

PLANNING & ENVIRONMENT COURT OF QUEENSLAND**Expert Evidence by Stephen Davies: Heritage Consultant****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)

STATEMENT TO COURT

1. This report has been prepared by myself, Stephen Davies, following an inspection of the subject site, 84 Fitzroy Street, Warwick.
2. This report has been prepared in accordance with the *Planning and Environment Court Rules 2010* and the *Uniform Civil Procedure Rules 1999*. I understand my duty to the Court and confirm that I have read each, understood and have agreed to be bound by the Court Rules and Civil Procedure Rules. I verify that no instructions were given or accepted to adopt, or reject, any particular opinion in preparing the report. My Curriculum Vitae is attached at Annexure 1.
3. I have been provided with a copy of the “*Amended Grounds of Appeal and Further and Better Particulars*” dated 11 April 2011 (**the Grounds of Appeal Document**). There are two grounds of appeal for which the Appellants contend. Each of the particulars said to be in support of the grounds have been restated below in bold as headings. My opinion and comments in relation to each specific particular is provided immediately below each heading.

PARAGRAPH 3 OF THE GROUNDS OF APPEAL

4. Paragraph 3 of the Grounds of Appeal Document provides the following ground of appeal:

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with the laws and policies administered by DERM as a concurrence agency.

5. The Appellant has provided paragraphs 3(a)-(i) as particulars in support of the Ground of Appeal referred to in the preceding paragraph. Each of those particulars is addressed individually below.

The development application is contrary to section 68 of the Queensland Heritage Act 1992 because it would destroy or substantially reduce the cultural heritage significance of a State heritage place in circumstances where there are prudent and feasible alternatives to carrying out the development.

(Paragraph 3(a) of the Grounds of Appeal Document)

6. In considering the particular contained in paragraph 3(a) of the Grounds of Appeal Document, I have had regard to section 68 of the *Queensland Heritage Act 1992*. That section provides:

Assessing development applications under the Planning Act—State heritage places

(1) If, under the Planning Act, the chief executive is the assessment manager or a referral agency for a development application for development on a State heritage place, the chief executive must assess the application against the object of this Act.

(2) If the chief executive is satisfied the effect of approving the development would be to destroy or substantially reduce the cultural heritage significance of a State heritage place, the chief executive must, unless satisfied there is no prudent and feasible alternative to carrying out the development—

(a) if the chief executive is the assessment manager for the application—refuse the application; or

(b) if the chief executive is a concurrence agency for the application—tell the assessment manager to refuse the application.

(3) In considering whether there is no prudent and feasible alternative to carrying out the development, the chief executive must have regard to—

(a) safety, health and economic considerations; and

(b) any other matters the chief executive considers relevant.

7. I consider that the demolition of the service wing would not “destroy” or “substantially reduce” the cultural significance of 84 Fitzroy Street. The greater percentage of the building will be retained and conserved. Further, it is the principal form of the building, which is the part of the building that contains fabric of considerable cultural significance, not the service wing.
8. The service wing has changed considerably over time. The major changes to which I refer are illustrated in photos dating from 1889, 1929 and 2011. From the photos it can be seen that the roof form as well as the fabric and wall finishes of the service wing have been altered significantly.

9. The photo taken in 1889 (See Photo 1 below) shows a skillion roof form with a chimney at the junction of the stone skillion. The chimney appears to be associated with the rear stone wing rather than the rear service wing. The rear service wing appears to be a separate simple structure.



Photo 1: 84 Fitzroy Street as at 1889, service wing circled

10. The photo taken in 1929 (See Photo 2 below) shows a gable ended form with a chimney at the south west corner and a skillion side addition. The rear chimney that can be seen in the 1889 photo was demolished prior to 1929. A comparison of Photo 1 and 2 with respect to the chimneys shows that the original rear, southern wall, was added to or replaced in order to accommodate the gable end with chimney. Those alterations occurred at some time between 1889 and 1929.

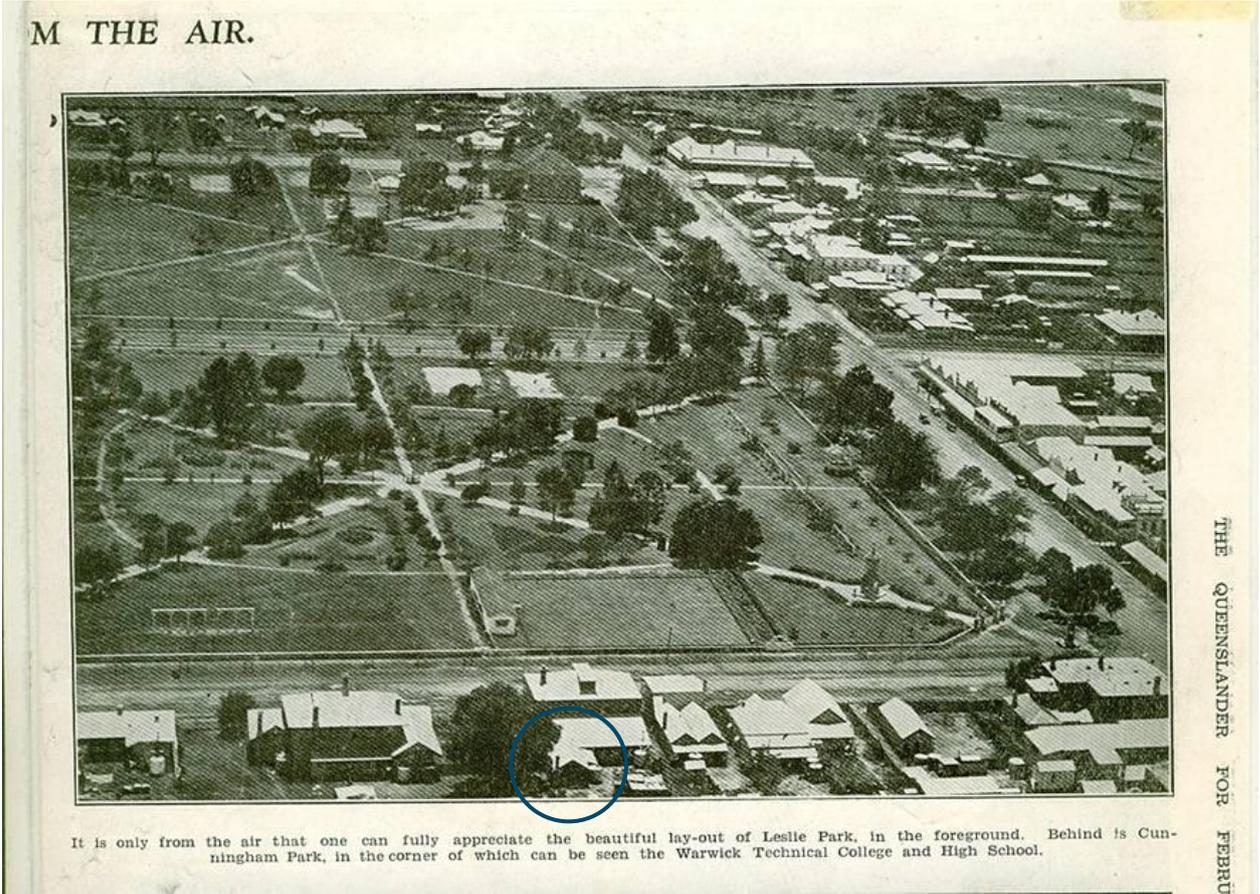


Photo 2: 84 Fitzroy Street as at 1929, service wing circled.

11. The photo taken in 2011 (See Photo 3 below), shows that the gable end and chimney have been demolished since 1929. Instead of a gable ended roof, there is now a low hipped roof.



Photo 3: 84 Fitzroy Street as at 2011, service wing circled.

12. From my own observations I can see that the eastern wall and interior has been demolished over time. The western and southern walls have been crudely rendered both internally and externally (as shown in Photos 4, 5 and 6 below). In my opinion, it provides an aesthetically poor presentation on to Haig Avenue. The walls may have been rendered after the demolition of the gable end or to protect the fragile bricks from weathering. The interior has been refitted and now includes more recent timber partitions and linings. The interior is heavily degraded and does provide evidence of earlier use except for the base of the chimney, associated with the 1929 photo (Photo 2), which has lost most of its fabric and the fireplace itself. The presentation is therefore very poor and does not represent the earlier appearance of a service wing that has meaning in the context of the principal sandstone building.
13. The changes that have occurred over time reflect the nature of service wings as being the area of buildings where change is more likely to occur in order to

provide support for the principal form of the building. The rear service sections of buildings are often demolished, rebuilt or altered to provide support services for changes in use of buildings.

14. The subject wing has been graded “*D – Little or no significance*” by Andrew Watson in his Conservation Assessment Report, July 2008. That grading is described as “*Intervention and/or new work are appropriate provided that no nearby areas of higher cultural significance are compromised.*” The grading has been provided on the basis of the change to the wing over time and the lack of integrity of the extant fabric. I agree with Mr. Watson’s grading and consider that the rear service wing has “*little*” significance.
15. The principal part of the building, being the front verandah, shop areas, the stone service wings and the first floor accommodation are essentially intact from a heritage perspective, although they are in need of substantial conservation works. It is conditioned that these areas be the subject of extensive engineering and conservation architectural works in the future and the building is to be restored.



Photo 4: Relative size of the rear service wing to the principal stone building and additions to 84 Fitzroy Street as viewed from Haig Avenue.



Photo 5: Internal view of the rear service wing. Note new roof and rendered brick walls.



Photo 6: Internal view of the rear service wing. Note remnant chimney known to have existed in 1929 and now mostly demolished.

16. I consider that the fabric of the service wing is of such “*little*” significance that it does not warrant being retained. It is also not prudent to expend money on restoring a structure that is significantly lacking in original or historical fabric. In buildings of this scale it is feasible to conserve most areas of a building if there is a reason to do so. I do not consider that there is a heritage reason to do so having regard to the significance that has been attributed to the service wing by Watson Architects, Mr Duncan Ross-Watt (DERM) and me. Having regard to the amount of change over time it is not feasible to restore the building to a significant known period.

The rear section of 84 Fitzroy Street is noted in the heritage listing and forms part of the overall listing for the property.

(Paragraph 3(b) of the Grounds of Appeal Document)

17. The Queensland Heritage Register (QHR) citation includes the service wing in the description of the building and states “*There is a later single storied extension running perpendicular to the remainder, built of rendered masonry and weatherboards with a hipped corrugated steel roof.*” However, it does not make mention of it in the significance assessment. The significance is attached to the principal stone building, which is “*designed to impress and inspire confidence*”. The QHR citation was prepared in 2008 and is a current and contemporary heritage document. There is no evidence of the use of the service wing in the history included in the QHR Citation or the heritage assessment prepared by Watson Architects.

The rear section of 84 Fitzroy Street is an early addition to the building dating from prior to 1899 and possibly 1882.

(Paragraph 3(c) of the Grounds of Appeal Document)

18. I accept that there has been a service wing attached to the principal building since around the 1880’s. It is not known when the wing was constructed, however, the location of the earlier chimney at the junction of the stone wing and the disconnected form of the rear wing indicates that the rear wing may have been added later. This wing has undergone extensive change, as outlined in paragraphs 8-12 above, which has reduced its significance. There is little significance contained in the wing that would not be as accurately represented by interpretation of the building. 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. The change of materials, being crudely rendered, and the loss of at least the eastern wall, roof, chimney and interiors provides a poor representation of an earlier building.

The rear service section of 84 Fitzroy Street provided service areas that were necessary to the service and function of the whole building and, therefore, contributes to the historic values of the whole building.

(Paragraph 3(d) of the Grounds of Appeal Document)

19. I agree that the rear service wing provided a service area to the building. This wing has been assessed for its significance. No evidence has been provided as to the use of this rear wing. In my opinion, there has been such a change to the structure that the building may in fact have been rebuilt, in which case there would be an obvious break in the evolution of the wing. The structure may be a reminder of that evolution, but it is nothing more than that.
20. The Watson Conservation Assessment Report, 2008, has followed correct conservation practice by following the principles of the Burra Charter which is the accepted tool for managing cultural heritage places. Article 6 of the Burra Charter refers to the Burra Charter process and specifically states:

6.1 The cultural significance of a place and other issues affecting its future are best understood by a sequence of collecting and analysing information before making decisions. Understanding the cultural significance comes first, then development policy and finally managing of the place in accordance with the policy.

6.2 The policy for managing a place must be based on an understanding of its cultural significance.

6.3 Policy development should also include consideration of other factors affecting the future of the place such as the owner's needs, resources, external constraints and its physical condition.

21. The subject building has been the subject of a Heritage Conservation Assessment which took the form of a Conservation Management Plan. This assessment, prepared by Watson Architects in July 2008, has implemented the Burra Charter process. It has collected and analysed the information and developed policies based on the understanding of cultural significance. In relation to Article 6.3 referred to above, the physical condition was the only "other factor" considered. In my opinion, the owner's needs, resources and external constraints were not given any consideration.
22. The assessment contained in the Conservation Management Plan has graded the subject rear service wing as being of "little or no significance". This is defined as "intervention and/or new work are appropriate provided that no nearby areas of higher cultural significance are compromised". I concur with that grading and the development proposed is consistent with the definition.
23. I note that s 35(1) of the *Queensland Heritage Act* sets out the circumstances in which a place may be entered into the QHR. Section 35(1) provides as follows:

35 Criteria for entry in register

(1) A place may be entered in the Queensland heritage register as a State heritage place if it satisfies 1 or more of the following criteria—

(a) the place is important in demonstrating the evolution or pattern of Queensland's history;

(b) the place demonstrates rare, uncommon or endangered aspects of

Queensland's cultural heritage;

(c) the place has potential to yield information that will contribute to an understanding of Queensland's history;

(d) the place is important in demonstrating the principal characteristics of a particular class of cultural places;

(e) the place is important because of its aesthetic significance;

(f) the place is important in demonstrating a high degree of creative or technical achievement at a particular period;

(g) the place has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;

(h) the place has a special association with the life or work of a particular person, group or organisation of importance in Queensland's history.

24. In my view, 84 Fitzroy Street was entered into the QHR primarily because of the principal sandstone part of the building. The service wing would not have triggered an entry into the register as:

- a. it does not demonstrate the evolution or pattern of Queensland's history. It is the principal building that satisfies that test. The rear service wing is a small component of the overall building and does not contribute to a threshold of significance being obtained;
- b. it does not demonstrate rare, uncommon or endangered aspects of Queensland's cultural heritage. Significantly modified rear service wings are not rare or endangered;
- c. there is no potential to yield information that will contribute to an understanding of Queensland's history because the amount of change that has occurred to the service wing has negated the potential to yield any measurable level of reliable information;
- d. it is not important in demonstrating the principal characteristics of a particular class of cultural places because of the extensive alterations that have occurred over time;
- e. it is not important for reasons of aesthetic significance. In fact, the building is now a poor aesthetic representation of an early service wing. The alterations over time to the form, detail and interiors of the wing, coupled with the disfiguring concrete render has all most entirely reduced the aesthetic significance that the service wing may have once had;
- f. it does not (and would never have) been important in demonstrating a high degree of creative or technical achievement;
- g. there is no evidence of it having any strong or special associations with a particular community group for social, cultural or spiritual reasons;

- h. there is no evidence of it having any special association with the life or work of a particular person, group or organisation of importance to Queensland's history.

The rear section of 84 Fitzroy Street is visible from Fitzroy Street and Haig Avenue and contributes to the streetscape character and associated heritage values of the whole building.

(Paragraph 3(e) of the Grounds of Appeal Document)

25. The principal form of the building, being the two storey stone building, with verandah, is the primary streetscape element of 84 Fitzroy Street. 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 that part of the building down Haig Avenue from one specific section of the street. Fitzroy Street is well known for the Courthouse, Police Station and the sandstone building which is 84 Fitzroy Street, 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.
26. An illustration of the streetscape is shown in Photo 7 below, which shows the main stone building with its verandah is a prominent element in the streetscape.



Photo 7: Streetscape view of Fitzroy Street looking west from Nos. 82 and 84 towards the Police station and Court House. In this section of the street it is considered that these are the principal streetscape elements.

27. To the west of 84 Fitzroy Street is the local Police Station and Courthouse. Those buildings are shown below in Photos 8, 9 and 10. Those buildings are of significant heritage value.



Photo 8: The Police Station



Photo 9: The Courthouse annex.



Photo 10: The Courthouse

28. Photo 11, 12 and 13 shown below were taken from the perspective of when one travels along Fitzroy Street and past Haig Avenue. The service wing is barely visible.



Photo 11: 84 Fitzroy Street, from the north



Photo 12: 84 Fitzroy Street to the west of the Police Station and Haig Avenue. Vegetation obscures the rear of the building from this viewpoint.



Photo 13: View looking back towards 84 Fitzroy Street to the east of the Police Station

29. Photo 14 below provides a view down Haig Avenue looking south. Even in that view the service wing is not a prominent view in the overall streetscape. The prominent features are the stone building at 84 Fitzroy Street, the side and rear of the Police Station (with associated landscaping) and the entrance and elevation of the Woolworths building.



Photo 14: 84 Fitzroy Street. The service wing is the small rendered addition at the end of the sandstone section of the building.

30. In my opinion, the rear wing is a small element that does not register in the overall streetscape and even in the limited closer views it is still not a significant building element. I consider that when one travels along Fitzroy Street it is the major elements of the main stone building of 84 Fitzroy Street, the Police Station and the Courthouse that would register visually to people walking by.

The rear section of 84 Fitzroy Street is structurally sound and in reasonably good condition.

(Paragraph 3(f) of the Grounds of Appeal Document)

31. It would appear that the rear service wing is structurally sound and in reasonably good condition, however there are many structurally sound buildings in Warwick and elements of buildings that are structurally sound and not of heritage significance. In my view, the structural soundness of the building is not a reason alone for it to be kept.

An underground water tank, which is likely to be representative of early 19th century brickmaking and brickwork construction in Warwick is located near the rear section of 84 Fitzroy Street and may be damaged if the rear section is demolished.

(Paragraph 3(g) of the Grounds of Appeal Document)

32. There is no known reason why the careful demolition of a small single storey rear addition will have an impact on a potential underground water tank.

33. 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.

34. 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 on conserving and/or recording would need to be undertaken based on a significance and condition assessment. Photographic recording is recommended if it is located.

The underground water tank near the rear section of 84 Fitzroy Street is noted in the heritage listing and forms part of the overall listing for the property.

(Paragraph 3(h) of the Grounds of Appeal Document)

35. Any archaeological artifact found on the site, including an underground water tank, is the subject of Part 9, Division 1 of the *Queensland Heritage Act*, specifically section 89(1) and (2). Any person who finds an artifact pursuant to the Act must give the Chief Executive notice in accordance with section 89(2). For the reasons stated in paragraphs 35-35 above, I do not believe that a reference to the underground watertank in the QHR citation is a reason to keep a totally separate structure that is the service wing.

The prudent and feasible alternative to demolishing the rear section of 84 Fitzroy Street is not to demolish it.

(Paragraph 3(i) of the Grounds of Appeal Document)

36. As stated above in my report, the consideration of whether there are prudent and feasible alternatives to demolishing the service wing is a matter that should only be considered after the cultural significance threshold is satisfied. Namely, it is only when the removal of the structure leads to the cultural significance being “destroyed” or “substantially reduced” that the question of “prudent and feasible” should be addressed. For the reasons I have stated earlier, I do not believe that removing the service wing will destroy or substantially reduce the cultural heritage significance of 84 Fitzroy Street and therefore a consideration of the “prudent and feasible” test is not warranted.
37. It is not uncommon to alter or demolish the rear service wings of buildings. The rear of buildings is often the place for new uses and change to be accommodated. This is what has happened in this case and it is the usual place to make changes to a building of high quality.
38. When commercial and residential buildings are adapted, which is part of the conservation process, they often require expanding. It is common conservation practice to retain the principal forms of buildings, and the often intact front spaces, and remove or alter the rear wings which have undergone change or have no existing function due to changes in lifestyle over time. Not all buildings require a museum approach where the “upstairs/downstairs” life is maintained for interpretation to visitors. 84 Fitzroy Street is on the state register and has fabric of “considerable” significance by virtue of the principal, original sandstone part of the building. My experience at the National Trust in Victoria and NSW suggests that this is not a building that requires a museum approach. The extensive changes over time mean that it is not prudent and feasible to undertake a conjectural reconstruction. The service wing cannot be accurately restored to its 1880’s or 1929 appearance in any proper way.
39. The original brickwork of this wing has been poorly concrete rendered and in my opinion it is now impossible to successfully remove the render without significant damage to the brick surface, which would lead to continuing degradation of the fabric.
40. The important unaltered stone sections of 84 Fitzroy Street are appropriately graded as “B – Considerable Significance” in the Conservation Assessment Report. The resources available to conserve the building should be applied to that part of the building. 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.

41. The subject rear wing is a small percentage of the whole building and it is the area with the least identified significance. Notably, 87% of the building as it currently stands will be retained and refurbished. The rear wing which accounts for 13% of the building, has little significance, is confusing in its presentation and is difficult to view in the context of the streetscape that exists for Fitzroy Street.

PARAGRAPH 4 OF THE GROUNDS OF APPEAL

42. Paragraph 4 of the Grounds of Appeal Document provides the following ground of appeal:

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with the planning scheme and there are not sufficient grounds to justify the decision despite the conflict.

43. The Appellant has provided paragraphs 4(a)-(i) as particulars in support of the Ground of Appeal referred to in the preceding paragraph. Each of those particulars is addressed individually below.

The development application in proposing to demolish the rear of 84 Fitzroy street, conflicts with section 4.2.1 (city centre- key policy statements) of the planning scheme by not maintaining a high standard of amenity, with a cohesive streetscape character in which buildings of high heritage significance are protected and new development occurs in a compatible form. Further, the proposed development:

(i) does not maintain a high standard of amenity for the reasons listed in paragraph 3(b)- (f) above;

(ii) does not result in a comprehensive streetscape for the reasons stated in paragraph 3(b)-(f) above; and

(iii) is not in a compatible form because it will destroy part of the heritage listed place in circumstances where that part is structurally sound.

(Paragraph 4(a) of the Grounds of Appeal Document)

44. This matter has been discussed in paragraphs 25-30 above

45. A comprehensive streetscape is considered to include both sides along its length and the contribution of the buildings and places, including open space, to the street. In my opinion, when one considers the value of the streetscape it is the places that contribute to the whole of the street and which are clearly identifiable, which should be given the most weight. Valuable elements should present to the street and have memory or association to the community. It is considered that the subject rear wing is not a significant element that is regarded as a streetscape contribution to Fitzroy Street in these terms.

46. Structural soundness is not the only basis for retention. The significance of the place must be assessed and the policies for retention must flow from that assessment and a survey of condition. The evaluation of structural soundness is

something that is then looked at as a qualifier for conservation. I have considered significance and am of the view that there is little.

The development application in proposing to demolish the rear of 84 Fitzroy Street, conflicts with section 4.2.2 (City Centre- Intent) of the planning scheme by not protecting the heritage values of the building at 84 Fitzroy Street, being a building listed in Planning Scheme Policy 1- Cultural Heritage , for the reasons particularized in paragraphs 3(b)- (i) above.

(Paragraph 4(b) of the Grounds of Appeal Document)

47. The heritage values have been assessed and it has been determined that the demolition of the rear service wing maintains the heritage values of the building for the reasons discussed in paragraphs 7-24 above. The section does not prohibit whole or part demolition but requires impact assessment.

The development application in proposing to demolish the rear of 84 Fitzroy Street, conflicts with section 4.2.2 (City Centre- Intent) of the planning scheme in relation to the demolition of the building at 82 Fitzroy Street by not being compatible with the protection of the heritage values of the building at 84 Fitzroy Street, being a building listed in Planning Scheme Policy 1- Cultural Heritage, for the reasons particularized in paragraphs 3(b)- (i) above.

(Paragraph 4(c) of the Grounds of Appeal Document)

48. I have considered the heritage values of the building fabric of 84 Fitzroy Street. Notably, 82 Fitzroy Street is not a building that is listed in the Register of Cultural Heritage Places that appears in the Planning Scheme Policy 1 - Cultural Heritage. In my opinion, 82 Fitzroy Street is not relevant for the purpose of considering 84 Fitzroy Street and specifically the rear service wing.

The development application in proposing to demolish the rear of 84 Fitzroy Street, conflicts with section 4.2.5.2 (City Centre Development Code - Purpose) by not retaining the heritage qualities of the City Centre through the retention of highly significant and significant heritage places in a streetscape context which provides for sympathetic alterations to existing buildings and the incorporation of new development which is compatible with, and respectful; to, the existing streetscape character, for the reasons particularized in paragraphs 3(b)-(i) above.

(Paragraph 4(d) of the Grounds of Appeal Document)

49. The section refers to heritage qualities of highly significant and significant buildings in a streetscape context. For the reasons I discuss earlier in my report, I consider that the rear wing does not contribute to the significant streetscape context of Fitzroy Street in a meaningful manner. It provides for alterations to buildings and the incorporation of compatible new development. Change is a permissible part of the development process for heritage items.

50. The proposal maintains the significant fabric at 84 Fitzroy Street. The proposal does not impact detrimentally on the established streetscape character of Fitzroy Street.

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with section 4.2.1 (Impact Assessment Criteria- Material Change of Use- City Centre) because:

- (i) the rear of 84 Fitzroy street is of significance and conservation actions are feasible and viable as particularized in paragraph 3(b)- (i) above.***
- (ii) the rear of 84 Fitzroy Street has significance in terms of its historical, architectural, streetscape and other special value as particularized in paragraph 3(b)- (h) above;***
- (iii) a conservation study has not demonstrated, at least without taking into account irrelevant considerations in relation to the proposed shopping centre that is not the subject of this development application, that the demolition of the rear of 84 Fitzroy Street will not detract from the heritage significance of the building and will be compatible with the streetscape.***

(Paragraph 4(e) of the Grounds of Appeal Document)

51. I do not consider the rear of 84 Fitzroy Street, namely the service wing to have the significance that warrants conservation. It depends on what type of conservation action is suggested by this clause. The rear service wing is in such an altered state that it would have to be determined to what period and detail the building should be conserved to. There appears to be little evidence of the features of the building and much of the building has been significantly altered or replaced. It would not be feasible to restore the building to the 1880's period or the 1920's period in an accurate or meaningful manner and there appears be no evidence in relation to viability in this regard.
52. As discussed in paragraphs 7-30 above, I consider that the current rear service wing, due to its changes over time, loss of fabric and poor presentation, does not satisfy historic, architectural, streetscape or other special value. I consider the wing could be interpreted in the future from a historical perspective without the need for it to be retained.
53. There is only one conservation study to my knowledge of the building. The study by Watson Architects in 2008 is based on professional conservation principles and satisfies the current Australia ICOMOS philosophy. The International Council on Monuments and Sites, Australia, which defines the professional practice for heritage consultants, adopted this philosophy. The study was designed to inform the development of the subject sites and this is why it was commissioned. My conclusions reached about the lack of loss of heritage significance and lack of impact on the streetscape of the rear service wing have been based on this study, historical evidence, the QHR citation and an inspection of the site.

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with sections 4.2.5.2 (Purpose - City Centre Development Code) because it does not retain the heritage qualities of the City Centre through the retention of highly significant and significant heritage places in a streetscape context which provides for sympathetic alterations to existing buildings and the incorporation of new development which is compatible with, and respectful to, the existing streetscape character, as particularized in paragraph 3(b)-(i) above.
(Paragraph 4(f) of the Grounds of Appeal Document)

54. These matters have been discussed under paragraphs 25-30 above.

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with the performance objective for Heritage context in section 4.2.5.4 (Development Controls- City Centre Development Code) because it does not ensure that heritage places are retained in a context which is appropriate to an understanding of their cultural value and respectful of their design qualities, as particularised in paragraph 3(b)-(i) above.
(Paragraph 4(i) of the Grounds of Appeal Document)

55. The current rear service wing does not appear in its original form or even a later form that can be reasonably linked to any particular historical date. Unlike the front section of the building, it is impossible, without additional evidence, to deduce from the existing structure what the building looked like in detail in its earlier form. The fact that the building had a rear service wing can only be interpreted through the use of history and images.

The development application, in proposing to demolish the rear of 84 Fitzroy Street, conflicts with section 5.3.3.1 (Impact Assessment Criteria- Carrying Out Building Work) because:

- (i) the rear of 84 Fitzroy Street has significance in terms of its historical, architectural, streetscape and other special value as particularized in paragraph 3(b) – (h) above;***
- (ii) the rear of 84 Fitzroy Street is of significance and conservation actions are feasible and viable as particularized in paragraph 3(b)- (i); and***
- (iii) a conservation study has not demonstrated, at least without taking into account irrelevant considerations in relation to the proposed shopping centre that is not the subject of this development application, that the demolition of the rear of 84 Fitzroy Street will not detract from the heritage significance of the building and will be compatible with the streetscape.***

(Paragraph 4(h) of the Grounds of Appeal Document)

56. These matters have been addressed in the discussions above in relation to significance, feasibility, streetscape context and the Heritage Assessment Report.

SIGNED:



DATED: 21/07/2011

ANNEXURE A - CURICULAM VITAE OF STEPHEN DAVIES

Stephen Davies

Director, Heritage

Stephen Davies established Urbis Heritage in 2007 in response to a growing need for a quality heritage consultancy with 'in house' town planning, urban design and social planning & research skills. Urbis Heritage is a nationally operating heritage consultancy based in Sydney. By offering heritage conservation services within the infrastructure of a larger firm rather than being aligned to any architectural practice, Urbis Heritage can provide truly independent advice for clients. Urbis Heritage is a firm with varying backgrounds and expertise and collectively the company is experienced in providing a range of heritage services to a varied clientele.

Stephen Davies is experienced in all aspects of heritage management. A member of ICOMOS and an accredited environmental mediator, he has been an expert member of a number of government and local government committees and boards with responsibility for heritage items, including the Heritage Council of NSW. His work extends across small and major projects and as a former member of Woollahra Council, he has a unique understanding of the political and administrative decision-making process and is a skilled negotiator.

Qualifications and Affiliations

- 1996 Accredited Environmental Mediation
- 1978 Dip. Cons. Studies, York University, UK
- 1976 Dip. T&CP University of Sydney
- 1970 BA, Dip. Ed. Newcastle
- Member, ICOMOS
- Affiliate Member, AIA (2004-)
- Member, SEPP 65 Randwick/Waverley Design Review Panel (2004-2006)
- Member, NSW Government Sydney Harbour Reference Group (1998-2000)
- Councillor, Woollahra Municipal Council (1995-1999)
- Member, Heritage Council NSW (1990-1998)
- Board Member, State Records Authority of NSW (1 January 2006-)

Experience

In Dec 2007 Stephen was appointed by the Hon Frank Sartor, Minister for Planning, to a Ministerial Review Panel under the Heritage Act of NSW 1977 to provide expert advice on heritage issues relating to Currawong, as well as an Independent Panel of Experts under the Environmental Planning and Assessment Act 1979.

Also in December 2007 Stephen was appointed by the Minister for Planning to be part of a Heritage Review Panel, established under the Heritage Act, 1997(as amended) to review and make recommendations to the Minister on those places recommended by the Heritage Council of NSW to the Minister to be placed on the State Heritage Register.

Stephen is currently a Minister appointed Board Member, representing the private sector, on the State Records Authority in NSW. The Authority falls within the Jurisdiction of the NSW Department of Commerce.

Stephen has been selected on a number of occasions as a court appointed expert to assist the Land and Environment Court.

Stephen is often used as a facilitator and presenter in urban design and heritage matters where various representatives present their views. In the case of a proposed 'Aging in Place' residential project in Bondi in 2008 Stephen facilitated an expert panel process for the Benevolent Society of NSW. This project balances heritage, residential and amenity issues with a brief for an innovative social housing scheme.

Urbis (2007-) Director

As Director of Urbis (Heritage), Stephen manages his professional team in the preparation of:

- Conservation Management Plans;
- Heritage Impact Statements;
- Conservation supervision;
- Local Government Heritage studies and reviews;
- Demolition reports;
- Archival recordings;
- Interpretation strategies at both individual building and regional centres levels;
- Evidence to the Land and Environment Court.

City Plan Heritage (2000 – 2007) – Director

In 2002 Stephen was appointed to assist the Commission of Inquiry in the heritage aspects of a proposal for the conservation and adaptive reuse of the Quarantine Station at North Head, Manly. The Commissioner, William Simpson presented the report to Dr. Andrew Refshauge, Deputy Premier, Minister of Planning, Minister of Aboriginal Affairs and Minister for Housing in 2004.

Stephen was responsible for the same conservation activities as outlined above for Urbis, on a State level.

National Trust of Australia NSW & Victoria (1988-2000) – Deputy Director and Head, Conservation

In both New South Wales and Victoria, Stephen had a significant role in presenting to local government and planning committees and making representation to local and state government politicians. Major submissions included:

- Cemeteries Review in Victoria;
- HBC on the ANZ Gothic Bank development in Collins Street;
- Central Sydney Planning Committee on the GPO Site;
- NSW Minister for Planning, the Hon Craig Knowles, on the Heritage System Review; and
- Commissioner W Simpson on the Greater Central Sydney Planning Enquiry and the Parliamentary committee of enquiry into the Conservatorium.

Melbourne City Council, City Planning (1986 – 1988) – Team Leader Council's Strategy Planning Local Plans Branch:

- Stephen was responsible for local planning (outside the CBD) and for forward conservation planning for the City as a whole. Prepared Draft Residential Development Guidelines for the City of Melbourne 1987.

Department of Environment & Planning (NSW) Sydney Region West (1978 – 1986)

- Statutory Duties Blue Mountains and Blacktown, information branch, technical assistant to Director of Department, Heritage and Conservation Branch, Sydney Central Branch.

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