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27th July 2026

The Hon. Penny Sharpe, MLC
Minister for Environment, Heritage Climate Change and Energy
office@sharpe.minister.nsw.gov.au

Re: Corrective Action by Minister Requested in Matter of SHR Nomination of MV Collaroy

Dear Minister Sharpe,

Thank you for the response I received on 23rd July from Sam Kidman, Executive Director of Heritage NSW, to my letter to you of 3rd July. I am however a little surprised that replies in this matter are not coming from your office.

I note the letter received appears the same wording that has been sent to others who wrote to you on this matter.

In my case I note the reply rather fails to address the specific administrative issues raised in my correspondence to you concerning Section 33 of the Act. All the letter really does is confirm that Heritage NSW appear to be operating in breach of Section 33 of the Heritage Act 1977, as regards their SHR nomination process. This mirrors the responses given by your office to the parliamentary questions on MV Collaroy presented in the Legislative Council.

If it assists, I have previously served as an elected local Councillor for 8 years (until amalgamation), so I am very familiar with the issues of governance, reading legislation and ensuring compliance with legislation.

I am surprised that even when apparently presented with a detailed analysis, the Executive Director of Heritage NSW can not apparently realise or acknowledge there could be a problem with their current SHR nomination procedures being in contravention of the Act. They are not seeing that any preliminary dismissal ("not recommending") of a SHR nomination appears a contravention of Section 33, as this clause contains "whether or not to recommend". Thus by the Act, ALL "not recommends" must also go through the requirements specified in Section 33. This is to solicit (by giving notice) as much information as possible for the SHRC to make the determination on an item.

I appreciate that this might appear a technical argument but the ramifications are major as regards heritage items being left unprotected or being lost, which is why I have requested Intervention from your office.

For example MV Dawn Fraser SHR nomination was dismissed by the SHRC as not being of State Significance (thus ineligible for SHR listing) without ever proceeding to the Section 33 notice provision, where additional information supporting that it was of State Significance

could well have been forthcoming. This is a clear example of Heritage NSW and Heritage Council administrative shortcuts potentially leading to adverse heritage outcomes.

The MV Collaroy is similar with spurious (not having anything to do with assessment of significance) reuse issues being raised to reject the nomination, without proceeding to Section 33 as the Act drafters intended. A Section 33 process would have allowed this assertion to be challenged or assessed for relevance. (The "reuse" issue could simply have been resolved by returning the ferry to service in place of one of the other three with less heritage significance.)

The situation is rather worse for the MV Collaroy matter, as even Heritage NSW was of the view the ship was likely to be of State Significance. So the case of MV Collaroy also illustrates the dangers and risks of allowing an invented administrative process to apparently override legislative requirements (with inbuilt protections), with a very adverse heritage outcome.

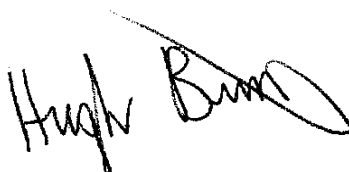
I am also aware that your office has now been provided with an external legal opinion that also reaches the same conclusion, that Heritage NSW and the Heritage Council appears not to have complied with the Act as regards the processing of MV Collaroy's SHR nomination.

I therefore request that your office now urgently take its own independent action on this matter:-

- 1) That you as Minister insure an IHO is immediately placed on MV Collaroy to prevent the vessel from being scrapped, with the clear reason being that MV Collaroy is likely to be of State Significance and has not been properly assessed as per section 33 of the Heritage Act 1977.
- 2) That you use this interim protection to instigate an external review as to whether Heritage NSW current SHR nomination procedures comply with the Act, specifically Section 33 in the case of those items not being progressed to section 33.
- 3) That the nomination of MV Collaroy be resubmitted to the Heritage Council and processed under section 33 of the Act, with say a notice period of not less than 60 days (due to public interest).
- 4) That a reply to this letter comes from your office and not the agency involved, to avoid any perception of a conflict of interest in this matter.

Undertaking these steps should see the matter of MV Collaroy resolved.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Hugh Burns', with a large, sweeping flourish at the end.

Hugh Burns