

Counter Arguments for Heritage Assessment: 169 Forbury Road: Addressing the DCC Heritage Schedule Proposal

Introduction

This counter-argument challenges the Dunedin City Council's (DCC) recommendation to include 169 Forbury Road on the heritage schedule. While the DCC contends that the property meets certain historical/social and design criteria, a more rigorous application of heritage standards—such as those employed by **Heritage New Zealand Pouhere Taonga (HNZ)**—demonstrates that the property does not qualify for heritage status. We argue that the DCC's broad criteria, as outlined in Objective 2.4.2, lead to an over-inclusive interpretation of heritage value. We also note errors in the heritage assessment, questioning the peer review process and the validity of the heritage assessment.

Concerns Regarding the Accuracy and Peer Review of the Heritage Assessment

Upon reviewing the **Heritage Assessment for 169 Forbury Road**, We have identified multiple factual errors and inconsistencies, which call into question the quality of the assessment and suggest that the **peer review process** was either **inadequate** or **not conducted at all**. These errors undermine the credibility of the assessment and the decision to heritage-list this property.

Notable Errors:

1. Speight Family Dates:

- The assessment lists the birth and death years of **James Speight (the father)** and **Charles Speight (the son)** as **1865-1928** for both individuals. This is a clear factual error:
- **James Speight** was born around **1834** and died in **1887**.
- **Charles Speight** was born in **1865** and died in **1928**.

2. Speight Family Tree:

- The assessment mistakenly refers to **Charles Speight** as the **grandson** of **James Speight**, which is incorrect. **Charles** was in fact the son of **James Speight**, and it is **Norman Speight** who was the **grandson**.

Norman and Winifred Speight

Norman Speight (1899-1979) was son of brewer and businessman Charles Speight (1865-1928) the grandson of Speight's Brewery founder James Speight (1865-1928).⁸ Norman was a surgeon at Dunedin Hospital. He served as a Colonel in World War Two and was awarded the CBE and a Military Cross in recognition of distinguished services in the South Pacific in the New Zealand Medical Corps.⁹

(Extracted from DCC's Heritage Assessment for 169 Forbury Road)

3. Falconer Community Involvement:

- The timeline surrounding **Edward Falconer** and **Mary Bertha Rawlinson's** community involvement is unclear. While Falconer is noted for his

contributions to the Dunedin community in the **1960s and 1970s**, it is unclear whether these contributions were tied specifically to the time of their residency at 169 Forbury Road. The assessment fails to distinguish between their **general contributions** to the community and any **specific historical significance** tied to the property. This vague connection weakens the argument for heritage status.

These fundamental historical inaccuracies demonstrate a lack of attention to detail and raise concerns about the depth of research behind the assessment.

Questioning the Peer Review Process:

These errors indicate that the **peer review process**, if it was conducted at all, was not done to a professional standard. The presence of basic factual inaccuracies and vague historical connections suggest that:

- The peer review process was either **inadequate** or **non-existent**.
- If a peer review had been properly conducted by qualified experts in heritage and local history, such **glaring errors** should have been identified and corrected.

Given the **significance** of heritage listings, especially the potential financial and personal impact on property owners, the **failure to accurately assess historical data** raises serious concerns. This flawed assessment casts doubt on the decision to propose the property for heritage listing and undermines the validity of the overall process.

Vague Criteria in DCC's Heritage Policy

The DCC's Objective 2.4.2 Heritage policy identifies heritage properties based on four general criteria:

- Historic and social significance
- Spiritual/cultural significance
- Design significance
- Technological/scientific significance

Objective 2.4.2 Heritage

Dunedin's heritage is central to its identity and is protected and celebrated as a core value of the city, through the heritage conservation and retention of important heritage items, and the maintenance and active use of built heritage.

Policy 2.4.2.1

- a. Identify in a schedule (Appendix A1.1) buildings and structures that have significant heritage values and use rules to:
 - i. manage additions and alterations to, or removal for relocation of these buildings, in a way that maintains important heritage values;
 - ii. restrict demolition of these buildings except in limited circumstances;
 - iii. support adaptive re-use, heritage conservation and restoration; and
 - iv. prioritise protection of heritage values over compliance with other performance standards where there is a conflict.
- b. Identify heritage buildings and structures based on the following criteria:
 - i. historic and social significance;
 - ii. spiritual/cultural significance, including significance to Māori;



- iii. design significance; and
- iv. technological/scientific significance.

(Extracted from DCC's 2gp Plan)

These categories are not clearly defined within the DCC's policy, allowing for overly broad application. Under such vague criteria, almost any building could be argued to meet one or more of these general qualifications. This lack of specificity results in an inconsistent and subjective application of heritage status across Dunedin.

ASSESSMENT OF HERITAGE SIGNIFICANCE

*Guidance Note: Authors should consider the thresholds and key questions for each of the 2GP criteria as outlined in the HNZPT Publication *Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangi Kōrero* (2019). However, use the publication to consider the place within the local context, as opposed to a national or regional context. The District Plan functions on a smaller (city) scale and must consider places that may only attain local heritage significance within the Dunedin context (i.e. national/New Zealand are substituted for local/Dunedin/notable people or communities in Dunedin history).*

There is guidance below on criteria that have different naming conventions. The questions from the HNZPT document have been adapted and expanded to suit a local context as shown below.

(Extracted from DCC's Heritage Assessment Template)

It is worth noting that the DCC appears to use criteria similar to those outlined by Heritage New Zealand Pouhere Taonga (HNZ), which are referenced in this document. However, the DCC applies these criteria in a more expansive and less rigorous manner, diverging from the structured and higher-threshold approach that HNZ employs. This results in an over-inclusive interpretation of heritage value, potentially listing properties that fail to meet the robust standards intended for genuine historical or architectural significance.

Applying HNZ's Clearer Criteria for Comparison

The **HNZ criteria** offer a robust framework for assessing a property's historical and architectural significance. Below, we address the specific claims made by the DCC about 169 Forbury Road and demonstrate how the property fails to meet HNZ's structured standards. The WCC's approach further strengthens this argument.

Historic/Social Significance

DCC's Position

The DCC's assessment argues that 169 Forbury Road meets both the **historic** and **social** significance criteria.

For the **historic criteria**, the DCC claims that the property is significant as a **testament to the era** when wealthy businessmen began moving into the St. Clair area, marking the development of the neighborhood as an affluent residential district.

For the **social criteria**, the DCC contends that the house fulfills the requirements because several notable Dunedin families—Brinsley, Speight, Falconer, and Farry—lived in the house, making it part of the social fabric of the area.

Counter Heritage Argument

The DCC's application of both the **historic** and **social** significance criteria does not meet the thresholds for inclusion as defined by **Heritage New Zealand Pouhere Taonga (HNZ)**.

Historic Criteria Threshold for Inclusion

According to **HNZ's historic criteria**, a place must:

Threshold for inclusion

The place contributes towards the understanding of a significant aspect of New Zealand history and has characteristics making it particularly useful for enhancing understanding of this aspect of history, especially when compared to other similar places.

(Extracted from HNZ's Significance Assessment Guidelines)

"Contribute towards the understanding of a significant aspect of New Zealand history and have characteristics that make it particularly useful for enhancing understanding of this aspect of history, especially when compared to other similar places."

The DCC's argument that 169 Forbury Road represents a broader trend of wealthy families moving into St. Clair does not meet **HNZ's historic threshold**. The **HNZ guidelines** require a property to **enhance understanding** of a significant aspect of **national, regional or in our case local history**, not just urban development trends.

While the movement of wealthy businessmen into St. Clair may reflect a **local social trend**, it does not represent a **unique or pivotal moment** in Dunedin's history. This type of migration pattern was common in many urban areas during this period, and 169 Forbury

Road does not provide characteristics that make it especially useful for understanding such trends **compared to other similar properties**.

Additionally, the property itself did not play a **central role** in this process—it merely reflects a general shift in residential patterns. The migration of wealthy families into an affluent area like St. Clair is a **common social development** and does not provide any **distinct historical insight** that would warrant heritage protection under **HNZ's historic criteria in a local context**.

If the DCC's reasoning were broadly applied, almost any property in an affluent area could be considered historically significant based solely on local urban trends, leading to an **overextension of heritage protections**, which would dilute the true purpose of safeguarding genuinely significant historical sites.

Social Criteria Threshold for Inclusion

According to **HNZ's social criteria**, a place must:

Threshold for inclusion

The place has a clearly associated community that developed because of the place, and its special characteristics. The community has demonstrated that it values the place to a significant degree because it brings its members together, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience or interact with the place.

(Extracted from HNZ's Significance Assessment Guidelines)

"Have a clearly associated community that developed because of the place, and its special characteristics. The community must have demonstrated that it values the place to a significant degree because it brings its members together, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience, or interact with the place."

The DCC contends that 169 Forbury Road holds **social significance** because several prominent Dunedin families lived there. However, **HNZ's social criteria** require much more than just the residence of notable individuals.

For a property to meet **HNZ's social threshold**, there must be a **community** that formed around the place due to its **special characteristics**, with a demonstrated collective

attachment. This community would need to show that they would experience a **collective sense of loss** if the property were no longer available or accessible.

There is no evidence that a specific community developed around 169 Forbury Road or that the property has fostered a distinct sense of identity within the St. Clair community. The fact that prominent families lived there is **incidental** and does not show that the property holds **social value** to the community at large. There is no demonstrated collective attachment, and the property does not serve as a **community gathering point** or play a role in uniting people around its presence.

Furthermore, under **HNZ's social criteria**, the property must be valued by the community because of its unique characteristics. There is no indication that 169 Forbury Road possesses any special features that would bring the community together or that the community would feel a significant loss if the property were altered or demolished.

Moreover, even **Wellington City Council (WCC)**, which includes provisions to protect places linked to individuals, makes clear distinctions regarding the significance of the connection. **WCC's historic criteria**, under **Significance Criteria A(iii)**, protect places associated with the "life or works of an individual, group or organisation" only when that connection is significant:

(iii) People: the place is associated with the life or works of an individual, group or organisation that has made a significant contribution to the district, region or nation

GWRC guidance:

- Does the place have a connection with a person, persons, group or organisation? What is the nature of the connection?
- It is important to consider how significant a connection is, not just that there is a connection. For instance, the place where a composer wrote their music would have a more significant association with the composer than the house they were born in.

GWRC examples include:

- Wallaceville Animal Research Station
- Nash House, Lower Hutt

WCC inclusion indicators:

- The person or organisation made a significant contribution to Wellington, or NZ; and
- There is an association between the person or organisation, their life or works, and the place

(Extracted from Wellington City Council's "Methodology and guidance for evaluating Wellington's historic heritage")

However, **WCC's guidelines** explicitly state:

"It is important to consider how significant a connection is, not just that there is a connection. For instance, the place where a composer wrote their music would have a more significant association with the composer than the house they were born in."

And

"The person or organisation made a significant contribution to Wellington, or NZ; and there is an association between the person or organisation, their life or works, and the place"

Based on these guidelines, the mere fact that notable individuals lived in a property, as is the case with **169 Forbury Road**, would also not meet **WCC's criteria** for heritage protection, as it lacks a **significant association** with their achievements.

If the DCC's reasoning were accepted, almost any residence where a **sitting councillor** or local figure resides could be argued to meet the social criteria. This would lead to an **overextension of social heritage designations**, diluting the true social value of properties that genuinely unite or define a community.

Examples – historical significance

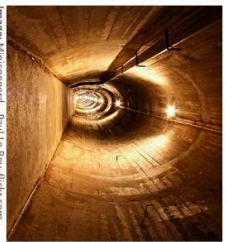
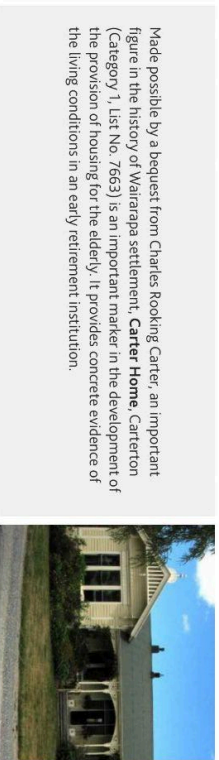


Image: Kinncopend – Paul Le Roy, flickr.com

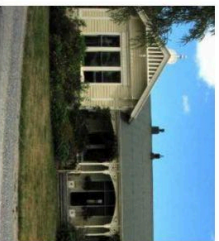
Wrights Hill fortress, Wellington (Category 1, List No. 7543) has historical significance for the insight it provides into the New Zealand response to the threat posed by the Second World War. The site contains the biggest land-based defensive batteries ever erected in New Zealand. They were part of a massive construction programme to secure the New Zealand coastline from attack when the arena of war shifted to the Pacific in 1942.



Port Craig Sawmill and Settlement at Port Craig, Fiordland (Category 1, List No. 9234) has special historical significance as the site of a sawmilling venture unsurpassed both in its scale and investment in New Zealand, and also pioneering in its harnessing of American technology not previously used in the country. At its peak, the milling operation was producing timber faster than any other mill and it represented the pinnacle of the indigenous milling industry.



Made possible by a bequest from Charles Rooking Carter, an important figure in the history of Wairarapa settlement, **Carter Home**, Carterton (Category 1, List No. 7663) is an important marker in the development of the provision of housing for the elderly. It provides concrete evidence of the living conditions in an early retirement institution.



Aratina Historic Area, Marton (List No. 7627) has historical significance principally for its association with the Girl Guides Association in New Zealand. The Association has had a major impact on the lives of many young New Zealand women, and as a training centre this building played a large role in that history.



Seadiff Lunatic Asylum Site (Category 1, List No. 9050) at Seadiff north of Dunedin is of outstanding historic significance, drawing together the strands of social and medical history in New Zealand and the treatment of those judged to be mentally ill. The history of the place represents the changing history of medical practice and also the experiences of those who lived out their lives in the institution, or who were only briefly incarcerated.



House, Lower Hutt (Category 2, List No. 3582) has historical significance as one of the first state houses built under the Workers' Dwelling Act 1905, the first large-scale central government initiative to provide affordable housing to low-income working families.⁴⁹

⁴⁹ This place was entered on the List in 1984, prior to the introduction of the legislated criteria. The place was included in the original List of the Historic Places of New Zealand in the 1980 report compiled for the List entry, accessed via the List Online (see www.historicplaces.org.nz/the-list/details/3582).

Examples – social significance



Whitikaureka Church, Moawhango (Category 1, List No. 948) has played a prominent role in the social life of the Moawhango community throughout its history. It was the focus for important religious and social milestones for the community, such as baptisms, weddings and funerals. This place has been well maintained and conservation work in the mid-1990s is further evidence of the community's ongoing regard for it.

Queens Gardens, Nelson (Category 2, List No. 7688) were intended to promote social interaction, relaxation and enjoyment for the citizens of and visitors to Nelson. Their continued use and development for more than 125 years indicates that they continue to fulfill this essential purpose. The people of Nelson have cared for, discussed and debated the development of them for decades, and the development of the spaces within them reflects the attachment of the different community groups within the city.

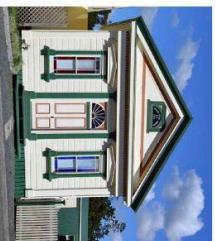


For over a century **Wanganui Collegiate School** (Category 1, List No. 9620) has housed and trained boys, and since 1990 has provided education for girls as well. The school's House system has entrenched a sense of community among students and as a result there is a strong Old Boys and Girls tradition. This shared sense of identity has translated into successive generations of families attending the school and manifests itself in the numerous building projects the Wanganui Collegiate School Old Boys and Girls Association have funded, particularly for the Chapel.



The 1938 **Motueka Saltwater Baths** (Category 2, List No. 7617) are socially significant for the numerous community attempts to protect and upgrade them using volunteer labour. When the baths were threatened with demolition in 2003, community volunteers again came to the rescue with a petition and publicity campaign to save them.

The **Rob Roy Hotel (Former)** (Category 2, List No. 636) in Auckland has strong social significance as a place of gathering and social congregation in Freemans Bay since the 1880s. Its value to the local and wider Auckland community was demonstrated in 2010 when they successfully advocated for returning the hotel to its original position following the completion of the Victoria Park tunnel.



Aratapu Public Library (Former), Dargaville (Category 2, List No. 9947) is held in high public esteem by the Dargaville community. They fundraised and applied for grants and loans to have the building relocated to Harding Park. The building has been restored with voluntary labour and is currently used to showcase the musical heritage of the Kaipara area.

Design Significance

DCC's Position

The DCC claims that 169 Forbury Road meets the design significance criteria due to its high-quality **English Revival style architecture**, designed by Miller and White in 1931. The assessment highlights the opulence, craftsmanship, and materials used in the construction of the property, arguing that these qualities elevate it to a significant example of architectural design.

Counter Heritage Argument

The DCC's application of the **design significance criteria** does not meet the thresholds for inclusion as defined by **Heritage New Zealand Pouhere Taonga (HNZ)**. According to **HNZ's guidelines**, for a property to meet the **design significance** threshold, it must satisfy either the **aesthetic** or **architectural** criteria—or both.

Aesthetic Threshold for Inclusion

According to **HNZ's aesthetic criteria**, a place must:

Threshold for inclusion

The place has, or includes, aesthetic qualities that are considered to be especially pleasing, particularly beautiful, or overwhelming to the senses, eliciting an emotional response. These qualities are demonstrably valued, either by an existing community or the general public, to the extent that they could be expected to experience a sense of loss if the qualities which evoke the aesthetic value were no longer there.

(Extracted from HNZ's Significance Assessment Guidelines)

"Have, or include, aesthetic qualities that are considered to be especially pleasing, particularly beautiful, or overwhelming to the senses, eliciting an emotional response. These qualities must be demonstrably valued by either an existing community or the general public to the extent that they would experience a sense of loss if the qualities which evoke the aesthetic value were no longer there."

While the DCC claims that the **English Revival style** and craftsmanship of 169 Forbury Road are aesthetically pleasing, **HNZ's aesthetic threshold** demands more than just general visual appeal. For a place to qualify under this criterion, it must elicit a **strong emotional response** from a community or the general public, who would feel a collective sense of loss if its aesthetic qualities were compromised.

In the case of 169 Forbury Road, there is no evidence that the local community or the general public demonstrates significant attachment to its **aesthetic qualities**. There is no indication that the property evokes an emotional response beyond being an attractive private residence. While the craftsmanship may be appreciated, **HNZ's aesthetic threshold** requires more than superficial beauty—it requires that these aesthetic features be central to the community's experience of the place. Without this **demonstrable public or community attachment**, 169 Forbury Road does not meet **HNZ's aesthetic threshold**.

If DCC's position were applied, then any visually attractive property, regardless of its significance, could qualify for heritage protection simply based on its **surface-level appeal**, even without a deeper emotional or cultural connection to the community. This would dilute the intention of heritage protection, which is to safeguard properties of genuine public value and significance, not merely properties that are **pleasing to the eye**.

Architectural Threshold for Inclusion

According to **HNZ's architectural criteria**, a place must:

Threshold for inclusion

The place reflects identifiable methods of construction or architectural styles or movements. When compared with other similar examples or in the view of experts or relevant practitioners, it has characteristics reflecting a significant development in this country's architecture. Alternatively, or in conjunction with this, the place is an important or representative example of architecture associated with a particular region or the wider New Zealand landscape.

(Extracted from HNZ's Significance Assessment Guidelines)

"Reflect identifiable methods of construction or architectural styles or movements. When compared with other similar examples or in the view of experts or relevant practitioners, it must have characteristics reflecting a significant development in this country's architecture. Alternatively, or in conjunction with this, the place must be an important or representative example of architecture associated with a particular region or the wider New Zealand landscape."

The DCC claims that 169 Forbury Road's **English Revival style** reflects a high level of craftsmanship and architectural merit. However, **HNZ's architectural threshold** requires a building to either:

- **Exhibit characteristics** that demonstrate a **significant development in New Zealand architecture**, or
- Be an **important or representative example** of a specific architectural style associated with a region or New Zealand as a whole.

While **English Revival architecture** was popular in certain periods, 169 Forbury Road does not **exhibit unique or groundbreaking architectural features** that would qualify it as an important development in Dunedin's architectural history. Revival styles, by their nature, recreate earlier architectural movements rather than innovate or reflect contemporary developments of their time.

Furthermore, 169 Forbury Road does not stand out as a **rare or important example of English Revival architecture** in Dunedin or the wider New Zealand context. There are many similar properties in the St. Clair area and across Dunedin, meaning this property does not possess the distinctiveness or significance required under **HNZ's architectural criteria**. Simply following a popular style of the era is not sufficient to meet the threshold for architectural heritage listing, particularly when other examples are readily available.

If the DCC's position were applied, **any new property built in an English Revival style** with identical elements to 169 Forbury Road would also qualify for heritage preservation, regardless of its actual historical or architectural significance. This would **dilute the RMA's intention for heritage preservation**, which is focused on protecting places of **genuine historic and architectural importance**, not simply preserving replication of past styles. Heritage protection should not be extended to properties that mimic architectural trends without offering **distinctive contributions** to New Zealand's architectural history.

Examples – aesthetic significance



At **Robert Lord Writers' Cottage** in Dunedin (Category 1, List No. 9274), Lord's alterations, such as the installation of built-in furniture suited to his height and the decorative scheme, evoke a powerful sense of his presence for visitors and in-residence writers alike. Lord's possessions also provide a strong sense of the man and a sense of interaction for other writers.

The six An Tur Gloine windows in the **Karori Crematorium and Chapel**, Wellington (Category 1, List No. 1399) are the most significant special features within these buildings. They have international importance as fine examples of the work of a highly regarded school of stained glass art.²⁷

²⁷ The Karori Crematorium and Chapel was entered on the list in 1988, prior to the introduction of the legislated criteria. The statement of aesthetic significance is derived from significance statements written as part of the original citation for this list entry, accessed via the List Centre (<http://www.heritage.org.nz/016-150/0615193/>).

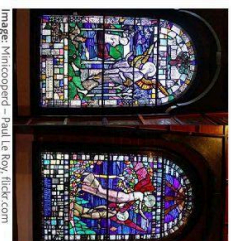


Image: Wikimedia.org – Hall Le Roy, flickr.com

The **Executive Wing** (the Beehive) (Category 1, List No. 9629) in Wellington is of special aesthetic significance. The building's unique and distinctive conical form makes it instantly recognisable to all New Zealanders, and it is an icon that is constantly employed as a symbol of the New Zealand Government. There is no denying the beehive is a bold, striking element within the government centre. Visually arresting from many viewpoints around the northern end of the Wellington CBD, it is also a dominant structure in the capital's urban environment.



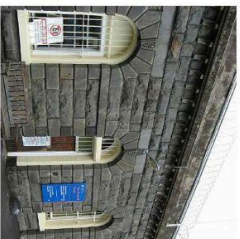
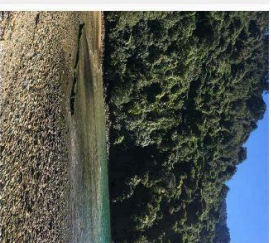
Image: Nick D, Wikimedia Commons



The **Northern Cemetery** (Category 1, List No. 7658) in Dunedin has high aesthetic value arising from the combination of handsome funerary monuments, a calm and melancholy air of decay, ornamental and wild indigenous and introduced plantings, winding paths, its picturesque situation in the Town Belt and views over the city and harbour. Such a combination is rare in New Zealand, and is largely due to the fact that the cemetery was planned according to 19th century ideals of picturesque cemetery design.

Image: Derek Smith – Travelling Light, flickr.com

The bush-clad, sheltered coastal environment of **Meretoto/Ship Cove**, Tōtaranui/Queen Charlotte Sound (Category 1, List No. 9900) has not changed markedly since the late 18th century. Early reservation of the site and a consequent lack of development preserved the scenic qualities warmly appreciated by James Cook and his fellow voyagers. Thickly clustered trees surrounding the cove that spill down to the water's edge, and the regenerated forest on the now predator-free Motuara Island, provide a safe home for the numerous bird species whose music enchanted Joseph Banks in 1770. The positive sensory experience created by the trees, birds, water and topography in concert are reminders of why Meretoto/Ship Cove became Cook's favourite New Zealand anchorage.



For many the interior world of a prison is a mysterious unknown, and the design of **New Plymouth Prison** (Category 1, List No. 903) reinforces this mythology. The blank expanse of the stone walls, topped with razor wire, presents an imposing, forbidding, sombre face which gives nothing away but hints at a plain, hard life of discipline, and here this aesthetic effect is contrasted with the intricacies and detail of the masonry finish. The high enclosing stone walls and the relatively intact interior of the old prison block convey the grim functional reality of the building, which has inspired artists and helped capture the imagination of the public.

Examples – architectural significance



Emerald Villa, Auckland (Category 1, List No. 571) has special architectural value as an unusually well-preserved and possibly unique surviving example of a transitional building, which demonstrates the shift from Georgian to later Victorian architectural styles and the emergence of a New Zealand vernacular tradition.

College House, Christchurch (Category 1, List No. 7812) is an exemplar of modernist architecture in New Zealand and has outstanding architectural significance. Architects Warren and Mahoney fully applied the modernist principles of 'truth to materials' and form derived from function while drawing influence from the Oxbridge collegiate quadrangle model of tertiary residential buildings and the carpenter tradition of colonial architecture in New Zealand.



St Mary's Catholic Church (Category 1, List No. 1705) in Hokitika is noteworthy as the only neo-classically designed church on the South Island's West Coast. Its classical frontage with portico entry flanked by coupled round and square ionic columns supporting a tympanum, and imposing square tower topped with a circular drum and colonnettes supporting a cupola, make it unique in this region. The church forms part of a group of neo-classical masonry Catholic churches of varying sizes in the South Island, all designed to be landmarks.

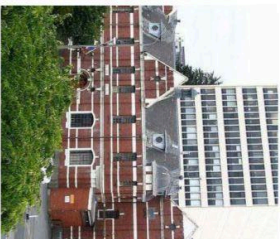


Image: Bencbill, Wikimedia Commons

Dunedin Prison (Former) (Category 1, List No. 4035) is the best-known building of chief government architect (1889–1909) John Campbell in the Queen Anne Style. Echoing Norman Shaw's design for New Scotland Yard, the prison includes red brick elevations striped with white Oamaru stone, cupola domes, white mouldings on the gable, English Tudor windows, and dormer windows in the roof. The prison also displays Campbell's skills in exquisite detailing.

The prison also has special and rare architectural value as one of the few prisons internationally that was built in a courtyard design. Research indicates that the former Dunedin Prison appears to be the only Victorian courtyard design in Australasia which is still in existence.

Castor Bay Battery and Camp/Ts Rahopara o Peretu (Category 1, List No. 7265) in Auckland retains important examples of the 'architecture of deception' created during the Second World War to reduce the threat of aerial attack. The Battery Observation Post was designed to look like a beachside kiosk, and the surviving accommodation building like a typical state house. The site constitutes a rare survivor and the best-preserved example in New Zealand of the architecture of concealment, where form disguises rather than follows function.



The Lower Hutt Central Fire Station (Former), Lower Hutt (Category 1, List No. 9319) makes an important contribution to post-war Modernism – a dominant architectural movement in the Hutt Valley in the 1950s. It has special significance for its architectural design that blends the Modernist concepts of form and function into a harmonious and beautiful structure.



The Resource Management Act (RMA), Regulatory Creep, and Balancing Heritage Protection with Property Rights

The **Resource Management Act (RMA)** was enacted to promote the **sustainable management** of New Zealand's natural and physical resources. Section 6 of the RMA highlights matters of national importance, including the **protection of historic heritage** from inappropriate subdivision, use, and development. However, the Act also emphasizes that heritage protection must be **balanced** with the **economic well-being** of people and communities. The RMA's original intent was to safeguard **genuinely significant heritage sites**, while allowing for appropriate land use and development, reflecting a balance between heritage preservation and **property rights**.

Property rights are essential to ensuring a community's **economic prosperity** by fostering investment and development. When property owners have secure rights, they are more likely to invest in and improve their properties, generating **economic growth** and creating opportunities for wealth. This, in turn, allows communities to thrive by increasing **social mobility** and reducing conflicts over resource allocation. Furthermore, strong property rights enable individuals and communities to express their **cultural identities** freely, without government intervention dictating what is considered appropriate. This autonomy leads to a more diverse and vibrant society, where culture evolves **organically** through personal and communal ownership of spaces, rather than being **imposed from the top down**. Without this, vibrant cultural hubs like **Melbourne's Chinatown** or the **Greek precinct** would not be possible, as government-controlled land use could limit cultural expression and restrict the development of such unique communities.

That said, **true heritage preservation** is still important, as it plays a key role in maintaining our shared history and **cultural identity**. However, a dilution of heritage protections risks including properties with **arbitrary or unclear significance**, which undermines the original intent. Clear and consistent criteria should be set to protect **genuinely significant heritage sites** while allowing for necessary development.

Over time, **regulatory creep** has shifted the application of the RMA beyond its original purpose. Instead of focusing on protecting **nationally** and **regionally significant heritage assets**, the criteria for heritage protection have broadened to include properties of **local or minor historical interest**, as seen in the case of **169 Forbury Road**. This expansive approach **dilutes the true value** of heritage protections and imposes **significant burdens** on property owners, contrary to the sustainable management principles embedded in the RMA.

The DCC's proposal to list **169 Forbury Road** as a heritage property exemplifies this **overreach**. While the property is associated with local families and reflects an attractive revival architectural style, it does **not meet the national or regional significance** that the RMA was designed to protect. Moreover, the property is located on a large landholding in the sought-after neighborhood of **St. Clair**, presenting significant **development opportunities**. A heritage listing would unfairly restrict the owner's ability to unlock the full potential of this property, which could be transformed into vibrant **residential, retail, or mixed-use developments** that would breathe new life into the community. Modern housing options, boutique shops, or even a **community-focused hub** in a prime location like St. Clair could

address the need for much-needed housing while creating **exciting spaces** where people can live, work, and connect, all while adding significant **value to the area**.

Moreover, many other councils in New Zealand include a requirement for **owner consent** before listing properties as heritage sites (as seen from research done by VHG attached in "Effects of Heritage Listing.pdf"). For example, councils such as **Hastings, Hurunui, Ruapehu, Waimate, and Waitaki** explicitly require landowner agreement before listing private residences in their district plans, as they view this practice as important for managing the community's **economic and social well-being**, consistent with the principles of the RMA. The Hurunui Council, for instance, stated that they require owner consent before heritage listing because "the listing of a heritage building may become **onerous and costly** for the landowner in the future." This demonstrates a more **balanced approach** to heritage preservation, taking into consideration the rights and well-being of property owners. The DCC's approach of **unilaterally imposing heritage listings**, as in the case of **169 Forbury Road**, contrasts with this responsible practice and does not reflect a **balance between community interest and private property rights**.

I would argue that the five councils that have incorporated **homeowner consent** as part of their heritage listing process have done so because they have interpreted the RMA with careful consideration of the **economic impact** on the property owner. These councils understand that the balance between **heritage preservation** and the **economic well-being** of their communities must be maintained to align with the RMA's core principles. Additionally, these councils tend to be **smaller, tight-knit communities**, where the effects of a heritage listing are felt **firsthand**. When heritage restrictions are imposed, the consequences on a local homeowner's financial well-being are immediately visible within the community. This proximity allows smaller councils to better balance the benefits of heritage protection against the economic impact on property owners.

In contrast, **larger councils** like the DCC may not fully appreciate the consequences of their decisions because they are more **removed from the direct effects** on individual homeowners. Their size and scale create a **disconnect** from the communities they serve, making it easier for them to overlook the **financial burden** that heritage listings can impose. The DCC's broad approach to heritage protection often fails to balance the interests of homeowners, and as a result, they risk becoming **out of touch** with the realities faced by their constituents. The smaller councils, such as **Hastings, Hurunui, and Waitaki**, are more in tune with the direct impact of their decisions, fostering a more **responsible and compassionate** approach to heritage preservation that considers both the long-term cultural value and the immediate financial ramifications on their community members.

Moreover, purchasing a property at **market value**, rather than imposing a heritage listing without consent, would be far more consistent with the RMA's purpose of protecting both **heritage** and the **economic well-being** of communities. For example, the cost of purchasing a **\$1 million heritage property** in Dunedin would translate to a one-time cost of **\$20 per ratepayer** across the city's 50,000 ratepayers. This cost is **negligible** compared to the **devastating financial impact** a private homeowner could face.

When a homeowner experiences a ***10-30% devaluation**, combined with ****increased insurance premiums**, costly maintenance, and potential pressure from banks due to a **high**

LVR, the financial consequences can be **ruinous**. In contrast, if the council were to purchase the property, it would bear the financial responsibility, and the purchase would add to the council's **balance sheet**. In essence, there would be no real long-term cost to the council, as it could always choose to **remove the heritage listing** and sell the property on the open market if it deems the heritage value not high enough to justify ongoing maintenance.

This approach would ensure that councils apply more **scrutiny** to each heritage listing, avoiding poorly executed assessments and peer reviews, as seen in this case, and reserving heritage status for properties of **true significance**. It would also provide much-needed relief to homeowners, align with the RMA's objectives of balancing heritage protection with **community well-being**, and prevent placing an **unfair financial burden** on individuals.

The RMA's **Section 5** states that sustainable management involves "managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their **social, economic, and cultural well-being**." This principle means that heritage protection should not **unreasonably restrict** a landowner's ability to develop their property where needed. The **social and economic needs** of the community must also be considered when assessing the potential impacts of heritage listings.

In the case of **169 Forbury Road**, restricting its use through a heritage listing would prevent potential development, which could supply the community with much-needed **housing and amenities**. This is particularly important in a **high-demand neighbourhood** like **St. Clair**, where development could provide significant **social and economic benefits** to the wider community. The RMA was not designed to stifle development unnecessarily, especially when the heritage value of the property is not of national, regional, or even **local significance**.

The RMA's **Section 85** further protects landowners, stating that if a designation or rule renders land "incapable of reasonable use," the landowner can seek relief. A restrictive heritage listing on **169 Forbury Road** would severely limit the owner's ability to develop the property, negatively impacting their economic well-being and the **value of the land**. This potential financial damage is inconsistent with the RMA's goals, which encourage the **balanced use of resources**, allowing for development that benefits both the landowner and the community.

*Auckland study showing an average devaluation of 10%:

<https://www.sciencedirect.com/science/article/abs/pii/S0264837719317016> - also attached in "Effects of Heritage Listing.pdf"

Chicago study showing an average devaluation of 30%:

<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1540-6229.2010.00293.x> - also attached in "Effects of Heritage Listing.pdf"

**Email outlining increased insurance costs - also attached in "Effects of Heritage Listing.pdf"

From: Debbie Hutton <debbie@albanyns.co.nz>
Sent: Friday, 21 May 2021 7:50 am
Subject: Heritage designation

Morning [REDACTED]

I've now had 3 responses from our 3 domestic insurers as follows;

Ando

Each property is taken on a case by case basis & would largely depend on what the class 2 designation entails. Please advise what the implications are on the client as part of the class 2 designation regard to the property, it's appearance etc?

NZI

There are commonly three types of classification they may be given if Heritage/Council NZ designated – list can be found [Search the List | Heritage New Zealand](#):

- HNZ or council designated Category 1 & 2 – for places of special or outstanding historical or cultural significance or value
 - We require a satisfactory builders report and also a valuation taking into account the cost to re-build to council spec.
 - If accepted, higher excess will be imposed and minimum 25% loading
- Historic Area/precinct – groups of related historic places such as a geographical area with several properties or sites, or a cultural landscape. Emphasis is on the significance of the area in Wellington.
 - We require a satisfactory builders report and also recommend a valuation taking into account the cost to re-build to council spec.
 - If accepted, higher excess will be imposed and minimum 25% loading
- Council Character Area
 - If within the Wellington region and meets pre-1935 criteria then;
 - o Satisfactory builders report and valuation required.
 - If within the Wellington region and does not meet pre-1935 criteria then declined.
 - Anywhere else in NZ requires referral to us and provided it is a normally acceptable risk, the character area would generally not play into our underwriting decision.

Vero

In regards to the heritage Question if the home is pre 45 rewired, Re-gibbed and Heritage it would be rated as such no increase in the premiums but the following terms would apply

"Where the home is registered with the New Zealand Historic Places Trust, we will not pay for any additional costs or fees required to comply with any heritage covenant(s) that apply to the property"

So, 3 different responses. Although Ando still need to know exactly what heritage status it would fall under in order to confirm their underwriting stance, which is the one you particularly trying to place your property with Vero, as they don't like insuring much in the Wellington region.

I trust that this assists you. If you can provide more information, I can approach Ando again for you.

Please note, effective 15 March 2021 our Disclosure & Regulatory requirements have changed. To view our Disclosure Statements, Terms of Business and other Regulation Documents please follow this link:

[Disclosure & Regulation Documents | albanyns.co.nz](https://www.albanyns.co.nz/disclosure-regulation-documents)

Best regards,



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Potential Conflict of Interest and Timing Concerns Surrounding the Heritage Listing of 169 Forbury Road

To add to the record, the property at **169 Forbury Road** was previously owned by **Malcolm Farry**, a former DCC councillor, for **36 years**. During that time, the property was **never proposed for heritage listing**. However, in **2015**, coinciding with the DCC's last round of proposed heritage listings, the property was also **listed for sale**. This timing raises significant concerns. It is reasonable to question whether Malcolm Farry may have been **informed of the potential heritage listing** and chose to sell the property **before the designation was formalized**. If there was any **undue influence or foul play** in this decision, the **only party with direct knowledge would be the DCC itself**.

Additionally, through an **OIA (Official Information Act)** request, it was revealed that homes owned by **DCC staff, councillors, and related persons** may meet the **same criteria for heritage listing** as many properties currently proposed. However, these homes have been **exempted from listing to avoid a "conflict of interest."** This **selective exemption**

process gives the **heritage advisor undue discretion** to determine which properties are listed, raising **fairness concerns**. Considering the **substantial financial implications** of heritage listing, this process appears **inequitable and inconsistent**. It also raises the possibility that **169 Forbury Road** was **not considered for listing during Malcolm Farry's ownership** for similar reasons, only to be proposed for heritage status **after it was sold to a new owner**. The current owner **would not have purchased the property** had it already been heritage-listed, as it was **acquired with the intent of future development**, not preservation.

The council's **failure to disclose its intention** to list **169 Forbury Road** before the sale demonstrates **bad faith** and a **lack of transparency**, effectively **blindsiding the new owner**. This approach **undermines trust** in the process and can be perceived as **cartel-like behavior** by the DCC, prioritizing **internal interests** over fairness and transparency. Compounding this issue, the council has **exempted properties owned by DCC staff and councillors** from heritage listing under the pretext of avoiding a **conflict of interest**, even though many of these properties **meet the broad criteria for listing** as proposed and interpreted by the council's **own heritage advisors**. This **double standard** demonstrates **bad faith and selective enforcement**, protecting **insiders** while imposing significant financial and personal burdens on ordinary property owners. Such actions raise **serious questions** about the **credibility and impartiality** of the DCC's heritage listing process, creating the perception of a system designed to serve **internal interests** at the expense of fairness and transparency. These practices are unlikely to be viewed favorably by **ratepayers**, who expect **accountability and integrity** from their local government.

Conclusion

In conclusion, 169 Forbury Road does not meet the necessary thresholds for **historic, social, aesthetic, or architectural significance** as defined by **Heritage New Zealand's (HNZ) criteria**.

The DCC's claims of historical significance, based on the association with wealthy families and the migration of affluent businessmen into St. Clair, do not align with **HNZ's historic criteria**, which require a property to contribute to a significant aspect of New Zealand's or in our case Dunedin's history. If applied broadly, any property in an affluent area could meet this criterion, **diluting the value of heritage protection**.

Similarly, the DCC's argument for **social significance**, based on the residence of prominent families, fails to meet **HNZ's social threshold**, which requires strong community attachment. By this logic, any residence of a **sitting councillor or local figure** could qualify, leading to **overextension of heritage protections**.

Aesthetically, while the property may have some appeal, it does not evoke a **strong emotional response** from the public or hold the distinctive value required by **HNZ's aesthetic criteria**.

Architecturally, the **English Revival style** is neither unique nor innovative, and if DCC's design criteria were applied, any new property with similar features could qualify for heritage listing, which would undermine the **RMA's original intent**.

Furthermore, the **lack of significant community or market interest** in 169 Forbury Road further demonstrates the absence of strong social or aesthetic value. The property was listed in **2015** and remained on the market for five years, with the failed sale to **Barry Kloogh** in **2018** due to his arrest, and it was only finally sold in **2020**. This lengthy timeframe, coupled with a lack of demand, shows that the property does not foster the **community attachment** or hold the **market appeal** necessary to justify heritage listing.

Additionally, the **financial impact** on the current owner, combined with the **loss of potential housing and amenities** for the community, does not justify heritage listing for a property that fails to meet any of the criteria for significance. The limited heritage value of 169 Forbury Road, compared to the potential harm to the owner and the community, clearly does not align with the **RMA's original intention** of balancing heritage protection with property rights and community well-being.

Therefore, applying the DCC's overly broad criteria would lead to **regulatory creep** and **misapplication of heritage protections**. **169 Forbury Road should not be included on the heritage list.**

Example Heritage Assessments of DCC Staff and Councillors

Below are examples of heritage assessments that use the same criteria applied in some of the heritage assessments currently proposed. In my view, these examples do not meet Heritage New Zealand's criteria, even within a local Dunedin context, because the relationship between the notable individuals' achievements and their residences is purely incidental and the properties are not associated with significant moments in history. If this reasoning is sufficient to exclude these properties from heritage listing, then the same standard should apply to the following properties. Otherwise, by this logic, many DCC staff members' homes and every councillor's residence would also need to be heritage-listed properties.

Mark Mawdsley - Senior Heritage Advisor

The residence of Mark Mawdsley holds historical significance due to its association with a prominent figure in Dunedin's heritage sector. Mr. Mawdsley, a senior heritage expert and the Dunedin City Council's heritage adviser, has played a pivotal role in shaping the city's heritage policies and promoting the conservation of its built history.

As a conservation architect, Mr. Mawdsley has been instrumental in initiatives such as the revitalization of Dunedin's warehouse precinct, which has set an example of how historic buildings can be adapted for modern use while retaining their character. His advocacy for balancing the needs of private property owners and the community has cemented his position as a custodian of the city's historic identity.

This residence, associated with Mr. Mawdsley's tenure as a heritage adviser, stands as a testament to his contributions to Dunedin's architectural conservation efforts and the broader appreciation of its heritage fabric.

<https://www.odt.co.nz/news/dunedin/role-excites-new-heritage-adviser>

His Worship the Mayor Jules Radich - Mayor of Dunedin

The residence of Jules Radich, Dunedin's 59th mayor, holds historical significance due to its association with a prominent local political figure. Mr. Radich, who has served as mayor since 2022 and as a Dunedin City councillor since 2019, has been a pivotal figure in shaping the city's infrastructure and governance. His tenure has included efforts to balance fiscal responsibility with infrastructure development, address heritage preservation, and foster community engagement on key city projects.

As a leader, Mr. Radich has played a central role in decisions impacting Dunedin's built environment, including his advocacy for retaining the city's one-way traffic system and championing necessary investments in water infrastructure. His position as a custodian of Dunedin's development and heritage identity strengthens the association of his residence with his contributions to the city's political and civic life.

This property, tied to Mr. Radich's role as a public servant, reflects its significance within the context of local governance and its association with a figure whose leadership continues to shape Dunedin's future.

https://en.m.wikipedia.org/wiki/Jules_Radich

In addition, below is a list of properties that the DCC has deemed to meet the criteria under the same reasoning as the above examples for heritage listing solely due to the incidental association with a notable person who resided there:

- 5 Smith Street
- 7 Drivers Road
- 9 Alton Avenue
- 10 Claremont Street
- 18 Jubilee Street
- 19 Carroll Street
- 24 Melrose Street
- 26 Littlebourne Road
- 30 Tennyson Street
- 38 Belgrave Crescent
- 38 Michie Street
- 39 Melville Street
- 46 Gordon Road
- 47 Māori Road
- 52 Manor Place
- 54, 56a, 56b Manor Place
- 54 Grendon Street
- 56 Carroll Street
- 62 Norfolk Street
- 62 Queen Street
- 70 Grendon Street

79 Malvern Street
83 Manor Place
89 Carroll Street
93 Church Street
109 Maitland Street
130 Aramoana Road
163 Carroll Street
169 Forbury Road
218 Bush Road
273 York Place
275 York Place
284 Stuart Street
311 Stuart Street
362 York Place
421 Highgate
1299 Highcliff Road