


9. RECOMMENDED CHANGES TO HERITAGE CONSERVATION POLICY



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PURPOSE OF REPORT

1. The purpose of this report is to recommend changes to the heritage conservation policies and the heritage grants policy to bring them in line with current circumstances.

EXECUTIVE SUMMARY

Current Policy for the Conservation of Heritage Buildings, Places and Objects

2. The Council's heritage conservation policy (1998) and subsequent amendments do not reflect the changed circumstances resulting from the inclusion of Banks Peninsula within the city, with respect to either the scope of qualifying grant applications or the statutory authority of the Council to enter into conservation covenants. While a more comprehensive review of the policies is programmed for the medium term, this review concentrates on the post-amalgamation priorities for policy amendment.

3. The current conservation incentives policy in the heritage conservation policy is as follows:

Policy 8.1 "To set aside a yearly allocation of money for grants to owners of listed heritage buildings, places and objects"

This policy also includes as a criterion: "the relative heritage value of the building, place or object as determined by its group listing in the *City Plan*".

4. It is proposed to amend the policy statement to clarify that both parts of the composite Plan (the City Plan and the Banks Peninsula District Plan, which are distinct in legal and territorial terms) qualify for applications and approval for heritage conservation grants. The Banks Peninsula District Plan heritage listing does not always identify heritage groups reflecting significance. The listing is in two appendices to the Plan, the first for those items which are included in the Register of the New Zealand Historic Places Trust, which are grouped as Category I or Category II. The second appendix is an additional list of heritage items which are not distinguished in terms of relative heritage significance, therefore reference to the group listing in the Christchurch City Plan should be deleted and replaced with the text set out in paragraph 10(a) of this report.

5. The current heritage protection policy is as follows:

Policy 5.3: "To promote the use of covenants to protect listed heritage buildings, places and objects."

With the agreement of the owner of a heritage (or other) property, a covenant can be registered on a Certificate of Title to prevent demolition, or to confine the extent of alteration.

6. This policy does not mention the statutory authority of the Council to enter into conservation covenants under the Reserves Act 1977 or any other type of legal instrument or encumbrance. Neither does it reflect the inclusion of Banks Peninsula in Christchurch City. Therefore it is recommended that the policy be amended to reflect the statutes under which authority is given as well as incorporating both Christchurch City and Banks Peninsula District Plan listings as set out in paragraph 10(b).

Heritage Grants Policy

7. On 26 September 2002 the Council resolved that conservation covenants were required in perpetuity for grants of \$50,000 or more, and that for grants between \$10,000 and \$49,999 owners were required to enter into agreements to not demolish a building for a specified period of time. These time periods were expressed in the heritage conservation policy regarding grants not requiring conservation covenants, numbered 13.1–13.4. The Heritage Covenant Officer Subcommittee has requested that agreements be replaced by limited conservation covenants and that the time period be subject to negotiation with each grant recipient.

8. It is therefore proposed that the policy on conservation covenants be amended by the substitution of "agreement" with "limited conservation covenant", and that this would apply to all grants between \$5,000 and \$49,999. The Heritage Covenant Officer Subcommittee has also requested some flexibility around negotiating limited or full conservation covenants for grants of \$30,000 to \$50,000 depending on the significance of the property's heritage values, and risk associated with potential loss of the item, among other things.
9. With regard to limited covenants, the subcommittee considers that grant approvals should not be limited to the agreed time limits provided for under the policy titled grants not requiring conservation covenants, but that provision should be made for negotiable time periods. The policy *Grants Not Requiring Conservation Covenants*, listed under background, should thus be revoked.
10. **Actual wording of the proposed amended conservation policies** (new wording underlined and previous wording struck through)

- (a) The wording in the policy on conservation incentives would therefore read:

Policy 8.1 "To set aside a yearly allocation of money for grants to owners of listed heritage buildings, places and objects listed in the Christchurch City Plan and the Banks Peninsula District Plan"

and the amended criterion would consequently read: "the heritage value of the building, place or object" ~~as determined by its group listing in the City Plan.~~

- (b) The wording in the policy on Heritage Protection would therefore read:

Policy 5.3: ~~To promote the use of covenants to protect Listed heritage buildings, places and objects.~~ "The Council shall provide for and facilitate the use of conservation covenants under section 77 of the Reserves Act 1977 or other legal instruments to protect buildings, places and objects of heritage value listed in the Christchurch City Plan and/or the Banks Peninsula District Plan as applicable.

The criteria would accordingly read: "With the agreement of the owner of a heritage (or other) property, a covenant ~~can~~ shall be registered on a certificate of title to prevent demolition, partial demolition, or to confine the extent of alterations or additions to the property for such periods of time as deemed appropriate."

11. **Actual wording of the proposed amended Heritage Grants Policy**

~~"12.1 That the compulsory requirement for a full conservation covenant under section 77 of the Reserves Act 1977 or other legal instrument should be applied to all heritage incentive grants of \$50,000 or more and to all heritage developments grants that have a value estimated to be \$50,000 or more over the term of the grant payments.~~

12.2 That grants of \$5,000 to \$49,999 be subject to a limited conservation covenant under section 77 of the Reserves Act 1977 or other legal instrument that the owner(s) will not demolish or apply for a consent for demolition of the protected heritage item within a period of time to be negotiated with the building owner(s).

12.3 Notwithstanding paragraphs 12.2 of this Policy, if the Heritage Covenant Officers Subcommittee shall consider it appropriate in the circumstances relating to a particular property or grant and where ordinarily paragraph 12.2 would apply, the requirement of paragraph 12.2 for a limited conservation covenant may be departed from in respect of that particular property or grant and a full conservation covenant required. In exercising this discretion the subcommittee shall have regard to the following criteria:

1. Whether the heritage property is assessed as being of international, national, or regional importance.
2. Whether the property has high heritage values in relation to individual criteria for heritage listing including consideration of the community esteem for the place.
3. Whether the potential degree and type of risk associated with the heritage property necessitates protection of all the individual heritage features of the place.
4. The amount of the approved heritage conservation grant.

FINANCIAL AND LEGAL CONSIDERATIONS

12. The proposed changes recommended in this report have been the subject of legal advice and are consistent with that advice. There are no financial implications in changing these policies.

STAFF RECOMMENDATIONS

It is recommended that the Council approve the revocation of the following outdated heritage conservation policy changes:

- Conservation Incentives Policy 8.1
- Heritage Protection Policy 5.3
- Grants Not Requiring Conservation Covenants Policy 13.1 – 13.5

and their replacement by the following amended policies:

- (a) Conservation Incentives Policy:

Policy 8.1 "To set aside a yearly allocation of money for grants to owners of heritage buildings, places and objects listed in the Christchurch City Plan and the Banks Peninsula District Plan "

with the amended criterion under the policy to therefore read: *"the relative heritage value of the building, place or object"*.

- (b) Heritage Protection Policy:

Policy 5.3: "The Council shall provide for and facilitate the use of conservation covenants under section 77 of the Reserves Act 1977 or other legal instruments to protect buildings, places and objects of heritage value listed in the Christchurch City Plan and/or the Banks Peninsula District Plan as applicable.

With the agreement of the owner of a heritage (or other) property, a covenant shall be registered on a certificate of title to prevent demolition, partial demolition, or to confine the extent of alterations or additions to the property for such periods of time as deemed appropriate."

- (c) Heritage Grants Policy

12.1 That the compulsory requirement for a full conservation covenant under section 77 of the Reserves Act 1977 or other legal instrument be applied to all heritage incentive grants of \$50,000 or more.

12.2 That grants of \$5,000 to \$49,999 be subject to a limited conservation covenant under section 77 of the Reserves Act 1977 or other legal instrument that the owner(s) will not demolish or apply for a consent for demolition of the protected heritage item within a period of time to be negotiated with the building owner(s).

12.3 Notwithstanding paragraph 12.2 of this policy, if the Heritage Covenant Officers Subcommittee considers it appropriate in the circumstances relating to a particular property or grant and where ordinarily paragraph 12.2 would apply, the requirement of paragraph 12.2 for a limited conservation covenant may be departed from in respect of that particular property or grant and a full conservation covenant required. In exercising this discretion the subcommittee shall have regard to the following criteria:

1. Whether the heritage property is assessed as being of international, national, or regional importance.
2. Whether the property has high heritage values in relation to individual criteria for heritage listing including consideration of the community esteem for the place.
3. Whether the potential degree and type of risk associated with the heritage property necessitates protection of all the individual heritage features of the place.
4. The amount of the approved heritage conservation grant.

BACKGROUND ON CURRENT DELEGATIONS TO THE HERITAGE COVENANT OFFICER SUBCOMMITTEE

13. Policies 8.1 and 5.3 have been clarified in the executive summary. Stemming from the conclusion (paragraph 9) that Policy Grants Not Requiring Conservation Covenants, the details of the policy to be deleted are noted below:

~~13.1 That grants of \$10,000 to \$19,999 be subject to a written agreement that the owner and subsequent owners will not apply for a consent for demolition of the protected heritage item within a period of 5 years from receipt of the grant.~~

~~13.2 That grants of \$20,000 to \$29,999 be subject to a written agreement that the owner and subsequent owners will not apply for a consent for demolition of the protected heritage item within a period of 10 years from receipt of the grant.~~

~~13.3 That grants of \$30,000 to \$49,999 be subject to a written agreement that the owner and subsequent owners will not apply for a consent for demolition of the protected heritage item within a period of 15 years from receipt of the grant.~~

~~13.4 That the Agreement requires the present landowner to obtain a similar agreement from any prospective purchaser prior to the sale of the property. Such similar agreement would prohibit the subsequent landowner from applying for a consent for demolition for the remainder of the term agreed with the present landowner.~~

~~13.5 That a Grant Agreement be prepared for owners of protected heritage items subject to grants of \$10,000 to \$49,999 including the conditions prohibiting applications for demolition consent outlined above. The Agreement shall be subject to the consideration and approval of the Legal Services Manager.~~

OPTIONS

14. Now that Banks Peninsula has been included in the city, it is appropriate for Banks Peninsula heritage items to be included in the city's heritage conservation policies.
15. The only possible option with regard to the inclusion of Banks Peninsula in the Council's heritage conservation policies is to exclude Banks Peninsula from the Council's heritage conservation policies. This would be inconsistent with existing circumstances, and breach principles of fairness. Already there have been requests for heritage funding from Banks Peninsula, and it would be contrary to the interests of the Council and principles of heritage conservation, to allow property owners to neglect their historic buildings through lack of support, often for expensive projects. This could result in "demolition by neglect". The Council encourages owners of heritage properties to maintain them in the public interest. The Council has a statutory responsibility under section 6 of the Resource Management Act to recognise and provide for heritage as a matter of national importance, which applies to both Christchurch City and Banks Peninsula. The Council's most effective mechanism to achieve this is through its heritage incentive grants scheme.
16. The preferred option is therefore to include Banks Peninsula in the Council's heritage conservation policies to achieve the aims of retaining heritage items of local history, which is also be of national importance.
17. With regard to the Council's statutory authority to enter into conservation covenants with property owners, the option to not endorse this would lead to the Council not being able to provide the high level of protection available through the use of conservation covenants. The preferred option is therefore to add the authority of statute to the Council's authority, to clarify any questions that may arise.

18. With regard to the heritage grants policy, the option to retain the prescriptive policy on grants not requiring conservation covenants (previously heritage grant agreements) would not give the flexibility to negotiate with property owners as long a non-demolition period as possible. A further provision, for larger grants to have full conservation covenants agreed to, is to ensure buildings with highly significant heritage status but which receive smaller amounts of heritage incentive grant assistance than the current policy prescription for full covenants provides for, can be fully protected. The alternative is that the buildings will not benefit from full protection from demolition in perpetuity that they may otherwise merit.
19. The preference of the Heritage Covenant Officer Subcommittee is to be less prescriptive, allowing more flexibility in negotiations with applicants for heritage incentive grants. The preferred option is therefore to revoke grants not requiring conservation covenants policy 13.1–13.5 in favour of more flexible negotiations and to give authority to the Heritage Covenant Officer Subcommittee to approve the terms and conditions of covenants with property owners, including variation of the policy on conservation covenants, where the subcommittee deems it appropriate to do so.
20. With regard to agreements being superseded by limited covenants, the option to retain heritage grant agreements has exposed the Council to a degree of uncertainty when heritage properties were being sold, that can easily be rectified by requiring recipients of significant heritage incentive grant assistance to covenant with the Council not to demolish their heritage building for as long a time as can be negotiated with this being registered at LINZ. This is a benefit to the community and satisfies the Council's policies on heritage conservation.