

**BEFORE THE EXPERT PANEL**

Application: FTAA- 2507-1089

**IN THE MATTER** of the Fast-track Approvals Act 2024 (FTA Act)

**AND**

**IN THE MATTER** of an Application by Matakanui Gold Limited under section 42 of the FTA Act for the Bendigo-Ophir Gold Project (BOGP)

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**SUBMISSIONS OF HERITAGE NEW ZEALAND POUHERE TAONGA**

**29 April 2026**

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**HERITAGE NEW ZEALAND  
POUHERE TAONGA**

## Introduction

- 1 These submissions are prepared on behalf of Heritage New Zealand Pouhere Taonga (HNZPT) to present its position in relation to the BOGP fast-track application, specifically in relation to the application for an archaeological authority.
- 2 HNZPT is the administering agency for the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act). As a part of the FTA Act process, where an archaeological authority is applied for, HNZPT provides a report to the Panel pursuant to section 51(2)(d) (s51 Report).
- 3 A s51 Report must be prepared in accordance with clause 3 of Schedule 8, which states, that it may recommend:
  - (a) that an archaeological authority be granted with conditions, including any conditions imposed in accordance with clause 5 or section 84; or
  - (b) that the approval be declined.
- 4 In this instance, HNZPT recommended that the approval be declined and the reasons for this are set out in its s51 Report.
- 5 In support of this recommendation HNZPT relies on the expertise of Ms Emma Clifford, Manager Archaeology at HNZPT. Ms Clifford authored the internal assessment (Clifford Assessment) that informed the s51 Report<sup>1</sup> and also prepared a Statement of Evidence dated 23 April 2026.
- 6 As I go through the matters relating to the archaeological authority, I will direct you to relevant pages or paragraphs of the s51 Report, the Clifford Assessment, or Ms Clifford's evidence.

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<sup>1</sup> Attached as Appendix A to that Report and Appendix A to Ms Clifford's Statement of Evidence.

## The Legal Framework

- 7 Modification or destruction of an archaeological site, or in this case several archaeological sites, requires permission, in the form of an archaeological authority to be granted prior to those works commencing.
- 8 In a non-Fast-track world, an archaeological authority is applied for under the HNZPT Act, with HNZPT making the decision whether to grant with conditions or decline that authority. In order to make that decision, HNZPT expert staff review the archaeological and cultural assessments, and complete an assessment of the matters set out in s59(1)(a) of the HNZPT Act. HNZPT must not act inconsistently with its statements of general policy when making those determinations, unless otherwise provided for by its Board.<sup>2</sup>
- 9 In the Fast-track process an applicant may apply for an archaeological authority as a part of their fast-track application. Under this process, HNZPT carries out a similar assessment, however instead of making the decision in relation to the authority, it makes a recommendation to the Expert Panel, and pursuant to section 81, the Expert Panel must decide whether to grant the approval subject to conditions or decline the approval.
- 10 When making that decision, s81(2) requires that the Expert Panel, *inter alia*, apply the applicable clauses set out in subsection (3). For an approval described in section 42(4)(i) (archaeological authority), those applicable clauses are 4 and 5 of Schedule 8.
- 11 Clause 4 sets out the criteria for assessment of an application for an archaeological authority (clause 4 criteria), and clause 5 provides the ability for the Expert Panel to impose any conditions in relation to any authority that it grants.

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<sup>2</sup> HNZPT Act, s20.

12 Clause 4 states:

**4 Criteria for assessment of application for archaeological authority**

- (1) For the purposes of section 81, when considering an application for an archaeological authority, including conditions in accordance with clause 5, the panel must take into account, giving the greatest weight to paragraph (a),—
- (a) the purpose of this Act; and
  - (b) the matters set out in section 59(1)(a) of the HNZPT Act; and
  - (c) the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and
  - (d) a relevant statement of general policy confirmed or adopted under the HNZPT Act.

13 HNZPT does not provide any assessment as to whether the project achieves the purpose of the FTA Act, as this is well outside its area of expertise.

14 The matters set out in section 59(1)(a) of the HNZPT Act are:<sup>3</sup>

- (a) must, in respect of a decision made on an application made under section 44, have regard to any matter it considers appropriate, including—
  - (i) the historical and cultural heritage value of the archaeological site and any other factors justifying the protection of the site;
  - (ii) the purpose and principles of this Act;
  - (iii) 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;
  - (iv) the interests of any person directly affected by the decision of Heritage New Zealand Pouhere Taonga;
  - (v) a statutory acknowledgement that relates to the archaeological site or sites concerned;
  - (vi) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga; and

15 The Statements of General Policy, He Tauāki Kaupapahere Whānui, (SOGP) are the current and relevant statements of general policy, adopted in October 2025. These are attached as Appendix B to Ms Clifford's evidence.

16 The purpose of the SOGPs are to provide guidance to HNZPT in order to achieve the purpose of the HNZPT Act and assist in carrying out its statutory functions, including advocating for historic places and issuing authorities in accordance with the HNZPT Act.

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<sup>3</sup> There are no statutory acknowledgement areas within the authority application area.

- 17 The s51 Report provides an assessment of these matters to support its recommendation and assist the Panel in its decision-making process.

### **S51 Report**

- 18 On 8 December 2025 the Panel Convener issued a Minute directing the EPA to obtain a report prepared by Heritage New Zealand Pouhere Taonga and the Māori Heritage Council, in accordance with section 51(2)(d) of the Act (December Minute).

- 19 The directions of the Panel Convener in the December Minute were:

- (a) How the weighting of matters set out in the relevant schedules should be approached, having regard to applicable statutory provisions and relevant senior court decisions (s51(1)).
- (b) If either agency does not agree with, or wishes to amplify, the expert and planning assessments lodged in support of the application, it must file a report in accordance with the relevant schedule (s51(2)(c) or s51(2)(d)).
- (c) Each agency may confirm and append advice previously given in response to directions under section 51 on another project and does not need to provide an assessment if it concurs with the applicant's assessments.
- (d) Each agency is to respond to the draft conditions, including any management plans attached to the application, recommending tracked changes (if any).

- 20 HNZPT provided its s51 Report to the Expert Panel on 25 March 2026. The s51 Report served two purposes:

- (a) To respond to the matters requested by the Panel Convener; and
- (b) To provide an assessment of the relevant clause 4 criteria in order to make its recommendation to the Expert Panel.

### **Response to Panel Convener**

- 21 Ms Clifford reviewed the Applicant's heritage assessment and disagreed with the fundamental approach taken in the assessment, specifically that the assessment evaluated each individual site discretely, rather than recognising them as part of archaeological complexes (collections of interconnected sites) that form an archaeological landscape. This approach has resulted in understating the archaeological values and significance of the area and therefore any assessment of effects on those values is also flawed.
- 22 As such, Ms Clifford prepared her own assessment in order to assess the clause 4 criteria relevant to the Expert Panel's decision-making process (the Clifford Assessment was attached to the s51 Report as Appendix A). Ms Clifford concluded that the BOGP "will result in significant adverse effects on archaeological and broader historic heritage values"<sup>4</sup>.
- 23 HNZPT also advised in its s51 Report that Archaeological Management Plans are considered "essential in order to ensure mitigation of any adverse effects should the authority be granted"<sup>5</sup>. This is often achieved through the recording of any information collected and analysed after the modification and destruction of any sites.
- 24 However, in this instance HNZPT concluded that it did not consider there "were any mitigation measures or conditions that could be imposed that would ever compensate for the modification or destruction of the 28 archaeological sites that contribute to a significant archaeological landscape"<sup>6</sup>.

*Previously granted archaeological authorities*

- 25 It is also acknowledged in the Clifford Report, that HNZPT has granted Authority 2025/574 which is located within an area of the

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<sup>4</sup> Clifford Assessment, p19.

<sup>5</sup> s51 Report at [18].

<sup>6</sup> s51 Report at [19].

BOGP fast-track application. Authority 2025/574 is limited to destruction of four archaeological sites and modification of two sites. At the time this application was assessed, it was considered that the loss of these sites was acceptable in consideration of the ability of the remaining sites in the archaeological landscape to maintain and present the story of the area's mining history.

26 Any archaeological authority that is granted inevitably is authorising the destruction or modification of archaeological sites. As such when HNZPT grants an authority, it does not do so lightly and acknowledges that this loss will occur. That is the legal pathway provided through the HNZPT Act, where after consideration of the s59(1)(a) matters, it is concluded that it is appropriate to grant an authority.

27 The BOGP fast-track application is destruction and modification on a much larger scale, resulting in the loss of an intact and interpretable mining landscape. As such, it would be incorrect to consider that the granting of Authority 2025/574 would in any way justify any further authorities causing more cumulative effects on the archaeological landscape.

#### Clause 4 criteria

28 The relevant clause 4 criteria for the BOGP application that the Panel must take into account when making its decision, are:<sup>7</sup>

- (a) the purpose of this Act; and
- (b) the matters set out in section 59(1)(a) of the HNZPT Act; and
- (c) . . . . .
- (d) a relevant statement of general policy confirmed or adopted under the HNZPT Act.

29 The s51 Report prepared by HNZPT addresses (b) and (d) above.

#### *S59(1)(a) matters*

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<sup>7</sup> Clause 4(c) of Schedule 8 states the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act. Section 47(1)(a)(ii) and (5) relate to archaeological authorities applied for pursuant to s44(1)(b). This is not relevant for the BOGP application, as it is made pursuant to s44(1)(a) not (b).

30 When making a determination in relation to an archaeological authority under the HNZPT Act, HNZPT must have regard to the matters set out in s59(1)(a)<sup>8</sup>. Under the Fast-track regime, this requirement is the same. As Manager Archaeology, Ms Clifford oversees and undertakes those assessments.

31 Ms Clifford sets out her consideration of these matters in pages 21-25 of the Clifford Assessment and summarises her opinion in [45] to [57] of her evidence. In sum, Ms Clifford is of the view that:

- (a) the historical and cultural heritage values of the application area are unique and justify protection;
- (b) protecting the sites and their high archaeological values also protects the historical and cultural heritage values of the wider area;
- (c) the avoidance of two sites within the Application area has not been driven by considering the relevant values and is not enough to safeguard options for present and future generations;
- (d) the modification and destruction of such a high number of high value archaeological sites is not consistent with the purpose and principles of the HNZPT Act;
- (e) protecting the archaeological sites does not prevent reasonable use, both current and future, of the land;
- (f) the land is currently used for recreation, tourism, and farming activities and these activities can continue whilst also protecting the archaeological sites;
- (g) there are conflicting interests in relation to persons directly affected by the decision;

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<sup>8</sup> HNZPT Act, s49(2).

- (h) It is recognised that declining this authority will greatly impact the BOGP, however, “the protection of very significant archaeological values should take primacy”<sup>9</sup>.

#### *Relevant Statements of General Policy*

- 32 The HNZPT Act requires HNZPT to have statements of general policy in place for each of the matters listed in s17(1)(b), which includes for the administration of archaeological sites<sup>10</sup> and the statutory role of advocacy<sup>11</sup>.
- 33 Each statement of general policy adopted by HNZPT must be reviewed no later than 10 years after its adoption, following the process set out in s17. Section 20 states that HNZPT must not act inconsistently with a statement of general policy, unless the Board resolves it is reasonable to do so.
- 34 There are two SOGPs that are relevant to archaeological authorities: Archaeology Statement, Tauāki Mātai Whaipara and Advocacy Statement, Taiākī Hapahapai.
- 35 Ms Clifford has considered these SOGPs and concluded that the BOGP is inconsistent with several policies. Those policies are set out in [58] to [60] of her evidence, with additional commentary and consideration woven throughout the Clifford Assessment.

#### **Recommendation to decline**

- 36 Taking into account her assessment of the relevant clause 4 criteria, Ms Clifford reached the conclusion that the BOGP application for an archaeological authority should be declined. This recommendation was then translated into the s51 Report and endorsed by the Chief Executive of HNZPT under delegation.

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<sup>9</sup> Clifford Assessment, p25.

<sup>10</sup> HNZPT Act, s17(1)(b)(i)

<sup>11</sup> HNZPT Act, s17(1)(b)(v)

37 It is also noted that Dr Woods for the Applicant agrees with HNZPT that “the BOGP will have a major adverse effect on archaeology and heritage values”<sup>12</sup>, however she goes on to say that New Zealand Heritage Properties [she] supports the application for an authority subject to sufficient mitigation as outlined in the Applicant’s Heritage Assessment B34B.

38 HNZPT does not consider that there are any measures appropriate to mitigate such wide scale destruction and modification of archaeological sites<sup>13</sup>.

### **Expert Conferencing**

39 Ms Clifford is the expert who will be partaking in expert conferencing and hot-tubbing on behalf of HNZPT in the next steps for the BOGP application.

40 It is clear that Ms Clifford, and the archaeological experts for the Department of Conservation (Dr Schmidt), Central Otago District Council (Dr Jennings), and Sustainable Tarras (Mr Sole) disagree with the methodology and approach of Dr Woods on behalf of the Applicant.

41 However, rather than focus the discussion solely on these differences, HNZPT considers that it is essential to include the clause 4 criteria as a key topic in expert conferencing.



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Pouhere Taonga

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<sup>12</sup> Statement of Evidence of Dr Naomi Jane Woods in response to section 53 Feedback, dated 17 April 2026 at [33].

<sup>13</sup> S51 Report at [19].