COURT OF APPEAL

SUPREME COURT OF QUEENSLAND

CA NUMBER:

NUMBER: BD 313 of 2010

APPLICANTS/APPELLANTS: **JOHN EDWARD MYTTON BARNES** and **GEOFFREY FREDERICK COOK**

FIRST RESPONDENT: **SOUTHERN DOWNS REGIONAL COUNCIL**

SECOND RESPONDENT: **THE CHIEF EXECUTIVE, DEPARTMENT OF ENVIRONMENTAL AND RESOURCE MANAGEMENT**

THIRD RESPONDENT: **McCONAGHY GROUP PTY LTD ACN 108 353 199**

AFFIDAVIT

Janet Lesley Cook, of 24 Ridge Street, Northgate, in the State of Queensland, Solicitor, solemnly and sincerely affirms and declares:

1. I am the Principal of Cook and Associates acting for the Applicants/Appellants in this matter.

2. In accordance with paragraph 48 of Practice Direction 2 of 2010:

   (a) Pages 1 to 8 of Exhibit "**JLC-1**" hereto is a true and correct copy of the judgment or order from the primary court and a copy of the reasons for judgment of the primary court; and

   (b) Pages 9 to 14 of Exhibit "**JLC-1**" hereto is a true and correct copy of the proposed Form 64 Notice of Appeal the Applicants/Appellants intend to file if granted leave by the Court of Appeal.

Affirmed by Janet Lesley Cook)
at Brisbane this)
2nd day of February 2011)
in the presence of:)

.....
Deponent

.....
Justice of the Peace / Lawyer
Reg.No.: 9723

JUSTICE OF THE PEACE QUALIFIED
DEPARTMENT OF JUSTICE QUEENSLAND

Cook & Associates
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Northgate Qld 4013
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THIRD RESPONDENT: **McCONAGHY GROUP PTY LTD ACN 108 353 199**

CERTIFICATE OF EXHIBIT

Exhibit "**JLC-1**" to the affidavit of Janet Lesley Cook affirmed 2 February, 2011

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Judgment and Reasons for Decision	1-8
Draft Notice of Appeal	9-14

.....
Deponent

.....
Justice of the Peace

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PLANNING & ENVIRONMENT COURT OF QUEENSLAND

CITATION:	*Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131
PARTIES:	**JOHN EDWARD MYTTON BARNES AND JEFFREY FREDERICK COOK** **(appellants)** **V** **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)**
FILE NO/S:	BD 313 of 2010
DIVISION:	Planning and Environment
PROCEEDING:	Originating application
ORIGINATING COURT:	Brisbane
DELIVERED ON:	14 December 2010
DELIVERED AT:	Brisbane
HEARING DATE:	4 October 2010, 11 October 2010
JUDGE:	Rackemann DCJ
ORDER:	**I find that the development, the subject of the development application, is not the making of an assessable material change of use. I also conclude that the appeal is properly limited to the partial demolition of 84 Fitzroy Street.**
CATCHWORDS:	PLANNING AND ENVIRONMENT – Issues determined at a preliminary stage – whether proposal for demolition constitutes the making of a material change of use as well as building work – whether the code assessable demolition of

	one building so 'inextricably linked' to the impact assessable demolition of another so as to permit the appellants to raise issues about the code assessable development
	Fox & Anor v Brisbane City Council & Ors [2003] QCA 330
	Cairns Aquarius Body Corporate Committee & Anor v Cairns City Council & Anor [2009] QPEC 86
	Half Back Pty Ltd v Logan City Council [2003] QPEC 9
COUNSEL:	Dr McGrath for the appellants
	Mr Connor (solicitor) for the respondent
	Mr Sheridan for the second co-respondent
SOLICITORS:	Cook and Associates for the appellants
	Connor O'Meara for the respondent
	Department of Environment and Resource Management for the first co-respondent
	Gadens Lawyers for the second co-respondent

[1] This appeal is by adverse submitters against the Council's decision to grant a preliminary approval for building work, being the demolition of a building at 82 Fitzroy Street, Warwick, and the partial demolition of another at 84 Fitzroy Street. The buildings adjoin the Rose City Shopping centre.

[2] Both buildings are listed in the Queensland Heritage Register, but only 84 Fitzroy Street is listed in the Council's Register of Cultural Heritage Places. The proposed demolition works are assessable development but, on the face of it, only the partial demolition of the building at 84 Fitzroy Street was impact assessable. On that basis, the appellants' appeal would only validly be against the approval of the partial demolition of 84 Fitzroy Street.[1]

[3] If the buildings are allowed to be demolished/partly demolished, the co-respondent intends to seek to use the land freed up by the demolition to extend its shopping centre.

[4] In order to overcome the apparently limited permissible scope of the appeal, the appellants contend that:

a. the proposed demolition work constitutes not only building work, but the making of an impact assessable material change of use, across both properties, for an extension of the shopping centre; and

b. the demolition of 82 Fitzroy Street is so inextricably linked with the partial demolition of 84 Fitzroy Street that, the appellants ought be

[1] Section 4.1.28 *Integrated Planning Act* (1997).

permitted to raise, in their appeal, objection to the demolition of 82 Fitzroy Street as well.

[5] It is those questions which now fall for determination at a preliminary stage.[2]

[6] In support of the first proposition, the appellants rely upon *Fox & Anor v Brisbane City Council & Ors*[3] and on the extended definition of "use," which extends to a use which is incidental to and necessarily associated with the use of premises.[4]

[7] The decision in *Fox & Anor v Brisbane City Council & Ors* is authority for the proposition that the making of a material change of use can (not must) include the process which leads to the actual use. Whether particular preparatory work itself involves the making of a material change of use is a question of fact and degree, viewed objectively, in each case. The decision in *Fox & Anor v Brisbane City Council & Ors* is therefore to be understood in light of the unusual facts to which it related. That might explain why the parties could not point me to any subsequent decision which has applied *Fox & Anor v Brisbane City Council & Ors*.

[8] In *Fox & Anor v Brisbane City Council & Ors* it was proposed to create a new industrial subdivision on land which was variously included within the parkland, general industry, future industry, light industry and rural areas under City Plan. To achieve the ultimate intended industrial development it was necessary to carry out very extensive earthworks across the whole of the site, to remediate the contaminated site and to produce level, compacted, flood-free allotments for the ultimate industrial use. The judgment of Jerrard JA records that 210,000 cubic metres of soil was to be moved across a site in excess of 42 hectares.

[9] What led to the controversy in *Fox & Anor v Brisbane City Council & Ors*, was the applicant's decision to seek approval by two concurrent applications, said to relate to Stages 1 and 2 respectively. The "Stage 1" application sought to create new industrial lots in the industrial areas and so did not seek any approval to make a material change of use. The "Stage 2" application included the rural lands and did include an application for a material change of use for industrial purposes.

[10] The Stage 1 application only sought a preliminary approval for carrying out operational work (being filling and excavation) as well as a development permit for a reconfiguration. The land the subject of the Stage 2 application was simply a balance lot, for the purposes of the Stage 1 application. The operational works and reconfiguration applied for in the Stage 1 application were, on the face of the relevant level of assessment tables, code assessable only. On that basis, there would have been no public objection or appeal rights.

[11] It was held that the works to be carried out across the whole of the site, as part of the Stage 1 approval, formed part of the making of the impact assessable material change of use, which was to occur on the rural lands included in the Stage 2 application. Accordingly, the Stage 1 approval was said to be invalid, because it

[2] Another question was also set down for determination, but was decided by me upon the hearing, when I gave ex tempore reasons.
[3] [2003] QCA 330.
[4] See the definition of 'use' in Schedule 10 of the *Integrated Planning Act* (1997).

included impact assessable development which should have been publicly notified and assessed accordingly.

[12] In *Fox & Anor v Brisbane City Council & Ors* the two applications were made, considered and decided at the same time and were supported by expert reports in essentially identical terms, which made it clear that the earthworks were essentially common to both stages. Indeed the rural land was required to be cut or filled as a condition of the approval of Stage 1. Accordingly, in order for Stage 1 to proceed, the rural lands in Stage 2 would be changed form grassland used for livestock grazing to level, partially compacted land, cut in to the slope by up to 14 metres. As Jerrard JA observed, the land was contaminated and the reports supporting the application pointed out that the only option was remediation by excavation and relocation of soil. Further, the redevelopment of the Stage 2 land for an industrial estate was said to be the only manner by which it would be practical to finance the ongoing treatment and containment of contaminated material.

[13] As a matter of fact, the works involved in *Fox & Anor v Brisbane City Council & Ors* were very substantial and would have changed the physical character of the land in question. They were unequivocally related to the proposed industrial use. That was obvious on an objective analysis, quite apart from any subjective intention. The learned primary judge held that, as a matter of fact and degree, the rural land would undergo a material change of use by reason of the operational works. His finding was not disturbed on appeal.

[14] Jerrard JA and White J (as she then was) formed the majority in the Court of Appeal. Neither of their reasons stand for the proposition that preparatory works must always be characterised as part of the making of a material change of use, nor do they dictate that development, carried out as a possible prelude to an intended different ultimate form of development, is itself necessarily, to be regarded as part of the making of that ultimate form of development. Indeed, it is not uncommon for one form of development to be carried out with something further or other within contemplation.

[15] This issue involves questions of fact and degree to be considered in making a finding of fact on an objective basis. As White J pointed out:

> "His Honour's approach was to look at the purpose of the work, its scale and other questions of fact and degree to see if, objectively, it amounted to a material change of use."

[16] Counsel for the appellant also relied on the extended definition of "use," which was also referred to in *Fox & Anor v Brisbane City Council & Ors*. Some care, however, needs to be exercised in applying that definition. It does not speak of an 'activity' which is incidental to and necessarily associated with a 'use'. Rather, it requires the identification of a use which itself is incidental to and necessarily associated with the use of premises. As Wilson DCJ (as he then was) pointed out in *Cairns Aquarius Body Corporate Committee & Anor v Cairns City Council & Anor*[5] (at 29):

[5] [2009] QPEC 86.

> 'Here, the appellant's submissions appear to mistakenly conflate use with other activities including, in particular, building work. As *Boral* shows, the question is not whether structures are incidental to and necessarily associated with each other, but whether uses have that feature."

[17] In that case his Honour also pointed out that *Fox & Anor v Brisbane City Council & Ors* is a decision which has been much criticised. Published academic and professional criticisms are referred to in paragraphs 27 and 28 of his Honour's reasons. The decision must, however, be respected until and unless it is overturned by a subsequent decision of the Court of Appeal. It is therefore necessary to consider whether, in this case, the proposed demolition work, viewed objectively, would not only be building work but also the making of a material change of use of the subject land. For the reasons which follow I find that it would not.

[18] Physically, there is nothing about the proposed work itself which would suggest to an objective observer that the subject site is, by reason of the demolition, being used for the making of a material change of use for the extension of a shopping centre.

[19] The scale of works proposed here is much less than in *Fox & Anor v Brisbane City Council & Ors*.

[20] All that is proposed is demolition works. Unlike in *Fox & Anor v Brisbane City Council & Ors*, the subject land is not proposed, by reason of that development, to be physically changed by excavation so as to be readied for a specific further use. At the end of the demolition process there would simply be a greater area of vacant land, available for use for any lawful purpose. This is not a case where, following the demolition works, the land could only be used if a material change of use for the purposes of a shopping centre extension was granted.

[21] The purpose of the demolition was to remove or partially remove the buildings. The fact that there was a subjective intention, on the part of the applicant, to subsequently extend the shopping centre onto the parts of the subject sites rendered vacant once the buildings are demolished, is not conclusive of the question which falls for determination. There is no sufficient basis to conclude that the demolition work proposed in the subject application relies physically or economically upon what happens with respect to the shopping centre.

[22] Unlike in *Fox & Anor v Brisbane City Council & Ors*, the application for demolition was not made, processed and decided simultaneously with an application for the intended further development. The subject application was made on 5 October 2007. Subsequently, on 20 November 2007, an application was made for the extension of the shopping centre onto the site of these two buildings, with a proposed basement carpark and a vehicle turning area. The proposed demolition was also included in that application, but was subsequently removed, in light of this application being already on foot. The demolition application proceeded to decision, but the application for an extension of the shopping centre, stalled. It is common ground that application has now lapsed.[6] The demolition application was therefore made as a "stand alone" application, decided in the absence of any decision on the

[6] It would also require impact assessment and hence public notification.

shopping centre application and is being pursued in the context of this appeal, even though there is now no shopping centre application on foot.

[23] It is entirely possible that the demolition work might be approved and carried out without any subsequent approval for the extension of the shopping centre being granted. In such circumstances, the land would not be sterile. It would be available for whatever use may be approved, subject to any necessary future application.

[24] While the proposed partial demolition of 84 Fitzroy Street is to be done in a way which would suit a later expansion of the shopping centre, I do not accept the submission that the demolition only makes sense in the context of the proposed shopping centre extension. The material lodged in support of the application depicts the dilapidated state of the buildings. The supporting engineering report of Mr Farr says that the building at 82 Fitzroy Street "is unsafe in its current condition" and is "essentially at the end of its structural life and is little more than a demolition exercise." The building at 84 Fitzroy Street is said to presently have two structural issues, including the instability of the external walls. He opined that:

> "We are now of the view that the structural integrity of the walls is seriously compromised and urgent measures need to be instituted to protect third parties from the effects of a possible collapse of the wall."

[25] The covering letter to the application stated, in part, as follows:

> "As council is aware McConaghy Group has been monitoring the structural integrity of the two buildings at 82 – 84 Fitzroy Street, Warwick. Both these buildings adjoin the Rose City Shoppingworld and since 2005 our client has been concerned that the current state of the structural integrity of the buildings. A recent visit by Farr engineers to monitor the buildings' current structural state identified that the buildings' structural integrity is continuing to deteriorate and our client now believed that they pose a significant public risk given:
>
> - Both buildings are in a dilapidated state;
>
> - Both buildings adjoin land to our clients site:
>
> - 84 Fitzroy Street is constructed to the boundary of Haig Avenue and as discussed in the attached reports the lower floor of the building is in a poor structural state, there is evidence of rising damp and that the wall along Haig Avenue contains a bow which has increased over the last couple of years;
>
> - The shopping centre is accessible (service vehicles and pedestrian access) from Haig Avenue and the current state of the wall is unsafe; and
>
> - 82 Fitzroy Street is identified as being at the end of its structural life given the lower floor framing is unsafe, the roof framing is water affected and rotten to a large degree and there is significant rising damp in the building.

- Discussions with the current owners identifies that they do not have the financial ability to undertake works to secure or restore the buildings."

[26] While the co-respondent may have plans for a future shopping centre extension, there is no reason why it may not seek approval for demolition of the buildings, as a distinct form of development on its own merits. It may be that demolition will remove a potential obstacle to the intended, but yet to be approved, shopping centre expansion, but that does not mean that the demolition works are themselves the making of that material change of use.

[27] Understandably, the appellants are concerned to ensure that any asserted need for the shopping centre to expand, not be used to justify the demolition, in circumstances where the shopping centre extension is not approved and is not the subject of this application or indeed, any extant application. While the development application is supported by evidence about structural and heritage issues, it is also true, as the appellants pointed out, that the asserted need to extend the shopping centre was also referred to. I do not consider that, of itself, converts the application into one for the making of a material change of use, but I agree that, in the circumstances, it is inappropriate to seek to justify the proposed demolition by reference to an asserted need for a shopping centre extension which is not approved nor the subject of this or any live development application. Having been applied for on a "stand alone" basis, the proposed demolition will, as things stand, need to be assessed on its own merits.

[28] The final issue is whether there is some "inextricable link" which might permit the appellants to raise issues going beyond the demolition of the building at 84 Fitzroy Street. In this regard reliance was place on the following dicta of Brabazon QC DCJ in *Half Back Pty Ltd v Logan City Council & Anor*[7] (at 17):

> "In this case the "decision being appealed" is confined to part of the Council's decision dealing with the use of the buffer zone. The court has authority to deal only with that part of the application. There may be cases where the decision of the court necessarily involves some consequential issue, so that there is an inextricable link between the two issues. In that case, the decision of the local authority would be replaced by that of the court."

[29] In this case the decision being appealed is properly confined to the partial demolition of the building at 84 Fitzroy Street. It shares its heritage listing with the building at 82 Fitzroy Street, and both are intended, subject to a further approval, to be the subject of a future shopping centre extension. I do not consider, however, that there is any "inextricable link" of a kind which could (even if one accepted the dicta of Brabazon QC DCJ) properly permit a consideration of objections to the demolition of the building at 82 Fitzroy Street, in the context of this appeal.

[30] The development application relates to demolition work to two separate buildings on separate lots. The demolition of the one is not inextricably linked to the other.

[7] [2003] QPEC 9.

The partial demolition of the building at 84 Fitzroy Street can be considered on its own merits and, subject to approval, carried out without resolution of any consequential issue of the kind referred to by Brabazon QC DCJ. It was submitted that the inextricable link relates to the fact that demolition needs to take place on both sites if the future expansion of the shopping centre is to proceed, as contemplated. That there is an intention to use both lots for a future form of development, subject to another approval is, in the circumstances, however, beside the point in terms of the permissible scope of this appeal.

[31] I find that the development, the subject of the development application, is not the making of an assessable material change of use. I also conclude that the appeal is properly limited to the partial demolition of 84 Fitzroy Street.

COURT OF APPEAL

SUPREME COURT OF QUEENSLAND

CA NUMBER:

NUMBER: BD 313 of 2010

APPELLANTS:	**JOHN EDWARD MYTTON BARNES** and **GEOFFREY FREDERICK COOK**
FIRST RESPONDENT:	**SOUTHERN DOWNS REGIONAL COUNCIL**
SECOND RESPONDENT:	**THE CHIEF EXECUTIVE, DEPARTMENT OF ENVIRONMENTAL AND RESOURCE MANAGEMENT**
THIRD RESPONDENT:	**McCONAGHY GROUP PTY LTD ACN 108 353 199**

NOTICE OF APPEAL

To the Respondents,

And to the Registrar of the Planning and Environment Court at Brisbane,

TAKE NOTICE that the Appellants appeal to the Court of Appeal under section 4.1.57 of the *Integrated Planning Act 1997*, continued in force pursuant to section 802 of the *Sustainable Planning Act 2009*, against the whole of the order made by the Planning and Environment Court in *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131.

1. THE DETAILS OF THE JUDGMENT APPEALED AGAINST ARE -

Date of judgment: 14 December 2010

Description of Proceedings: BD 313 of 2010

Description of parties involved in the proceedings:

John Edward Mytton Barnes and Geoffrey Frederick Cook as Appellants

and

Cook & Associates
24 Ridge Street (PO Box 263)
Northgate Qld 4013
Telephone: (07) 3861 9870
Facsimile: (07) 3266 8595
Email: j.cookassocs@gmail.com

Southern Downs Regional Council as Respondent

The Chief Executive, Department of Environment & Resource Management as first co-respondent

McConaghy Group Pty Ltd as second co-respondent

Name of Primary Court Judge: His Honour Judge Rackemann DCJ

Primary Court: Planning and Environment Court

Location of Primary Court: Brisbane

2. GROUNDS –

1. His Honour made an error or mistake in law in construing what constitutes a "material change of use" in section 1.3.5 (Definition of the terms used in *development*) of the *Integrated Planning Act 1997* (IPA). His Honour found as a question of fact that, "if the buildings are allowed to be demolished/partly demolished, the co-respondent [owner of the premises and the adjacent shopping centre] intends to seek to use the land freed up by the demolition to extend its shopping centre."[1] Having made this finding, which was not disputed at the preliminary hearing, his Honour should have found as a question of law that in addition to being building work, the demolition constituted "the start of a new use of the premises" and, consequently, a "material change of use" for the purposes of section 1.3.5 of the IPA. His Honour erred in speculating about potential uses of the land other than a shopping centre[2] or that the proposed demolition could be justified by the "dilapidated state of the buildings" alone[3] when this was not what the development application had in fact done. A new use of premises starts as soon as the purpose of the activities on the land is directed towards that use. This includes the construction phase of buildings to support the new use and any associated demolition and operational works. Demolition and other forms of development may be done in a way that does not constitute a new use but that is not what was proposed in this case. The question should not have been what might be done[4] but what in fact was actually proposed by the development application.

[1] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [3].
[2] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [23].
[3] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [24]-[25].
[4] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [23].

2. His Honour made an error or mistake in law in construing the right of appeal under section 4.1.28 (Appeals by submitters) of the *Integrated Planning Act 1997* that a submitter may appeal "only against the part of the approval relating to the assessment manager's decision under section 3.5.14 [involving impact assessable development]". It was not in dispute before his Honour that the assessment manager had considered the proposed demolition of the rear section and restoration of the front section of 84 Fitzroy Street, being the impact assessable component of the development application, as not isolated from but subject to the concurrent approval of the demolition of 82 Fitzroy Street, the code assessable component of the development application, for the purpose of extending the adjoining Rose City Shopping Centre, including to allow a truck turning circle across both premises. It was not in dispute before his Honour that the assessment manager had issued the development approval subject to conditions requiring the demolition to be carried out in accordance with an approved plan that showed the truck turning circle across both 82 and 84 Fitzroy Street for the proposed shopping centre extension and subject to complying with a conservation assessment report that considered the proposed demolition of 82 and 84 Fitzroy Street on this basis. His Honour attempted to *ex post facto* change the basis upon which the assessment manager had considered the part of the approval relating to the assessment manager's decision under section 3.5.14 by excluding consideration of the proposed shopping centre to justify the demolition of 82 and 84 Fitzroy Street.[5] The right of appeal arose due to the way in which the development application was considered by the assessment manager and could not be limited *ex post facto* in this manner. In the form considered by the assessment manager, the demolition of both 82 and 84 Fitzroy Street was "related to" the assessment manager's decision under section 3.5.14 of the IPA. His Honour therefore erred in holding that "the appeal [must be] limited to the partial demolition of 84 Fitzroy Street" and not allowing the demolition of 82 Fitzroy Street to be raised in the appeal.[6]

[5] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [27].
[6] *Barnes & Anor v Southern Downs Regional Council & Ors* [2010] QPEC 131 at [31].

3. ORDERS SOUGHT –

1. The appeal is allowed.

If the Court allows the appeal on the basis of ground 1 –

2. The Appellants' appeal to the Planning and Environment Court (BD 313 of 2010) is allowed.

3. Declare that:

   (a) the development application the subject of the appeal to the Planning and Environment Court (BD 313 of 2010) was not properly made; or, in the alternative,

   (b) that the decision of the assessment manager the subject of the appeal to the Planning and Environment Court (BD 313 of 2010) is invalid due to the failure in the steps leading to that decision to publicly notify the proposed material change of use for the Rose City Shopping Centre.

Alternatively, if the Court allows the appeal only on the basis of ground 2 –

4. Declare that the Appellants may properly raise both the demolition of 82 and 84 Fitzroy Street, Warwick, in the appeal to the Planning and Environment Court (BD 313 of 2010).

5. Remit the matter to the Planning and Environment Court for trial according to law.

LEAVE TO APPEAL

4. This appeal is brought pursuant to leave given by the Court of Appeal on …….

5. Leave to appeal was given for the following questions –

(a) …….

(b) …….

6. Leave to appeal was given because ……..

7. RECORD PREPARATION

We undertake to cause a record to be prepared and lodged, and to include all material required to be included in the record under the rules and practice directions and any order or direction in the proceedings.

PARTICULARS OF THE APPELLANTS

Name: John Edward Mytton Barnes
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PARTICULARS OF THE FIRST RESPONDENT

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PARTICULARS OF THE SECOND RESPONDENT

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Email: steve.barclay@derm.qld.gov.au

PARTICULARS OF THE THIRD RESPONDENT

Name: McConaghy Group Pty Ltd
Business address: Level 36, 345 Queens Street, Qld, 4000
Solicitor's name and firm name: Bill Crane, Gadens Lawyers
Address for service: 240 Queen Street, Brisbane, Qld, 4000
Postal address: GPO Box 129, Brisbane, Qld, 4001
Telephone: (07) 3231 1666
Facsimile: (07) 3229 5890
Email: WCrane@qld.gadens.com.au

Signed: ……..
Cook & Associates
Description: Solicitor for the Appellants
Dated: …… 2011

This application is to be served on:

Southern Downs Regional Council
c/- Michael Connor, Connor O'Meara
Level 5, 370 Queen Street, Brisbane, Qld, 4000

Chief Executive, Department of Environment and Resource Management
Attention: Steve Barclay, DERM Litigation Unit
7th Floor, 400 George Street, Brisbane, Qld, 4000

McConaghy Group Pty Ltd
c/- Bill Crane, Gadens Lawyers
240 Queen Street, Brisbane, Qld, 4000