

Infrastructure, Planning and Natural Resources Committee

From: Kathy Davis
Sent: Thursday, 26 November 2015 9:01 PM
To: Infrastructure, Planning and Natural Resources Committee
Cc:
Subject: Submission from stakeholder, Katherine Davis of 'St John's Wood', 31 Piddington St, St John's Wood (Ashgrove 4060)
Attachments: Submission which will undoubtedly be ignored_Katherine Davis.docx

Erin Pasley
Research Director
Infrastructure, Planning and Natural Resources Committee

Dear Erin

Please find attached my submission.

I feel that I am almost a lone voice of protection for our State heritage register house, , and one of only about 102 State heritage register houses in Queensland that are still used for residential purposes. It is known as St John's Wood or The Granite House and is located at 31 Piddington Street, St John's Wood.

Following inappropriate two-storey development from front to back of the property at 35 Piddington Street, St John's Wood (Ashgrove 4060) adjacent to my neighbour whose house is on the Local Heritage Register and was once part of our house, I realised how at risk our house is with five adjoining neighbours.

Heritage overlays have no meaning in our locality of St John's Wood which does not have protection for character housing or from demolition. This was proven with the development of 35 Piddington Street, which is within the heritage overlay but still went ahead. Being code assessable, it took six weeks for approval to be given for lot reconfiguration. No heritage impact assessment report was required.

From June 2015, I campaigned to Brisbane City Council to secure a requirement for a heritage impact assessment report to be done on proposed development adjacent to heritage places. On September 1, the Lord Mayor stated in Civic Cabinet that Council would start the 12 to 18 month process required for a Major Amendment to the City Plan. On 30 September, the owner of a low set house directly in front of the entrance to St John's Wood applied for one siting variation to Brisbane City Council. Later, a BCC assessor found that the plans included 7 siting variations. All were approved within two weeks.

On Wednesday 8 July, Labor candidate for Ashgrove, Shane Bevis, visited 'St John's Wood'.

On August 2, I met with Environment and Heritage Protection Minister, Steven Miles, and Assistant Minister Stirling Hinchliffe at Community Cabinet and was told to become involved in community consultation for the Planning Review.

I submitted an online response ANON-FY2S-KST4-A on 18 September. I attended Meet A Planner at Annerley on 30 September.

On 9 October, two senior officers of the Brisbane City Council, the Principal Officer Built Environment, Compliance & Regulatory Services and the Business Manager, Built Environment, visited me to see the impact of the proposed development and to explain the laws, regulations and codes that they needed to comply with, which provide neighbours with no opportunity to object. On 12 October, the assessment officer visited me and confirmed that the development would go ahead as planned. The developer/property owner is imminently demolishing a one storey house and plans to build a two storey six bedroom house across most of the block in January 2016.

On 9 October, after going through the Draft Planning Bill, the Planning (Consequential) and Other Legislation Amendment Bill and sections 68 to 70 of The Heritage Act, I emailed a full and detailed submission to the Planning Review Team and copied it to Steven Miles' office and the offices of the Deputy Premier and my local member, Kate Jones, with whom I have met twice since June 2015.

On Sunday 8 November, at a planning forum in The Gap, Lord Mayoral candidate, Rod Harding, gave a public commitment to keep Lord Mayor Graham Quirk's Major Amendment to the City Plan 2014, that I campaigned for, requiring the highest level of impact assessment for housing development adjoining State Heritage houses. Mr Harding vowed publicly to be vigilant in relation to heritage protection.

On Thursday 12 November, Lord Mayoral candidate, Rod Harding visited 'St John's Wood'.

None of my representations to the State Government were considered when the Planning legislation was drafted. I fully expect that this submission will be ignored as well.

Kind regards,

Kathy Davis
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Infrastructure, Planning and Natural Resources Committee

From: Kathy Davis
Sent: Thursday, 10 December 2015 8:46 AM
To: Infrastructure, Planning and Natural Resources Committee
Subject: Re: Submission from stakeholder, Katherine Davis of 'St John's Wood', 31 Piddington St, St John's Wood (Ashgrove 4060)
Attachments: Frankie Carroll_DG_Kathy Davis_SJW_31 Piddington St.docx;
_31 Piddington St, Ashgrove_Dec 2015_Treescience Pty Ltd_version ONE.pdf

Categories:

Dear Erin

Please may I make a further submission to the Infrastructure, Planning and Natural Resources Committee?

It involves the few paragraphs contained in this email and the attached letter and Tree Protection Management Plan.

- I think that the main action for the new State legislation would be for it to consider the assessment of sites which adjoin heritage places to be put back into the Act. The reason for this is that it would align with the Burra Charter by fully considering the setting of a place. This setting should be described fully in the QHR summary, and the local government citations, and may take into account property beyond the heritage adjoining sites, such as for heritage places which started out as a central homestead on a large lot which has then been subsequently subdivided over the years, of which our State Heritage place ID 601506 is an example. A further example of how the current legislation does not consider heritage adjoining sites and has not worked would be the recent Regent Theatre debacle which saw heritage fabric (horsehair decoration and gargoyles) outside the heritage curtilage tossed into the skip.
- Also, heritage curtilages should not be used to reduce the heritage significance of the site so that the remainder of the site becomes heritage adjoining and then the adjoining sites become of no heritage significance. However, they should still be used to lessen the administrative processes for minor work on buildings which are not of heritage significance, such as one heritage listed building within a school.
- Also, heritage place sites should not be allowed to be subdivided. The reason for this is that any subdivision is likely to affect the heritage significance of the place, not just because of views either to or from the place.

In the case of our State Heritage place, code assessability has resulted in no protection to the house or grounds from adjoining development which will forever affect our house and remove site lines from Laird Street. With demolition of 4 Laird Street, excavation and building of a two storey six bedroom house imminent, we have been forced to commission an arborist's report. This is to protect tree roots on the boundary and to provide a baseline for the Brisbane City Council and State heritage authority which are responsible for ensuring preservation of the setting of the grounds of a State Heritage house when the grounds are listed in the citation.

This report is in the form of a Tree Protection Management Plan (TPMP), for which the commissioned arborist has copyright. It is not for publication or distribution except for consideration of protection of trees in the grounds of our State Heritage place. Also attached is my letter to the incoming DG of SARA. If you require publication of the TPMP, I would have to seek permission.

Under previous legislation prior to the introduction of SARA, the application for the 4 Laird Street development would have involved more consideration regarding heritage impact, comments from the Heritage Branch of DEHP, and, would possibly have required a setback of the swimming pool which is to be built less than 4.5 metres from the entrance of our State Heritage house and less than a metre from our boundary hedge.

Best regards,

Kathy Davis
'St John's Wood'
31 Piddington Street
St John's Wood (Ashgrove) Q 4060

ATTACHMENTS TO SUBMISSION NO. 1

There are serious accountability and transparency shortfalls in the Government's proposed new planning and development assessment laws, mainly due to too much flexibility surrounding decision-making that tends to favour developers' interests over the community.

The Government's bills are only marginally ahead of the Opposition Bills.

I am particularly concerned the government has decided to continue with its single assessment system, SARA, which weakens the role of specialist departments such as the Department of Environment and Heritage Protection.

We need specialist departments to have a strong decision-making role in planning and assessment decisions and the Bills in question have removed these protective powers.

We need strong, clear planning legislation to protect our heritage places and the environment for the future and to protect the community's right to have their say on development that affects the places that matter to them.

Both sets of planning laws will further entrench the presumption of development approval by weakening controls on code assessable applications.

They also reduce the community's rights to oppose development that does not comply with local plans and planning schemes. This is unfair and lacks transparency.

We are already seeing rising discontent in the community, particularly in south-east Queensland, as people find 15 and 20 storey apartment buildings approved where plans allowed just 6 and 12 storeys.

At the same time, scarce parkland and important koala habitat are being removed from protected zones and made available for development.

The planning system is broken and despite my six months of communication with the State Government, your Bills have allayed none of my concerns.

You cannot blame local Councils and their town planning when key legislation to protect environment and heritage has to come from the State Government.

Cultural heritage conservation is a fairly abstract concept. Different societies develop their own interpretations of what it means to the people in that particular society, and implement legislative and policy frameworks in a form that is sufficiently acceptable to be enacted as a binding, overarching system of expectations and associated penalties.

Queensland embarked on its formal cultural heritage conservation journey during the mid-1970s, when the effects of Gough Whitlam's heritage commission were felt in the compilation of the Register of the National Estate.

This occurred against a local background of economic growth and development, spurred by the efforts of Brisbane Lord Mayor Clem Jones during the 1960s and 1970s, and Premier Joh Bjelke-Petersen's government.

Brisbane residents discovered the limits of their tolerance for change when a couple of their iconic landmark buildings, Cloudland Ballroom and the Bellevue Hotel, were demolished. Premier Bjelke-Petersen's subsequent efforts at self-redemption by saving Queensland's National War Memorial at ANZAC Square from Lord Mayor Jones' determined efforts to turn it into a commercial car park, and by repairing and conserving the Parliament buildings, did not lead the community to forgiveness.

In the ANZAC Square battle, local conservation activists formed a coalition to protect the place from development, and this in turn coalesced into the National Trust (Queensland).

During the 1980s, the National Trust honoured a number of places with recognition on their heritage register, and this non-statutory list bolstered a sense of pride in those property owners who, through their hard work, effort and investment, continued to maintain and look after privately owned places that had resonance with the wider community.

In 1990 this situation abruptly came to an end when the State Government introduced draconian heritage legislation that unilaterally removed owners' rights to continue to look after their heritage properties as they saw fit. The list of affected properties was based on the Trust's list.

This was followed by the enactment of the Queensland Heritage Act 1992 that restored owners' rights to make changes to their property subject to a new overarching framework of legislative requirements and penalties.

Those who took greatest offence tended to be those owners who, through their hard work, had demonstrated the greatest adherence to conservation values. These people naturally resented the State's implication, backed by force, that they were no longer assumed to be fit custodians and were subject to the intervention of others if they were to continue to maintain their property in accordance with the law.

As with any new legislation, the Heritage Act contained a spectrum of untested provisions including some very powerful deterrents. The people charged with the task of implementing the Act were drawn from various disciplines across the wide spectrum of heritage conservation, and tended to bring a particular zeal to the task of bringing the light of best practice cultural heritage conservation to Queensland.

This potent combination of powerful legislation, proponents' strong belief in Queensland's need for a new and superimposed conservation philosophy, and a large body of offended property owners, sparked off some vigorously fought battles between the State and private property owners attended by

lurid press coverage that did little to endear Queenslanders to the new concept of heritage conservation.

As the years passed, it gradually transpired that the State's intentions were largely benevolent, and that the traditional conservatism of Queensland property owners could be trusted and relied upon in the matter of leaving them to maintain and look after their principal investment, their home.

During this time the larger local councils such as Brisbane and Ipswich quietly and without causing much offence compiled planning scheme overlays of their older buildings and public spaces, and put in place some reasonably inoffensive codes that protected public amenity without unduly compromising owners' capacity or enthusiasm for maintaining their properties.

A natural convergence occurred between State and Council aspirations, and the outcome was a general relaxation of scrutiny of private owners of heritage properties. For one thing, the heritage legislation was largely unenforceable without invading the private properties of owners; for another, the public effort of resourcing such invasive scrutiny was unsustainable and tended to be politically unpopular.

Queensland's first integrated planning legislation in 1997 was a shotgun marriage that set out to roll all of the planning and land development Acts into one framework based around environmental sustainability principles. The Heritage Act was one of the most difficult pieces of separate legislation to fit into the sustainable planning legislation, being based almost entirely on subjective assessments by specialist professionals in the field of cultural heritage conservation.

However the marriage was eventually consummated, and the Heritage Act requirements were subsumed into a planning layer that codified expectations in concert with the other planning and development matters.

In Brisbane, this acted to mitigate the anticipated allowable development intensity on land, in accordance with the degree to which this land possessed existing and identifiable qualities that mattered to the community.

Character buildings were mapped, and the map overlaid as a planning scheme constraint with an associated code for managing changes to these identified properties. State and local heritage places were similarly mapped, and codes put in place.

In an attempt to smooth out the topography of heritage values, adjoining properties to registered heritage places were identified as another layer in the planning scheme, so that impacts on the cultural heritage values could be mitigated as part of any development assessment process.

In the court of public opinion, this challenged peoples' rights to develop land as they saw fit and in ways that were otherwise acceptable and in accordance

with development codes such as those for detached residential housing on land allocated for this purpose in the planning scheme.

Central to the issue is the question of 'why should I spend my hard-earned money and suffer constraints on my right to do what I want on my own property, for the sake of another property owner?'

Queensland's worked solution to gaining the wider community's acceptance of cultural heritage conservation was to allow the real estate market time to realise that 'heritage' properties usually carried a premium value that made them desirable and coveted assets within an 'old charm' niche of the property market.

In conjunction with land use constraints, these properties would always be more valuable, all things considered, than the neighbouring 'non-heritage' properties.

This focus on asset value was turned on its head at around the time that the Newman government took office.

In the social initiatives of this period, the State Government focused on matters of peoples' safety, and freedom from bureaucratic interference. These social initiatives included the enactment of pool safety laws, and fencing and vegetation laws, that sought to put social considerations before asset considerations.

With the ongoing turnover of governments, there may be potential for a natural re-balancing to occur between social and asset values in the community.

Given that that cultural heritage conservation is a fairly abstract concept and a repository of contemporary community values, its practice is intimately responsive to the social constructs and expectations of its community as it participated in the ongoing manifestations of democracy in Queensland.

As a State Heritage Register home-owner who has since 1987 been responsible for cultural heritage conservation, I have had ample time to map the ebbs and flows of community sentiment and to chart the legislative embrace that the community has been prepared to accept.

Development adjoining our house on land at 4 Laird Street, Ashgrove, directly in front of the entrance to 'St John's Wood', Place ID 601506, is due to take place in January 2016. We, the heritage home-owners, were allowed no opportunity to object as the project was code assessable.

The philosophical underpinnings of cultural heritage conservation embody a respect for the cumulative achievements of previous generations of people on a property.

Central to this is the retention and maintenance of a building, fit to accommodate the needs and aspirations of each successive generation of owners; however the garden setting and outbuildings also provide a sense of place and utility that confirms the value of previous owners' investment of time, cost and effort.

The process is deterministic, and bad choices lead to the demise of the property's values; whereas good choices lead to the ongoing accretion of value that maintains the property's desirability for the wider community.

A beautiful, valuable and desirable property such as ours is highly attractive to a neighbour, particularly if it is subject to heritage constraints. A non-heritage residential property owner can build to the maximum building envelope and enjoy the views, open spaces, gardens and amenity of our neighbouring heritage property. We as heritage property owners do not enjoy the same freedoms and are constrained by legislation to maintain the status-quo. The prospect of the non-heritage residential property owner being built out by a new block of flats or townhouse development on the heritage property is remote.

Accordingly, it is not unusual for a development adjoining a heritage place to seek to 'borrow' its neighbour's space rather than to incorporate its own garden spaces.

This is the case with 4 Laird Street and has brought about an unjust situation where the more attractive the neighbouring open space, protected by heritage constraints, means the more likely it is that an adjoining owner will fill their entire block with built construction.

The structural unfairness in this situation is exacerbated, as in our case, because our heritage property has a larger area than the neighbouring residential lots and would, but for its heritage constraint, enjoy a commensurately greater potential for intensification of use.

During the 1990s this unfairness was mitigated, to some degree, by the introduction of land valuation measures that recognised the development constraint over heritage places and reduced their owners' rates and taxes accordingly. Planning scheme overlays for land adjoining a heritage place were another means of mitigation.

At 4 Laird Street, St John's Wood (Ashgrove 4060) the new owner has received Council approval to construct a large house that has a swimming pool on the common boundary with the registered State and Council heritage place at 31 Piddington Street, St John's Wood (Ashgrove 4060) known as 'St John's Wood'.

Evidently the 'property adjoining a heritage place' requirements that formerly existed under the planning scheme have been retracted, and the heritage authorities may now sit back and enjoy the spectacle of a responsible heritage property owner being assaulted, quite legitimately, by the expectations of a

new owner of the adjoining property as they implement their property rights under current legislation.

Nothing is perfect, however, and despite the best efforts of legislators there still exist areas of implicit conflict between the various overlays of constraints and expectations that bind property owners under State and council legislation.

Application of the *Queensland Heritage Act 1992* vs. *Building Act 1975* and *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*

The land at 31 Piddington Street, Ashgrove is permanently entered in the Queensland Heritage Register and is subject to the requirements of the *Queensland Heritage Act 1992*.

Significance

Criterion A The place is important in demonstrating the evolution or pattern of Queensland's history.

St John's Wood, the first major house in the suburb of St John's Wood, gave the suburb its name, and plays a key role in demonstrating the pattern of settlement and growth of Brisbane's north-western suburbs.

Criterion B The place demonstrates rare, uncommon or endangered aspects of Queensland's cultural heritage.

St John's Wood is significant for its rarity because it is an 1860s house built primarily of granite quarried in the vicinity.

Criterion D The place is important in demonstrating the principal characteristics of a particular class of cultural places.

The 1860s stone residence is significant for its aesthetic quality, craftsmanship and intactness, including the internal cedar joinery, skylight, plaster ceiling roses, stonework and original beech floors. The house and grounds are significant also for their landmark quality.

Criterion E The place is important because of its aesthetic significance.

Description

The 1860s stone residence is significant for its aesthetic quality, craftsmanship and intactness, including the internal cedar joinery, skylight, plaster ceiling roses, stonework and original beech floors. The house and grounds are significant also for their landmark quality.

St John's Wood is a single storey residence, square in plan and built of granite with a hipped roof sheeted with corrugated iron. It is surrounded on all sides by verandahs supported by timber posts. The four brick chimneys have brick string courses and caps.

An entrance in the eastern façade is centrally located under a projecting portico with gable. The pediment has understated timber detailing and is supported by three verandah posts on each side. This was originally the front entrance. The double cedar door has glazed sidelights and a semi-circular fanlight. The southern side of the house has now become the street frontage. French doors open onto the verandahs from all major rooms except the ballroom.

Internally, the front door opens into an entrance hall which opens to the ballroom, the principal room in the house. The ballroom is lit by a skylight set into a rectangular roof lantern. The ballroom is surrounded by the remainder of the house. Pressed metal ceilings feature throughout the house and are emphasised by the height of the ceilings and the polished timber floors. Detailing is fine with extensive cedar joinery and marble fireplaces to the main bedroom, living and dining rooms.

To either side of the entrance hall are two equally proportioned rooms. The remaining rooms open from the ballroom. The southern wing contains the dining and the modern kitchen. The northern wing houses two bedrooms, one of which contains an ensuite bathroom. To the south a modern brick laundry and guesthouse are connected to the house by a covered walkway. The remaining garden and mature trees provide a pleasant and private setting for the house.

Firstly, a neighbour is bound by the Heritage Act requirements, every bit as much as the owner of the heritage listed property. It is relevant here to re-state the object of this Act.

QUEENSLAND HERITAGE ACT 1992 - SECT 2

2 Object of this Act

(1) The object of this Act is to provide for the conservation of Queensland's cultural heritage for the benefit of the community and future generations.

(2) The object is to be primarily achieved by—

(a) establishing the Queensland Heritage Council; and

(b) keeping a register of places and areas of State cultural heritage significance called the Queensland heritage register; and

(c) requiring the reporting of the discovery of archaeological artefacts and underwater cultural heritage artefacts; and

(d) providing for the identification and management of places of local cultural heritage significance by local governments; and

(e) regulating, in conjunction with other legislation, development affecting the cultural heritage significance of Queensland heritage places; and

(f) providing for heritage agreements to encourage appropriate management of Queensland heritage places; and

(g) providing for appropriate enforcement powers to help protect Queensland's cultural heritage.

(3) In exercising powers conferred by this Act, the Minister, the chief executive, the council and other persons and entities concerned in its administration must seek to achieve—

(a) the retention of the cultural heritage significance of the places and artefacts to which it applies; and

(b) the greatest sustainable benefit to the community from those places and artefacts consistent with the conservation of their cultural heritage significance.

It is also worth re-stating the intent and definitions of the Sustainable Planning Act 2009 that seeks to integrate development matters in Queensland.

SUSTAINABLE PLANNING ACT 2009 - SECT 3

3 Purpose of Act

3 The purpose of this Act is to seek to achieve ecological sustainability by—

(a) managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes; and

(b) managing the effects of development on the environment, including managing the use of premises; and

(c) continuing the coordination and integration of planning at the local, regional and State levels.

SUSTAINABLE PLANNING ACT 2009 - SECT 4

4 Advancing Act's purpose

(1) If, under this Act, a function or power is conferred on an entity, the entity must—

(a) unless paragraph (b) or (c) applies—perform the function or exercise the power in a way that advances this Act's purpose; or

(b) if the entity is an assessment manager other than a local government—in assessing and deciding a matter under this Act, have regard to this Act's purpose; or

(c) if the entity is a referral agency other than a local government (unless the local government is acting as a referral agency under devolved or delegated powers)—in assessing and deciding a matter under this Act, have regard to this Act's purpose.

(2) Subsection (1) does not apply to code assessment or compliance assessment under this Act.

SUSTAINABLE PLANNING ACT 2009 - SECT 7

7 Meaning of development

7 Development is any of the following—

(a) carrying out building work;

(b) carrying out plumbing or drainage work;

(c) carrying out operational work;

(d) reconfiguring a lot;

(e) making a material change of use of premises.

SUSTAINABLE PLANNING ACT 2009 - SECT 8

8 Meaning of ecological sustainability

8 Ecological sustainability is a balance that integrates—

- (a) protection of ecological processes and natural systems at local, regional, State and wider levels; and
- (b) economic development; and
- (c) maintenance of the cultural, economic, physical and social wellbeing of people and communities.

SUSTAINABLE PLANNING ACT 2009 - SECT 10

10 Definitions for terms used in development

(1) In this Act—

building work—

1 Building work means—

building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building or other structure; or work regulated under the building assessment provisions, other than IDAS; or excavating or filling—

for, or incidental to, the activities mentioned in paragraph (a); or that may adversely affect the stability of a building or other structure, whether on the land on which the building or other structure is situated or on adjoining land; or

supporting (whether vertically or laterally) land for activities mentioned in paragraph (a).

2 Building work, for administering IDAS in relation to a Queensland heritage place, includes any of the following—

altering, repairing, maintaining or moving a built, natural or landscape feature on the place;

excavating, filling or other disturbances to land that damage, expose or move archaeological artefacts or underwater cultural heritage artefacts, as defined under the Queensland Heritage Act 1992, on the place;

altering, repairing or removing artefacts that contribute to the place's cultural heritage significance, including, for example, furniture and fittings;

altering, repairing or removing building finishes that contribute to the place's cultural heritage significance, including, for example, paint, wallpaper and plaster.

3 Building work, for administering IDAS in relation to a Queensland heritage place, does not include development for which an exemption certificate has been issued under the Queensland Heritage Act 1992.

4 Building work does not include undertaking—

operations of any kind and all things constructed or installed that allow taking or interfering with water, other than using a water truck to pump water, under the Water Act 2000; or

tidal works; or

work for reconfiguring a lot.

SUSTAINABLE PLANNING ACT 2009 - SECT 11

11 Explanation of terms used in ecological sustainability

11 For section 8—

- (a) ecological processes and natural systems are protected if—
the life-supporting capacities of air, ecosystems, soil and water are conserved, enhanced or restored for present and future generations; and biological diversity is protected; and
- (b) economic development takes place if there are diverse, efficient, resilient and strong economies (including local, regional and State economies) enabling communities to meet their present needs while not compromising the ability of future generations to meet their needs; and
- (c) the cultural, economic, physical and social wellbeing of people and communities is maintained if—

well-serviced and healthy communities with affordable, efficient, safe and sustainable development are created and maintained; and areas and places of special aesthetic, architectural, cultural, historic, scientific, social or spiritual significance are conserved or enhanced; and integrated networks of pleasant and safe public areas for aesthetic enjoyment and cultural, recreational or social interaction are provided; and potential adverse impacts on climate change are taken into account for development, and sought to be addressed through sustainable development, including, for example, sustainable settlement patterns and sustainable urban design.

The owner is required under law to protect and to maintain the significant aesthetic quality, craftsmanship and intactness of the 1860s stone residence. So, the neighbour carrying out excavation works on the property boundary, has the potential to cause vibrations that could damage the masonry structure of our 151 year-old stone building, or that could cause subsidence of the ground of the heritage place, particularly on the boundary where a swimming pool is to be built.

We, the owners are expected to maintain and protect the house and grounds that have State significance for their landmark quality. This means that views in and out of the property are protected; that the community should not lose the visual appreciation of its oldest house. People who are developing adjoining properties that have potential to diminish the landmark qualities of the heritage place are similarly expected to respect this significance and not to diminish it. This means not building out the community's landmark views of its oldest house; nor blocking the views from the heritage place. However, this will occur in January 2016 with the building of a two storey maximum height house across most of the 4 Laird Street block. Seven building relaxations have been allowed by Council in accordance with State and Federal Government legislation, regulations, codes and provisions.

As owners my husband and I have spent 28 years caring for and maintaining the remaining garden and mature trees that provide a pleasant and private setting for the house. Within this setting are trees that are some of Queensland's earliest plantings, which are rare in their own right.

An owner cannot willy-nilly destroy the pleasant and private setting of the house, and nor should a neighbour's actions be allowed to destroy this significant quality of the heritage place nor any of the vegetation that contribute to the aesthetic appreciation of the property.

It is unfortunate, and unfair, that current legislation allows potentially damaging development to occur as of right on the common boundary of a heritage place, that discriminates against the careful efforts of a heritage property owner in favour of a neighbour whose development plans demonstrate no regard whatsoever for the embedded cultural values of the neighbourhood into which they have bought.

St Johns Wood was built in the 1860s on a large rural estate outside the town boundary, for reasons of seclusion, privacy, and enjoyment of an open space vegetated setting. The social and historical authenticity of the heritage place rests in the preservation of these qualities.

During the past century and a half the place has retained its essential open space and garden setting, despite the surrounding residential property development that followed from Queensland's growth after each of the two world wars.

It would be an indictment of the State and Local governments, and a major dereliction of their responsibilities toward the sustainable management of Queensland and Brisbane's cultural resources, if the significant cultural values of 'St John's Wood' were to be damaged and partially destroyed through insensitive development adjoining. This will occur in January 2016.

More to the point, the legislative framework of expectations made explicit in the Queensland Heritage Act 1992 and the Sustainable Planning Act 2009, which are binding on the people who administer these Acts, should ensure that the responsible discharge of your duty of care will be a guarantee of protection to all of Queensland's heritage property owners and ensure that nothing occurs at a heritage place that has any adverse impact on cultural heritage significance value; nor on any building fabric, structure or vegetation that contributes to this value.

In my experience, State and Council are seldom keen to reverse a legally issued development permit. There is a daunting amount of legal work involved, and the penalties, if it reaches that point, are seldom very onerous. Heritage conservation practice tends to rely on prevention, rather than cure.

Once a heritage element is destroyed, it's gone forever; and much of the legislation is focused on deterrence before the fact.

One of the necessities introduced under the integrated and sustainable planning legislation has been the need to identify, record, document, assess, and evaluate any physical fabric that is considered to have cultural heritage significance. We have made these visual and written recordings, so that if our

house and its setting suffer adverse impacts as a consequence of development on the common boundary, I will provide to the relevant heritage authorities, State and Council, a baseline record of the property's significant fabric; so that:

The extent and nature of existing significant items on the heritage place is made explicit to the heritage authorities; and

Potentially adverse impacts on existing significant items on the heritage place may be avoided during the development approval process; and
In the event of any adverse impact arising from development of an adjoining property, the authorities may take any steps necessary to assist us as heritage property owner in recovering the state and condition of the heritage property at the time before development works commenced.

Not only will this action assist the authorities in discharging their responsibilities towards Queensland's cultural heritage places; it will also protect us, the heritage property owners by ensuring that the authorities understand that any development damage to a heritage place has not come about through our actions.

For the State heritage authorities and SARA to fail in their duty to protect all of our restoration and conservation efforts and hard work would expose a dereliction that the State and local Governments cannot afford, because it would expose your legislation as a paper tiger and would set a deeply unfortunate precedent that would be unlikely to pass unnoticed by other developers, and, through the media, by the larger community whose support Governments rely upon to retain their positions of authority.

I regret that in your legislation you have removed powers from the heritage authorities who are supposed to be our champions in protecting and retaining our property as it stands; a testament to our 28 years of care and maintenance in accordance with the highest standards of Queensland conservation practice.

While the developer of 4 Laird Street, St John's Wood (Ashgrove 4060) is armed with absolute certainty of his rights under current planning and building legislation, he is nonetheless a raw novice when it comes to appreciating the privileges of being part of such a long-established community as St John's Wood, and respecting the qualities that make this place special – qualities that we defend and manifest as the owners of the first house built in this locality.

The soon to be developed block at 4 Laird Street was originally the main carriage entrance to our heritage place, yet the design of the house to be built in January 2016 does not appropriately reflect the historical significance of their land. It will be built across most of the block and will obliterate sight lines to 'St John's Wood'.

You have ignored the opportunity for heritage legislation to show its teeth, and failed the test. Queensland heritage property owners, who have for so many years patiently endured and suffered the imposition of heritage constraints on their properties, often at the expense of their extra cost, time and difficulty, are watching.

Will 28 years of tireless best practice conservation by the owners of the heritage-listed St John's Wood property be rewarded by indifference and playing dead by the heritage and planning authorities?

This development matter has, however unlikely, the elements of a crucible that has the potential to severely test all of the accepted tenets of Queensland's cultural heritage conservation practice and regulation.

The same test will undoubtedly recur throughout Queensland's heritage places, diminishing the mutual respect and trust that years of hard conservation work had inculcated in the community of heritage place owners and legislators.

Quite simply, I don't think that the State Government can afford to let down and betray our rights as owners and conservators of 'St John's Wood'.

If you continue to ignore solid evidence from heritage experts and heritage place owners of the lack of protection caused by reducing the powers of the heritage authorities and transferring these powers to SARA, it will be a very dark day for the ethos and practice of cultural heritage conservation in Queensland. It will bring the State a step closer to the time when other heritage property owners might seek to rise up and to cast off the heritage shackles that bind them.

Frankie Carroll
Director-General of the Department of Infrastructure,
Local Government and Planning
GPO Box Box 15009, City East, Queensland 4002

7 December 2015

Dear Mr Carroll

We are owners of a State Heritage Register Place, ID 601506, Lot 2 on RP 88982, at 31 Piddington Street, St John's Wood (Ashgrove) QLD 4060.

Following State planning legislation changes by the Newman Government, the introduction of SARA, and the ease of code assessibility for development on an adjacent property at 4 Laird Street, St John's Wood (Ashgrove), we are faced with impending demolition of an existing house, excavation in December 2015 of a swimming pool on the boundary with our heritage place and construction of a much larger two storey house across most of the block. This over-development has been made possible by State Government legislation, which enabled code assessibility under CityPlan 2014.

Our 1864 house has fewer protections than character housing in a no demolition area.

As the Queensland Government has removed protections that previously existed with concurrent agencies and the requirement for heritage impact assessment comments from the Heritage Branch, we are forced to draw at straws to find codes, standards, and regulations that might protect a State heritage registered property and grounds worth of protection by the State Government and Brisbane City Council . . . yet relatively unprotected.

We are worthy conservators of our heritage place and, thus, we have had identified, recorded, documented, assessed and evaluated the trees which form a hedge between our property at 31 Piddington Street, St John's Wood (Ashgrove) and 4 Laird Street, Ashgrove or Lot 5 on RP 89989 – application number: 004226987 – that could potentially suffer adverse impacts as a consequence of development.

We have provided the Brisbane City Council and the DEHP Heritage Branch with this information as a baseline record of relevant aspects of the property's State heritage protected garden; so that its existing extent and nature will be made explicit to the BCC and the Queensland Government. We expect that the recommendations made in the attached Tree Protection Management Plan will be fully considered and acted upon.

As custodians of State Heritage Register Place ID 601506 we intend to prevent adverse impacts on existing significant items on the fabric of the building and the grounds of this heritage place, that may be avoided during the development/building approval process and we expect that the Brisbane

City Council will assist us in this impact prevention. The attached report is intended to assist the State Government and the BCC in discharging their responsibilities towards Queensland's cultural heritage places and protect us as heritage property owners by ensuring government understanding that any development damage to this heritage place has not come about through our actions.

The land at 31 Piddington Street, Ashgrove is permanently entered in the Queensland Heritage Register and is subject to the requirements of the *Queensland Heritage Act 1992*.

Significance

Criterion A The place is important in demonstrating the evolution or pattern of Queensland's history.

St John's Wood, the first major house in the suburb of St John's Wood, gave the suburb its name, and plays a key role in demonstrating the pattern of settlement and growth of Brisbane's north-western suburbs.

Criterion B The place demonstrates rare, uncommon or endangered aspects of Queensland's cultural heritage.

St John's Wood is significant for its rarity because it is an 1860s house built primarily of granite quarried in the vicinity.

Criterion D The place is important in demonstrating the principal characteristics of a particular class of cultural places.

The 1860s stone residence is significant for its aesthetic quality, craftsmanship and intactness, including the internal cedar joinery, skylight, plaster ceiling roses, stonework and original beech floors. The house and grounds are significant also for their landmark quality.

Criterion E The place is important because of its aesthetic significance.

Description

The 1860s stone residence is significant for its aesthetic quality, craftsmanship and intactness, including the internal cedar joinery, skylight, plaster ceiling roses, stonework and original beech floors. The house and grounds are significant also for their landmark quality.

Our provision of the attached Tree Protection Management Plan by Treescience Pty Ltd not only is to prevent damage to our boundary trees and grounds but also so that in the event of any adverse impact arising from development of the property adjoining State Heritage Register Place ID 601506, Lot 2 on RP 88982, our State and Local governments may take any steps necessary to assist us, the heritage property owners, in recovering the

state and condition of the heritage property, including grounds, at the time before development works commenced.

The provision of this TPMP will assist our State and Local governments in discharging their responsibilities towards an important Queensland cultural heritage place.

I have requested that BCC, under the provisions of the *Building Act 1975*, provide us with a complete set of BA and/or building certifier approved construction drawings of the proposed development for evaluation of any potential cultural heritage impacts of the demolition and excavation for a swimming pool on our boundary line, allowing us to notify the State heritage branch accordingly, for their action.

I have had verbal confirmation from BCC that an excavation of some 2.5 metres to 3 metres depth is proposed on the land immediately adjoining our heritage place. The risks this entails to our trees planted .9 of a metre away include potential land subsidence, retaining wall construction involving destruction of tree roots, potential loss of trees in a heritage protected garden, salt water ingress from swimming pool splash-over into tree root systems and subsequent death of trees, and unacceptable adverse impacts on identified cultural heritage fabric and values comprising remaining garden and mature trees that provide a pleasant and private setting for the house and include a tree with high cultural significance in its own right.

This rare, significant historical tree is a 140 year old *camellia japonica anemoniflora*, believed to be the only one of this age in Queensland, which was from Camden Farm and William Macarthur (botanist son of John and Elizabeth Macarthur).

I also note the regulations in the Building Act that apply to pool fences, and that there may be potential conflict between the intent of the *Building Act 1975* and the intent of the *Queensland Heritage Act 1992*. In particular, I note that the statutory requirements for safe and compliant pool fencing may be incompatible with the ongoing retention of the remaining garden and climbable trees on our side of the boundary line.

This is an important matter, the resolution of which, in my view, is the primary responsibility of the BCC and State Government authorities including the Heritage Branch and SARA.

I recommend that heritage officers in State and Council heritage agencies hold discussions with my husband, Eric Victor, and me, and with your counterparts responsible for administration of the *Building Act 1975*, and that the focus of the discussions should be to reach an agreed solution that retains and protects all of the existing cultural heritage values and fabric of the heritage place, including our boundary plantings.

Under advice from the relevant authorities, the outcomes of such discussions should be shared with the developer of the property at 4 Laird Street, St

John's Wood (Ashgrove) or Lot 5 on RP 89989 so that the potential for misunderstandings, and subsequent need for reparations, is avoided or minimised. I would appreciate your heritage officers speaking with their counterparts in the BCC and facilitating such a meeting as a matter of urgency before excavation commences.

As custodians of a very special place on the State and Local heritage registers, we take our role seriously and we know that you would approve of the extent to which we conserve our carefully tended mature garden and house. In November 2015, we replaced the 151 year old roof and restored the ballroom walls, floors and ceiling. I understand that demolition will commence in December with construction in January 2016 and as the matter is urgent, I look forward to your timely response.

Yours sincerely,

Kathy Davis
31 Piddington Street
St John's Wood (Ashgrove) Q 4060
Attachment: Tree Protection Management Plan by Treescience Pty Ltd