

# Minimum Standard P45 – Accidental Archaeological Discovery Specification

## 1 Purpose

This specification sets out the standard procedure that the Transport Agency representative and Contractors will follow in the event that an archaeological site, kōiwi/human remains or taonga (Māori artefacts) are accidentally discovered during investigation, construction and/or maintenance of the State Highway network and associated works.

This minimum standard P45 does not apply when an archaeological authority has been issued by Heritage New Zealand Pouhere Taonga (HNZPT). Refer instead to the authority, which will set out the archaeological requirements specific to that area of the project.

P45 replaces the earlier standard Z/22. P45 reflects the minimum requirements of the Transport Agency in accordance with statutory obligations under the Heritage New Zealand Pouhere Taonga Act 2014 and the Protected Objects Act 1975.

The procedures contained in P45 are also designed to recognise and provide for the protection of cultural and historic heritage and the special relationship of Māori in regard to their land, water, sites, wahi tapu and other taonga.

Drivers for the revision include the Heritage New Zealand Pouhere Taonga Act 2014, (which replaced the Historic Places Act 1993) and revised guidelines released by HNZPT for the handling of kōiwi/human remains.

An assessment of effects on archaeological values should be completed during the earliest stages of Transport Agency project planning. Transport Agency has guidelines for such an assessment ([Assessing historic heritage impacts guide for state highway projects](#)).

The decision to either proceed with an accidental archaeological discovery using specification P45 for earthworks on any project or to apply for an archaeological authority must be informed by a project archaeologist in conjunction with HNZPT.

The specification can be referenced in Resource Management Act approvals as a condition of designation or consent.

To reflect an existing agreement with Te Runanga o Ngai Tahu, where Māori archaeological sites, artifacts or kōiwi are found within the **Canterbury and West Coast** regions, the *Accidental Discovery Protocol (2003)* (Attachment 1) agreed between Te Runanga o Ngai Tahu and Heritage New Zealand applies. P45 will apply to other (non-Māori) sites.

In the **Auckland** region, works must also comply with the Accidental Discovery [Rule E12.6](#) in the Auckland Unitary Plan. This rule has some additional triggers and requirements not included in P45. In particular attention is drawn to the parts of the rule that apply to Protected New Zealand Objects as defined in the Protected Objects Act 1975 (including any fossil or sub-fossil), evidence of contaminated land and lava caves.

## 2 General procedures following the accidental discovery of possible archaeological sites, kōiwi/human remains or taonga

1. **Immediately** following the discovery of material that could be an archaeological site, kōiwi/human remains and/or taonga, the Contractor will cease all work within a minimum of 20m of any part of the discovery and immediately advise the Transport Agency representative of the discovery.
2. If it is unclear whether the find is an archaeological site, kōiwi/human remains and/or taonga, the Transport Agency representative should consult a qualified archaeologist to confirm its origin.
3. The Transport Agency representative shall notify the following people of the discovery:
  - The New Zealand Police, if any kōiwi/human remains are uncovered To be satisfied that the remains are not a missing person or part of a crime scene. This is also a requirement of the Coroners Act 1988.
  - Project Archaeologist
  - If a project archaeologist is not nominated in the contract documents, a qualified archaeologist will be appointed by the Transport Agency representative to ensure all archaeological sites, kōiwi/human remains and taonga are dealt with appropriately and to support liaison with key parties, including clarifying with HNZPT whether an authority is required;
  - The Regional Archaeologist at HNZPT
  - Appropriate iwi group(s) or kaitiaki representative(s)  
In most situations these relationships will have been established during project planning. However, note that statutory acknowledgement areas establish obligations on the Crown to work with iwi under specific Accords. Advice on the appropriate iwi group(s) is available through the relevant Transport Agency statutory planner responsible for consents and approvals.
  - Auckland Council, if the discovery is made in the Auckland region  
This is to ensure compliance with the accidental discovery rule in the Unitary Plan.
4. The Transport Agency representative shall require the Contractor to secure the discovery area, ensuring the area (and any object(s) contained within) remains undisturbed and meets health and safety requirements.

Note: It is an offence under S87 of the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority from HNZPT irrespective of whether the works are permitted or a consent has been issued under the Resource Management Act 1991.

5. The Transport Agency representative shall ensure that either themselves or the Contractor, as appropriate, are available to meet and guide the Project Archaeologist, New Zealand Police, HNZPT Regional Archaeologist, the appropriate iwi group(s), and (in the Auckland region) the Council to the discovery area. The Contractor and Transport Agency representative will assist with any reasonable requests any of these people may make.
6. The Transport Agency representative shall ensure that no information is released to the media except as [authorised by the Transport Agency](#), in consultation with HNZPT, Police and the appropriate iwi group(s).
7. Further assessment of the site by the Project Archaeologist may be required. If the discovery area contains an archaeological site which cannot be avoided, an application for an archaeological authority must be made to HNZPT in accordance with the Heritage New Zealand Pouhere Taonga Act 2014. All requirements in relation to an archaeological authority will be instructed by the Transport Agency representative as a variation to the contract.
8. The Project Archaeologist and Transport Agency representative shall ensure that any possible archaeological sites, kōiwi/human remains or taonga are protected until as much information as practicable is obtained and a decision is made regarding their appropriate management.
9. When the archaeological authority has been granted, the Transport Agency representative will inform the Contractor when HNZPT have authorised that work in the discovery area can recommence. The Contractor must not recommence work until all statutory and cultural requirements have been met, including the mandatory stand-down period associated with an authority.
10. The Transport Agency representative shall ensure the Contractor undertakes all subsequent works in accordance with the conditions of this authority.
11. In the Auckland region, where it has been determined that no authority is required (for example in the case of kōiwi, or post-1900 archaeological remains), the Transport Agency representative will seek confirmation from the Council that there are no additional statutory requirements under the Unitary Plan.

### 3 Further procedures in the event that kōiwi/human remains are discovered

1. The discovery of kōiwi/human remains, whether of Māori or non-Māori origin, needs to be handled with respect and sensitivity. Decisions on the next steps should not be unduly rushed.
2. The New Zealand Police are involved in all cases of kōiwi/human remains discovery. Their primary role is to undertake a formal identification of the remains and to determine if they relate to a missing person or if a crime has been committed.
3. HNZPT Regional Archaeologists will (if necessary and where possible) visit a site following the notification of the discovery of kōiwi/human remains. HNZPT staff can assist in formal identification of the remains as human if required, and whether they are associated with an archaeological site and therefore require an archaeological authority before works can proceed. They will also work with the Transport Agency representative, iwi and Police to identify appropriate processes.
4. Iwi, hapu and whānau also play an important role as kaitiaki in the care and management of kōiwi following discovery.
5. As soon as practicable after the Transport Agency representative has given notice to the New Zealand Police through the local police station, the Project Archaeologist, HNZPT regional archaeologist, appropriate iwi group(s), and (in the Auckland region) the Council that kōiwi/human remains have been discovered, the Transport Agency representative shall invite these parties to meet to discuss the next steps.
6. If the remains are of Māori derivation there are a number of sensitive issues to work through including: any cultural ceremonies; the possibility for the remains to stay where they are; if a disinterment license is required from the local Public Health Unit; what protocols will be followed for the removal of the remains if in situ preservation is not possible; the final location of the remains; the level of recording and extent of any further scientific analysis; and who will remove the remains.
7. The Transport Agency representative, in consultation with iwi representatives, shall make the necessary arrangements for any cultural ceremonies as soon as practicable.
8. Once these ceremonies are completed, the Transport Agency representative shall arrange for the Project Archaeologist, in consultation with the New Zealand Police, HNZPT Regional Archaeologist, and the appropriate iwi group(s), to proceed as agreed with potential recording, further analysis, in situ retention or exhumation in a manner to meet professional standards and the New Zealand Archaeological Association code of ethics.
9. If the remains are of non-Māori derivation it will need to be established: whether any descendants can be traced; whether a disinterment license is required from the local Public Health Unit; where remains will be reburied; and what level of recording and scientific analysis should be undertaken.

10. The Project Archaeologist will record details of the kōiwi/human remains, the site of discovery, and any other relevant facts, and these records will be made available to the New Zealand Police, HNZPT, and the appropriate iwi group(s) or other descendants.
11. An archaeological authority may be required from HNZPT before work affecting the site can recommence, particularly if the remains are identified as human and within an archaeological context.

#### 4 Custody of taonga (excluding kōiwi/human remains) or material found at an archaeological site

1. The Project Archaeologist will have initial control of, and responsibility for, all material contained in the discovery area.
2. The Transport Agency representative shall ensure no objects are removed from the site until it has been determined, in consultation between the Project Archaeologist and the appropriate iwi group(s), whether it is associated with an archaeological site and/or the object is taonga (be it taonga tūturu as defined in the Protected Objects Act 1975 or otherwise).
3. If the object is of Māori origin the Project Archaeologist will record the object and its context, and, if it is a taonga tūturu, will also notify the Ministry for Culture and Heritage of the finding as required under the Protected Objects Act 1975.
4. Where statutory acknowledgement areas exist, following Treaty Settlement, the Accords between the Crown and iwi may oblige the Transport Agency to directly notify those iwi of taonga tūturu finds and to transfer these finds for temporary custodianship to these iwi, until ownership is determined. If this situation arises, the Māori Land Court makes the final determination on ownership of all taonga tūturu.
5. If the object is a taonga and less than 50 years old (i.e. not taonga tūturu), the Transport Agency representative shall invite the appropriate iwi group(s) to remove the taonga from the site.
6. If the object is European in origin the Project Archaeologist shall deliver any such object to the Transport Agency representative.

## 5 Recommencement of Works

1. The Project Archaeologist will have initial control of, and responsibility for, all material contained in the discovery area.

<b>Situation</b>	<b>Recommencement Procedure</b>
Item is identified as taonga tūturu.	Ministry for Culture and Heritage approval required.
An archaeological authority is required.	Works may recommence once the archaeological authority is granted, the 15 working day appeal period has expired and any other pre-start conditions are met. Adherence to site specific protocols with relevant iwi groups. A site blessing should be considered.
Human remains, no archaeological authority required.	Police approval required prior to recommencement. Adherence to site specific protocols with relevant iwi groups. A site blessing should be considered.
No archaeological authority required.	Confirmation from either Heritage New Zealand or project archaeologist and where relevant, local authority that no further consents or approvals are required. Adherence to site specific protocols with relevant iwi groups. A site blessing should be considered.

# Attachment 1: Accidental Discovery Protocol (2003) Canterbury/West Coast (Maori Discoveries)



## Accidental Discovery Protocol for Transit New Zealand Regions 11 (Canterbury) and 12 (West Coast)

This protocol recognises the importance of archaeological sites to both New Zealand, as set out in the *Historic Places Act* 1993, and to Ngāi Tahu, who consider that the study and analysis of such sites furthers the academic understanding of their tupuna and their world. Through scientific study, the Tribe learns more about their tupuna, and therefore, learns more about themselves. It also recognises the importance of maintaining the safety and efficiency of the State highway network to the community and the need to promote this work while minimising delays, which have both safety and cost implications, when works are being undertaken.

In the event of an “accidental discovery” of archaeological matter, including human remains, the following steps shall be taken:

1. All work within 100m<sup>1</sup> of the site<sup>2</sup> will cease immediately.
2. The plant operator will shut down all construction equipment and activity and advise the construction supervisor for the project site<sup>3</sup>.
3. The construction supervisor will take immediate steps to secure the site to ensure the archaeological matter remains undisturbed and the site is safe in terms of health and safety requirements. Work may continue outside of the site area.  
  
(Note: Should further sites be found outside the 100m protection zone around the original discovery then Transit will adopt a precautionary approach and halt all work on the project site until consultation with the NZ Historic Places Trust (the Trust) and kaitiaki Papatipu Rūnanga has occurred. Transit will only qualify this approach when the project site is very large, eg the 10 km length of the proposed southern motorway. Where work may be being undertaken up to a kilometre or more apart then work will only halt in that part of the project site where the discoveries have occurred.)
4. The site construction supervisor will notify the consultant who in turn will contact the Project Manager at Transit New Zealand. In the event of the Project Manager being unavailable the matter will be reported to the Regional Manager.
5. Transit New Zealand will ensure that the matter is reported to the Regional Archaeologist at the Trust, the kaitiaki Papatipu Rūnanga and to any required statutory agencies<sup>4</sup> if this has not already occurred.
6. Transit New Zealand will ensure that a qualified archaeologist is appointed to ensure all archaeological matter is dealt with appropriately.
7. In the event that the accidentally discovered material is confirmed as being archaeological, under the terms of the *Historic Places Act*, then Transit shall ensure that

<sup>1</sup> This is consistent with the NZAA site protection requirements

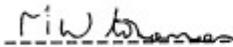
<sup>2</sup> The immediate area or location where the material, artefacts or human remains (without being exclusive) have been discovered.

<sup>3</sup> The project site is the area of the total project as defined in the Transit New Zealand contract documents.

<sup>4</sup> For example, the New Zealand Police in the event that human remains are found.

an archaeological assessment is carried out by the archaeologist, and if appropriate, an archaeological authority is obtained from the Trust before work resumes.

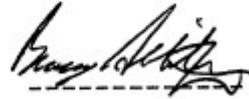
8. In the event of the material being of Maori origin Transit will ensure that the kaitiaki Papatipu Rūnanga is contacted in order that appropriate cultural processes are implemented to remedy or mitigate any damage to the site.
9. Any and all visits to the project site must be cleared by Transit New Zealand who will obtain and maintain a list of authorised personnel and advise the consultant and contractor accordingly. Under law, Transit is charged with the overall safe management of the site, including the health and safety of all persons visiting the site. To meet this requirement and also to protect the integrity of the accidental discovery, Transit considers it important that all visits to the project site are recorded, cleared and visitors inducted into the site.
10. Transit will ensure that representatives of the consultant and the contractor, as appropriate, shall be available to meet and guide representatives of the Trust and kaitiaki Papatipu Rūnanga, and any other party with statutory responsibilities, to the site.
11. Works in the site area shall not recommence until authorised by Transit New Zealand after consultation with the Trust, kaitiaki Papatipu Rūnanga, the NZ Police (and any other authority with statutory responsibility) to ensure that all statutory and cultural requirements have been met.
12. All parties will work towards work recommencing in the shortest possible timeframe while ensuring that any archaeological sites discovered are protected until as much information as practicable is gained and a decision regarding their appropriate management is made, including obtaining an archaeological authority if necessary. Appropriate management could include recording or removal of archaeological material.
13. Although Transit is bound to uphold the requirements of the *Antiquities Act*, it recognises the relationship between Ngāi Tahu Whanui, including its kaitiaki Papatipu Rūnanga, and any Maori artefacts that may be discovered.



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