relevant Records of Title included in **Part I** of the application documents.

The name of the owner of the relevant land, if the applicant is not the owner of the land:⁴³⁹

The ownership details are set out in Section 3.3.4 of this report and **Part I** to these application documents. The landowners listed in Section 3.3.4 are WCC, WIAL and Crown Land administered by LINZ.

Proof of consent, if the owner has consented to the proposed activity:⁴⁴⁰

WIAL consents to the proposed Archaeological Authority activities on all company owned properties associated with the Project.

As noted in Section 11, WIAL has been engaging with WCC throughout the development of the Project application, and WCC has provided written agreement for the main project works to be undertaken within the local purpose (esplanade) reserve land held by WCC and located within part of part of Lots 3 and 4, Deposited Plan 78304 (WN45A/75 and WN45A/76 respectively). WIAL is working with WCC to confirm whether any Reserves Act approvals are required for use of an additional area of local purpose (esplanade) reserve associated with placement of structures at the head of the Stage 1 Kororā Colony access culvert and for lizard habitat planting and release activities. WIAL will update the Panel on this matter as soon as possible.

⁴³⁸ Schedule 8, Clause 2(1)(a) of the Act.

⁴³⁹ Schedule 8, Clause 2(1)(b) of the Act.

⁴⁴⁰ Schedule 8, Clause 2(1)(c) of the Act.



WIAL has also been liaising with LINZ regarding the use of Crown land for aspects of the Project (around the coastal margins). As detailed in Section 6, WIAL is currently discussing the acquisition of the relevant property approvals with LINZ and will keep the Panel updated on these discussions.

Confirmation that the application complies with Section 46(2)(a), (b) and (d) of the Act:⁴⁴¹

Section 46 of the Act addresses the EPA deciding whether a substantive application is complete and within scope. In accordance with Section 46 of the Act,⁴⁴² this substantive application for the Project:

- > Has been developed to adhere to the requirements of section 42 of the Act;⁴⁴³
- > Includes all the information listed in section 43 of the Act (as described in section 9.4), and is specified in sufficient detail to satisfy the purpose for which it is required in accordance with section 44 of the Act;⁴⁴⁴
- > Is for a listed project;⁴⁴⁵
- > Does not involve an ineligible activity; and⁴⁴⁶
- > WIAL will pay the application fee as required by the Act.⁴⁴⁷

A description of each archaeological site to which the application relates and the location of each site:⁴⁴⁸

This is addressed in Section 3.16 of this report, and in the Archaeological Assessment contained within **Part B** of the application documents. To reiterate, there is one recorded archaeological site within the Project works area. The site extends into the George Bolt Yard, which is associated the Taputerangi Pā (recorded archaeological site R27/554). While no evidence of this archaeological site has been found in modern times, there is a low possibility for subsurface archaeological features to be present on the site. If archaeological features are present, they will likely be below the upper 500 mm of soil.

⁴⁴¹ Schedule 8, Clause 2(1)(d) of the Act.

⁴⁴² Section 46 of the Act sets out the steps by the EPA after the substantive application is lodged.

⁴⁴³ Section 46 (2)(a)(i) of the Act.

⁴⁴⁴ Section 46 (2)(a)(ii) of the Act.

⁴⁴⁵ Section 46 (2)(b) of the Act.

⁴⁴⁶ Section 46 (2)(c) of the Act.

⁴⁴⁷ Section 46 (2)(d) of the Act.

⁴⁴⁸ Schedule 8, Clause 2(1)(e) of the Act.



A description of the activity for which the authority is sought:⁴⁴⁹

This is addressed in Section 2 of this report, in Section 1.3 of the Archaeological Assessment (**Part B**) and the ASMP (contained in **Part G** to these application documents). Broadly, WIAL applies for general archaeological authorities for works associated with the Project, which will include archaeological investigation and recording of any archaeological remains affected and uncovered during earthworks.

A description of how the proposed activity will modify or destroy each archaeological site:⁴⁵⁰

These matters are addressed in Section 7.13 of this report, and in and in the Archaeological Assessment (**Part B**).

Except in the case of an approval described in Section 44(b)⁴⁵¹ **of the HNZPT Act, an assessment of—**

- > The archaeological, Māori, and other relevant values of the archaeological site in the detail that is appropriate to the scale and significance of the proposed activity and the proposed modification or destruction of the archaeological site; and
- > The effect of the proposed activity on those values:⁴⁵²

The Archaeological Assessment assesses all archaeological values associated with the Project Area within which the Project is located. An ASMP (provided in **Part G** of the application documentation) has also been prepared which documents the measures to be put in place to address effects on archaeological values and features.

A statement as to whether consultation with tangata whenua, the owner of the relevant land (if the applicant is not the owner), or any other person likely to be affected—

- > Has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed; or
- > Has not taken place or been completed, with the reasons why consultation has not occurred or been completed (as applicable):⁴⁵³

⁴⁴⁹ Schedule 8, Clause 2(1)(f) of the Act.

⁴⁵⁰ Schedule 8, Clause 2(1)(g) of the Act.

⁴⁵¹ An application for an authority to undertake an activity that will or may modify or destroy a recorded archaeological site or sites, if the effects of that activity on a site or sites will be no more than minor.

⁴⁵² Schedule 8, Clause 2(1)(h) of the Act.

⁴⁵³ Schedule 8, Clause 2(1)(i) of the Act.



Sections 4 and 6 addresses the consultation and engagement undertaken by WIAL in respect of the Project.

13.2 DECISION MAKING CONSIDERATIONS FOR ARCHAEOLOGICAL AUTHORITY

Section 81 of the Act, and Clause 4 of Schedule 8, set out the matters for consideration by the panel in respect of an archaeological authority. These matters are summarised below:

- > A panel must, for each approval sought in a substantive application, decide whether to grant the approval (and set conditions) or decline the approval;⁴⁵⁴
- > The panel must consider the substantive application, and any advice, report comment or other information received by the panel,⁴⁵⁵ including advice from administering agencies, local authorities, iwi authorities, treaty settlement entities, DOC and HNZPT;
- > A panel may only decline the approval in accordance with section 85 of the Act, which set out where panels must decline approvals (not applicable in the case of this Project) and where panels may decline an approval – if the panel forms the view that:
 - > There are 1 or more adverse impacts in relation to the approval sought; and⁴⁵⁶
 - > Those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered, even after taking into account:⁴⁵⁷
 - > any conditions that the panel may set in relation to those adverse impacts; and⁴⁵⁸
 - > any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.⁴⁵⁹
- > A panel may not form the view that an adverse impact of a project is sufficiently significant to be out of proportion to the regional or national benefits solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider;

⁴⁵⁴ Section 81 (1) of the Act.

⁴⁵⁵ Section 81 (2) of the Act.

⁴⁵⁶ Section 85 (3)(a) of the Act.

⁴⁵⁷ Section 85 (3)(b) of the Act.

⁴⁵⁸ Section 85 (3)(b)(i) of the Act.

⁴⁵⁹ Section 85 (3)(b)(ii) of the Act.



- > In its decision, the Panel must take into account, the following matters of relevance to the archaeological authority sought as part of the Project (giving greatest weight to the purpose of the Act);⁴⁶⁰
 - > The purpose of this Act;
 - > The matters set out in section 59(1)(a) of the HNZPT Act; and
 - > The matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and
 - > A relevant statement of general policy confirmed or adopted under the HNZPT Act.

In respect to these matters:

- > Sections 1 and 7.2 of this report addresses how the Project demonstrably achieves the purpose of the Act;
- > Section 59(1)(a) of the HNZPT Act requires decision makers to have regard to:
 - > The historical and cultural heritage value of the archaeological site and any other factors justifying the protection of the site;
 - > The purpose and principles of the HNZPT Act;
 - > The extent to which protection of the archaeological site prevents or restricts the existing or reasonable future use of the site for any lawful purpose;
 - > The interests of any person directly affected by the decision;
 - > A statutory acknowledgement that relates to the archaeological site or sites concerned; and
 - > The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga.

In respect to the matters set out in section 59 of the HNZPT Act:

- > The Archaeological Assessment contained in **Part B** of the application documents provides a detailed description of the historical and cultural heritage of the project area;
- > The purpose of the HNZPT Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.⁴⁶¹ The

⁴⁶⁰ Clause 4(1), Schedule 8 of the Act.

⁴⁶¹ Section 3 of the HNZPT Act.



principles of the HNZPT Act requires decision makers to recognise specified matters including:⁴⁶²

- > Historic places have lasting value in their own right and provide evidence of the origins of New Zealand’s distinct society;
- > The identification, protection, preservation, and conservation of New Zealand’s historical and cultural heritage should—
 - > take account of all relevant cultural values, knowledge, and disciplines; and
 - > take account of material of cultural heritage value and involve the least possible alteration or loss of it; and
 - > safeguard the options of present and future generations; and
 - > be fully researched, documented, and recorded, where culturally appropriate; and
 - > There is value in central government agencies, local authorities, corporations, societies, tangata whenua, and individuals working collaboratively in respect of New Zealand’s historical and cultural heritage; and
 - > The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga.

All of these matters have been considered and addressed in this application, the Archaeological Assessment and the ASMP.

- > The archaeological authority is sought on a conservative basis, and in areas that are already highly modified. However, the authority is being sought because protecting the recorded archaeological site at the George Bolt Yard (or any other archaeological site within the Project works area) has the potential to prevent or restrict the existing or reasonable future use of Project site;
- > Section 6 of this report addresses the engagement undertaken with the parties impacted by the Project and records their views on the Project as a whole;
- > There are no statutory acknowledgements that relate to any archaeological features impacted by the Project; and

⁴⁶² Section 4 of the HNZPT Act.



- > Section 4 of this report details how the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga is being provided for.

In respect to the matters set out in Section 47(1)(a)(ii) and (5) of the HNZPT Act:

- > The Archaeological Assessment confirms that adverse effects of the proposed works are anticipated to be minor;
- > It is considered that there is a low probability that intact archaeological features exist within the proposed George Bolt and MGC Yards given the high level of modification, however, if any archaeological sites are uncovered they are likely to be of Māori origin; and
- > The proposed activities are set within a highly modified environment such that sites are likely to have already been destroyed, particularly at the George Bolt Yard. Works are to occur in accordance with the ASMP to ensure effects on any sites uncovered during works are appropriately managed.

It is considered that no statements of general policy confirmed or adopted under the HNZPT Act are relevant to this application.

In respect to the matters set out in section 49 of the HNZPT Act, the Archaeological Assessment provides a detailed assessment of the archaeological effects of the Project.

13.3 SUMMARY

In summary, the information provided in the preceding sections satisfies the information requirements for archaeological authorities, in accordance with Schedule 8 (Clause 2) of the Act. As noted in Section 6 of this report, HNZPT has confirmed that the management measures proposed as part of the application (including the draft authority and associated conditions set out in **Part D**) will appropriately manage effects on archaeology and their support for the draft

