

15 October 2018

Ministry for Culture and Heritage  
Wellington  
survey@mch.govt.nz

**Re: MCH Draft Report identifying issues within NZ's heritage protection system**

Thank you for providing us with a copy of the draft report "Strengthening protections for heritage buildings" (October 2018). We have the following feedback:

1. Overall we consider the report to be solid. Clearly, a key issue is how better protection is effected.
2. We note the statement that heritage protection "should not unreasonably obtrude on private property rights" (p. 3, also p. 23). A definition of "unreasonably" would be helpful, and perhaps the identification of when heritage protection should prevail over private property rights if it is envisaged that there might be a case when this is possible.
3. We note statements such as: "The cost of preserving, managing and earthquake strengthening heritage building is high" (pp. 3, 23). We encourage more precision in such statements. The cost is high for building owners, but, given there is research indicating that retention of heritage building has positive economic benefits for the wider community, the holistic cost might not be high at all. We likewise consider a fuller economic scope of evaluation be anticipated in other references to affordability (e.g. p. 5).
4. We note reference to "suboptimal statutory identification and regulatory protection of heritage buildings" (p. 3) and suggest that in many instances the statutory and regulatory instruments are more than adequate but their lack of use is the issue.
5. We caution the use of words such as "balances" in phrases like "balances the interests of all stakeholders" (p. 3) and refer to our note above regarding private property rights. Are there situations when some interests should be prioritised over others? The current tentative desire for balance frequently leads to mediocrity or ineffective protection. The current lack of protection over Karori Teachers College is a case in point. Perhaps sometimes heritage should be clearly privileged and at other times private property rights clearly privileged? What is needed is clarity regarding these situations and assertive action. Heritage buildings are a significant minority in the New Zealand building stock.
6. We consider it would be useful to explicitly note the particular difficulties currently experienced in the protection of modernist buildings. These appear to be a special case - possibly due to modernism adopting an aesthetic that is counter to popular notions of what a heritage building looks like.
7. There is reference to heritage buildings allowing for "recognition of significant people and events in New Zealand history" (p. 5). We suggest that this phrase ought to read "significant people, **designs** and events in New Zealand history" to explicitly include the recognition of architectural, engineering and technological significance in New Zealand heritage buildings.



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8. We understand that heritage loss in the context of the Canterbury earthquakes (p. 7) was not exclusively due to structural damage but also the peculiar consequences of a post-disaster context, including political pressures and building owner desire to access insurance pay outs. Detailed analysis of the decisions would be beneficial to inform any heritage policies informing post-disaster contexts.
9. We appreciate the discussion regarding deferred maintenance (e.g. p. 7).
10. We note the frequent reference to "local" in contrast to "national" heritage importance (e.g. p. 9, 12). We consider "regionally" significant heritage is missing in these statements and recommend that it be included.
11. With respect to Heritage NZ listings, the report notes that there are "233 nominated places currently waiting to be assessed" (p. 10). We query whether this is correct. Our understanding is that HNZ conducts an annual assessment process and that many nominations have been assessed as meeting the HNZ Act criteria but are stockpiled rather than public notifications for these assessed nominations occurring. Typically the wording from HNZ to nominators in these cases is:
 

"We have carefully **assessed** your nomination against the threshold for entry on the New Zealand Heritage List under the Heritage New Zealand Pouhere Taonga Act 2014. Your nomination is considered to be a good candidate for entry on the List ... However, we regret to inform you that we are unable to prioritise this nomination for progression in the forthcoming financial year ...."

We consider greater precision and clarity ought to be given in descriptions of the HNZ process between assessment, HNZ prioritisation processes, and public notification.
12. The report describes Heritage Protection Authorities as "Heritage NZ, TLAs and Ministers of the Crown" (p. 13, also p. 26). It omits the possibility for body corporates to be HPAs as per the RMA s187(d).
13. With respect to temporary heritage orders (p. 13), we note that the RMA currently permits temporary heritage orders because the HPA may withdraw a heritage order at any time. Equally the notice of requirement could stipulate that protection is needed for a limited time period. The current legislation enables great flexibility in this regard.
14. Is there any evidence that providing assistance and guidance is a more effective way to protect privately owned buildings than legislation (p. 21)?
15. The summary refers to suggestions for a National Policy Statement. As a constantly raised issue we consider this ought to also be highlighted and discussed in the main text, rather than only mentioned in the summary.
16. With respect to 6.1, we suggest that including the removal of interim registration (which provided the level of protection of a heritage order) with the introduction of the HNZPT Act 2014 is worth noting.
17. We suggest that the Flow chart (p. 28) documenting the HNZ listing process identify the steps in the process which are legally required as we understand that many steps in the process are HNZ policy and are not legally required and in practice serve to delay listings. Clarifying this in the discussion in p. 25 would also be helpful. We also note, with respect to private plan changes, that the TLA can adopt the plan change and this would remove cost barriers.
18. With respect to the observation that the bulk of heritage advocacy falls on volunteer groups it may be useful to note the limited funds available to support this work, the MfE Environmental Legal Assistance Fund being one of these. A note regarding the level of funding for heritage advocacy

currently supported by the ELAF might be useful.

**Typographical errors**

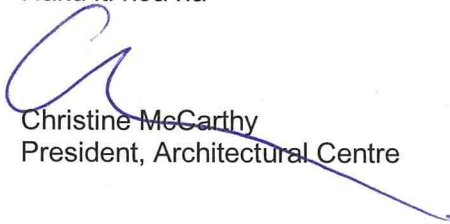
p. 16 missing "to" in "Those who were aware of the process felt that it did not work well with regards **TO** protecting ..."

p. 18 duplicated quote from Iwi authority.

p. 29 additional verb "Heritage NZ **will may** advocate for the protection of listed buildings ..."

Thank you for this opportunity to comment on the draft report "Strengthening protections for heritage buildings" (October 2018). If you have any questions please do not hesitate to contact us.

Nāku iti noa nā



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