

**PLANNING & ENVIRONMENT COURT OF
QUEENSLAND**

APPEAL N^o 313 of 2010

**Between: JOHN EDWARD MYTTON BARNES and
GEOFFREY FREDERICK COOK
(APPELLANTS)**

**And: SOUTHERN DOWNS REGIONAL COUNCIL
(RESPONDENT)**

**And: THE CHIEF EXECUTIVE, DEPARTMENT OF
ENVIRONMENT AND RESOURCE
MANAGEMENT (FIRST CO-RESPONDENT)**

**AND: McCONAGHY GROUP PTY LTD (SECOND
CO-RESPONDENT)**

Joint Report of Heritage Experts

**Michael Scott (MS) in attendance for Appellant,
Duncan Ross-Watt (DR-W) in attendance for First Co-respondent,
Stephen Davies (SD) in attendance for Second Co-respondent.**

STATEMENT TO COURT

This joint report has been prepared following consultation between the experts. The experts have separately inspected the subject site and met on 30 May 2011.

This joint report has been prepared in accordance with the Planning and Environment Court Rules 2010 and the Uniform Civil Procedure Rules 1999. As attested by their signatures, the experts understand their duty to the Court and confirm that they have each read, understood and have agreed to be bound by the Court Rules and Civil Procedure Rules and verify that no instructions were given or accepted to adopt, or reject, any particular opinion in preparing the report.

BACKGROUND

The subject site is 84 Fitzroy Street, Warwick. This site contains a 19th century commercial building which is Heritage Listed by the Southern Downs Regional Council and the Queensland Government, administered by the Department of Environment and Resource Management (DERM).

This appeal was originally against an approval in December 2009 by Southern Downs Regional Council for the demolition of the whole of the building situated at 82 Fitzroy Street, Warwick, and part of the rear section of the adjacent building at 84 Fitzroy Street. Since the appeal was commenced in early 2010, two preliminary decisions have been made by the Court in the proceedings which have narrowed the original issues that were in dispute:

- The demolition of 82 Fitzroy Street and the conditions relating to that demolition are not part of this appeal and are not in dispute;
- The requirement to restore the front part of 84 Fitzroy Street is part of the approval of the demolition of 82 Fitzroy Street;
- A possible shopping centre extension, which may require the rear wing of 84 Fitzroy Street to be demolished, is not part of this appeal;
- The heritage issues in the appeal are whether the rear section of 84 Fitzroy Street should be approved for demolition, and
- whether a "large underground water tank" as mentioned in the Queensland Heritage Register Citation, as part of the property at 84 Fitzroy Street in 1882, if it still exists, should be located and preserved.

The original development application was lodged by McConaghy Group Pty Ltd in September 2007 to the Warwick Shire Council, with referral to DERM, and the *Warwick Shire Planning Scheme 1999*, and the *Queensland Heritage Act 1992*, which were current at that time, are relevant for assessment of the issues of this appeal.

A. The expert architects agree about the following:

- A1. The whole of the building, and associated structures, at 84 Fitzroy Street is listed as a Heritage Place in the Warwick Shire Planning Scheme and on the Queensland Heritage Register, and matters of cultural heritage significance are relevant.
- A2. The rear section of 84 Fitzroy Street is the remnant of an early addition to the building dating from prior to 1899, as evidenced from a photograph of this date, confirmed by site observations of building fabric.

- A3. The rear section of 84 Fitzroy Street is visible from Fitzroy Street and Haig Avenue (the lane to the western side of the subject building) .
- A4. 84 Fitzroy Street contributes to the streetscape of Fitzroy Street as one of a number of historical buildings including the adjacent Police Station and Court House.

B. The expert architects disagree about the following:

- B1. **Michael Scott** notes that in the history contained in the QHR Citation, in 1882 the main building at 84 Fitzroy Street comprised 15 rooms, with a large shop and storeroom on the ground floor, residential accommodation on the first floor, bathroom, kitchen, stables, coach-house and a large underground water tank with pump. At this time the rear wing of the main building is most likely to have served as stables and coach-house, supporting the functions of the main building, and so to understand the way the building worked, both parts of the building need to be retained. To tell the whole story of the building the service wing is essential. For this reason MS gives the service wing considerable significance in the assessment of the Heritage Place. Using the significance grading system outlined by Andrew Watson in his Conservation Management Plan for the Heritage Place this would be a: *B – Considerable Significance*, meaning: *Fabric considered important to the understanding, appreciation or cultural value of the place but could possibly be intervened with in a sensitive, controlled and limited manner. Fabric that should be retained and appropriately conserved (eg. Maintained, restored, reconstructed, adapted).*

Because of this level of significance MS is of the opinion that the rear service wing of 84 Fitzroy Street should not be approved for demolition.

Stephen Davies is of the opinion that there is no evidence of the use of the rear wing in the history included in the QHR Citation or the heritage assessment prepared by Watson architects. The service wing has changed considerably over time. There have been major changes as illustrated on photos dating from 1889, 1929 and the present. The roof form has been changed at least twice and the eastern wall and interior has been demolished over time. These changes reflect the nature of service wings as being the area of buildings where change is more likely to occur to effect the current use of the building. The subject wing has been graded '*D – Little or no significance*' by Andrew Watson in his Conservation Assessment Report, July 2008. This grading is described as "*Intervention and/or new work are appropriate provided that no nearby areas of higher cultural significance are compromised.*"

The grading by Andrew Watson is considered appropriate having regard to the amount of change to the structure over time, including the rendering of the western wall. The structure belies its original appearance and the change is such that it does not convey the original use or appearance of the late 19th or early 20th century. If the wing provided strong evidence of uses and or processes that occurred at a significant phase in the history of the building the grading would reflect that information and may have changed.

It is not uncommon to alter the rear service wings of buildings. This is what has happened in this case and it is the usual place to make changes to a building of high quality. The front sections of the 84 Fitzroy Street are appropriately graded as *A – Considerable Significance* or *C – Some significance* and the resources available to conserve the building should be applied to this section. Should uses designed to support the retention of the higher graded fabric be required then they should be located in areas of lower significance, including *"Little or no significance"*. Whilst the rear wing can tell part of the story of the subject building it is considered that the amount of change as documented in photographic and historical sources is more accurately able to be told through interpretation.

It is noted that whilst the QHR Citation includes the subject wing in the description of the building it does not make specific mention of it in the significance assessment. The significance is attached to the stone building, "designed to impress and inspire confidence".

Duncan Ross-Watt is of the opinion that the west and south walls of the brick extension to 84 Fitzroy Street are all that remains of the pre 1899 addition. The roof, veranda and internal partitions are comparatively recent. The photographic record indicates that this extension underwent several changes. The surviving walls offer no evidence of any particular use other than the most recent (as toilets). Using the significance grading system outlined by Andrew Watson in his Conservation Management Plan for the Heritage Place this would be a: *C – Some significance*, meaning:

Fabric considered useful, but not essential, to the understanding, appreciation or cultural value of the place but for which sensitive intervention would be acceptable. Fabric that is desirable to be retained and appropriately conserved.

- B2. **Michael Scott** is of the opinion that the service wing is an integral part of the appearance of the heritage building at 84 Fitzroy Street, visible from Fitzroy Street and Haig Avenue and contributes to the streetscape character and associated heritage values of the building, to the extent that it should not be removed - as that removal would have a subtle but significant detrimental effect on the appearance of the building and consequently on the heritage values of the Place.

Stephen Davies is of the opinion that the principal form of the building, being the two storey stone building, with verandah, is the primary streetscape element of the building. The subject rear wing is a modest element in the overall ability to appreciate the building from the streetscape. There is a limited view of this section of the building down Haig Avenue from one specific section of the street. The street is well known for the Courthouse, Police Station and Plumb's Chambers, all of which have major principal elements that provide an impressive streetscape opposite the Park. The small rear service wing is not an element that is clearly discernible or memorable as one surveys the streetscape

Duncan Ross-Watt is of the opinion that as the brick extension to 84 Fitzroy Street is set well back and not clearly visible from Fitzroy Street it does not contribute to the streetscape value of the place.

- B3 **Michael Scott** notes that as the building at 84 Fitzroy Street contributes to the streetscape of Fitzroy Street as one of a number of historical buildings including the adjacent Police Station and Court House, and as the service wing is an integral part of the appearance of the heritage building, its removal would detract from this precinct of historical buildings.

Stephen Davies is of the opinion that the service wing is not an integral part of the streetscape. It is agreed that Plumb's Chambers is an important part of the streetscape group.

Duncan Ross-Watt is of the opinion that the building at 84 Fitzroy Street contributes to the streetscape of Fitzroy Street through its close association with the adjacent Courthouse and Police Station. The rear extension is well back from the principal elevations of these buildings and does not form part of the streetscape.

- B4 **Michael Scott** is of the opinion that the "large underground water tank" as mentioned in the Queensland Heritage Register Citation, as part of the property at 84 Fitzroy Street in 1882, if it still exists, should be located and preserved. It is likely an in-ground cistern from this period would be made of brick and the preservation of such a structure would have an important role in demonstrating the early Brick-making industry of Warwick, which in turn is important within Queensland for its early brick and masonry structures.

Stephen Davies is of the opinion that there is no evidence of the location of the water tank. If it were to be located, depending on its

construction and significance, it would require a condition assessment and a conservation strategy.

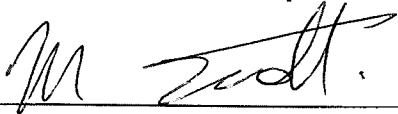
If work is done to the rear of the building it is recommended that an archaeological watching brief is undertaken by a suitably qualified historical archaeologist. If the water tank is located a feasibility study would need to be undertaken based on a significance and condition assessment. Photographic recording is recommended if it is located.


Duncan Ross-Watt is of the opinion that the "large underground water tank" should be located and its heritage value assessed. In-ground tanks of this period are not exceptional but their presence will usually have archaeological value. Should removal of the tank be considered necessary archaeological excavation and recording in accordance with DERM guidelines would be required.

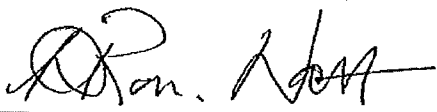
B5 For the reasons noted above **Michael Scott** thinks the rear wing of 84 Fitzroy Street is important to the heritage values of the Place and should not be demolished. This opinion is reflected in his responses to the relevant assessment provisions of the *Warwick Shire Planning Scheme 1999*, and the *Queensland Heritage Act 1992* as noted in the amended Grounds of Appeal. These responses will be developed further in his subsequent report.

Stephen Davies is of the opinion that on the basis of the information available and an inspection of the site and streetscape that the subject rear wing does not reach the threshold of significance for its retention to be necessary.

Duncan Ross-Watt is of the opinion that the surviving fabric of this rear extension, while parts may be dated prior to 1899, is only part of several iterations of the building. The functions of the extension may only be guessed at, as what remains provides little evidence in itself. It could be argued that the photographs are more useful in this regard. The loss of this portion of the building will not significantly detract from the significance of 84 Fitzroy Street.

Signed:  Michael Scott Date: 27/06/11

Signed:  Stephen Davies Date: 24/06/11

Signed:  Duncan Ross-Watt Date: 27/06/11