

14 April 2018

Rt. Hon. Jacinda Ardern
Minister for Arts, Culture and Heritage
Parliament
New Zealand
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Tēnā koe Prime Minister

We are writing to you, in the context of recent developments concerning the former Wellington Teachers Training College at Karori. This important heritage site is in significant danger of substantive demolition. Attached is our letter to Heritage New Zealand dated (11 April 2018) outlining our position in relation to that issue.

The particular concern that we would like to highlight to you in this letter relate to the Karori situation, but also has wider ramifications. The issue is the apparent lack of the use of heritage orders. Heritage orders are the strongest level of heritage protection available in this country. They are legislated for under the RMA (Part 8 ss187-198) and they parallel the provisions which enable infrastructure providers to lodge a notice of requirement for a designation in order to set aside land for infrastructure use (e.g. roads, power generation etc).

Our concern is that it appears that a culture of hesitancy has developed that means that this important instrument of heritage protection is significantly underutilised. We cannot imagine the NZTA hesitate to lodge a notice of requirement for a designation for a road, but we rarely see heritage protection authorities (i.e. Heritage NZ, local authorities or Ministers of the Crown) use heritage orders to protect important national and local heritage sites. We understand that the Rt Hon Helen Clark was the last Minister to proactively use heritage orders for the protection of the built heritage.

As a way to help shift this cultural hesitancy, we suggest that you direct the Ministry for Arts, Culture and Heritage, in conjunction with the Ministry for the Environment, to develop guidance for the use of heritage orders. We consider the core uses might include:

- (a) the temporary heritage protection of a site that is likely to have significant heritage values that is under threat, when there has been insufficient time to undertake the research needed to properly assess its heritage values, the assessment of which may result in a decision for:
 - (i) no heritage protection,
 - (ii) a district plan listing,
 - (iii) a Heritage New Zealand listing,
 - (iv) the long term retention of the heritage order
- (b) the permanent protection for sites which are deemed to have such heritage values that they warrant the highest level of protection, and
- (c) any other reason that a heritage protection authority deems that a heritage order is appropriate.



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We consider that such guidance would help to normalise the use of heritage orders, especially when a course of events, such as has occurred at Karori, would benefit from additional time to complete heritage assessment processes, or to take the heat - due to development timelines - off the table. Such thinking could also inform and be included in any development of a National Policy Statement for Historic Heritage.

Thank you for taking the time to consider the issues we have raised in our letter above and for reviewing the attached letter.

ka nui ngā mihi



Christine McCarthy and Daryl Cockburn
co-presidents, Architectural Centre

- cc. Hon Grant Robertson, Associate Minister for Arts, Culture and Heritage and Central Wellington MP, grant.robertson@parliament.govt.nz
- cc. Hon Carmel Sepuloni, Associate Minister for Arts, Culture and Heritage, carmel.sepuloni@parliament.govt.nz
- cc Hon David Parker, Minister for the Environment, david.parker@parliament.govt.nz

11 April 2018

Andrew Coleman
Chief Executive
Heritage New Zealand Pouhere Taonga
P.O. Box 2629
Wellington 6140
New Zealand

Tēnā koe Andrew

We are writing to you to express our gravest concern regarding the current threat to the significant heritage site of the Wellington Teachers Training College (Former) in Karori. As we have noted in our submission on the proposed listing for this building, we consider that HNZ has been negligent in the length of time it has taken to properly recognise this site, which is important because of:

- (a) the quality of its architecture,
- (b) the national significance of its architect, S. William Toomath
- (c) the aesthetic and form of Lopdell gardens, shaped as it is by its surrounding buildings, and the integrated design of its site and building forms
- (d) its importance in the history of New Zealand education and teacher training
- (e) its significance to its Karori community, and
- (f) its association with important New Zealanders, including Sir Tipene O'Regan and Dame Doreen Blumhardt.

HNZ has a legislative obligation to recognise NZ's heritage, and it also has a key role in protecting historic places, supplementing the RMA's protection of historic heritage. Given the recent news that Ryman Healthcare has effectively gained a resource consent guaranteeing them the right to demolish approximately half the buildings on the Karori site for the next five years, we strongly urge you to proactively protect the Wellington Teachers Training College (Former) buildings and site by notifying your requirement for a heritage order to the Wellington City Council (WCC).

As the Architectural Centre understands it, the following is the chronology regarding the recent history of Heritage New Zealand Pouhere Taonga's proposal to list the Wellington Teachers Training College (Former), and Ryman Healthcare Ltd's application for a Certificate of Compliance to demolish approximately half the buildings on the site.

1. Ryman Healthcare Ltd bought the Karori Teachers Training College site, from Victoria University in December 2017, in full knowledge that Heritage New Zealand Pouhere Taonga (HNZ) had identified the site as having high heritage value, and that HNZ was working towards placing a covenant over the site, and/or listing the site to recognise its importance.
2. HNZ notified interested parties of its proposal to list the site as an historic place in mid February, with a public notice in the *Dominion Post* on 24 February 2018, meaning that submissions on the proposal were due to HNZ by Friday 23 March 2018 as per the Heritage New Zealand Pouhere Taonga Act (HNZPTA) s69(2)(a).



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3. HNZ notified an extension of a further 20 working days for submissions on 21 March, such that submissions would be received up until Tuesday 24 April 2018 under HNZPTA s69(2)(b). This notification responded to a request from Ryman for an extension.¹ The extension deferred HNZ's ability to make a decision on the listing, as it is required to take all submissions into account prior to making a decision (HNZPTA s69 (5)(a)).
4. Shortly after HNZ had notified the extension for submissions on the listing of the Karori campus site, on 4 April 2018, Ryman applied to the Wellington City Council (WCC) for a Certificate of Compliance to demolish approximately half of the Karori campus buildings. The WCC must issue a certificate within 20 working days (by 1 May 2018), unless they need to request further information, which is unlikely in this case (RMA s139(6)).
5. The WCC cannot take into account the HNZPT listing process which is currently in process when evaluating whether or not demolishing the buildings is a permitted activity in order to issue or refuse a Certificate of Compliance.
6. The demolition of the buildings is a permitted activity under the District Plan on the date that Ryman applied for the certificate (RMA s139 (7)(b)). Consequently WCC will issue a certificate. This will enable Ryman to demolish the buildings, as if they had a resource consent, regardless of any future changes to the District Plan, including heritage listing the site. The certificate will be valid for five years (RMA s139 (12)).

This sequence of events shows how vulnerable HNZ processes are to being undermined and the need for HNZ to be more efficient, effective and proactive in recognising and protecting heritage sites. While Ryman might be considered to have cynically exploited the HNZ listing process in their request for an extension, limiting HNZ's ability to effect a listing, they have every legal right to do what they have done, and they have been able to do so because of the naivety of HNZ. This is not a matter of HNZ being without the regulatory tools to be effective, but rather - it seems to us - a culture of hesitancy and pussy-footing at HNZ.

Consequently we ask for a more assertive approach from HNZ and that HNZ immediately notify the WCC of your requirement for a heritage order (advising Ryman so that they cannot use ignorance of the requirement as a excuse for demolition (RMA s194(5))). The importance of the site has been clearly and publicly signalled. A requirement will - at the very least - enable a meaningful outcome to the listing process. If the process determines that the site should not be listed then HNZ can withdraw their notification of a requirement. If the site is deemed worthy of listing then, given recent events, it would appear prudent to retain the requirement for the heritage order.

The WCC, the HNZ and/or any Minister of the Crown (as heritage protection authorities (HPA) under RMA s187(a)-(c)) could lodge a notice of requirement for a heritage order. Our understanding is that, from the point of notification, Ryman would be required to gain permission from the relevant HPA to demolish the buildings under RMA s194(2), which outlines the interim effect of requirements for heritage orders - specifically "*no person may do anything that would wholly or partly nullify the effect of the heritage order unless the person has the prior written consent of the heritage protection authority.*" Form 26 or 28 for notifying a

¹ Hunt, Tom and Collette Devlin "Wrecking ball looms for much of Wellington's Karori Campus" *Dominion Post* <https://www.stuff.co.nz/business/102982269/wrecking-ball-looms-for-much-of-wellingtons-karori-campus>

requirement for a heritage order are found in the Resource Management (Forms, Fees, and Procedure) Regulations 2003 s11.²

If a requirement for a heritage order was notified then it is highly likely that Ryman would appeal the notification under RMA s195, as a person who "*proposes to do anything in relation to land that is subject to a heritage order or requirement for a purpose which, but for the heritage order or requirement, would be lawful*" (RMA s195(1)(a)). HNZ needs to anticipate such challenges, especially in the context of the recent Erskine Environment Court decision.³

We consider the mechanism of the heritage order to be an incredibly important one, given its parallel status with designations. Its use should be normalised in situations where the protection of heritage is paramount and where insufficient time will undermine a thorough, rigorous and proper assessment of heritage value. The Architectural Centre considers that the current situation which has developed with the Karori campus brilliantly demonstrates that HNZ has in effect no teeth. If this situation is not countered with proactive and assertive action from HNZ then that conclusion will be a justified one. We believe that the judicious use of heritage orders by HNZ is vital if historic places are to have a sustainable long-term future in New Zealand.

ka nui ngā mihi



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cc. Philip Hartley, Chair, Docomomo NZ, Phillip@Salmondreed.co.nz
cc. Nicola Jackson, Deputy Chief Executive Operations, Heritage New Zealand
Pouhere Taonga, njackson@heritage.org.nz
cc. Jamie Jacobs, Director Central Region, Heritage New Zealand Pouhere
Taonga, jjacobs@heritage.org.nz
cc. Hon. Grant Robertson, Wellington Central MP, office@grantrobertson.co.nz

² Resource Management (Forms, Fees, and Procedure) Regulations 2003 s11
<http://www.legislation.govt.nz/regulation/public/2003/0153/latest/DLM195296.html>

³ The Wellington Company Limited v The Save Erskine College Trust [2018] NZEnvC 35.