



THE BERRY COURT HOUSE



STATEMENT OF SIGNIFICANCE

The Berry Court House:-

- has been the centre of law and order in Berry for over 100 years
- is virtually in its original state
- is the only example of the classical Greek Revival Style in the Shoalhaven and Illawarra Regions
- is one of the last public buildings James Barnet designed to be built

Listings:

- Classified by the National Trust
- National Trust of Australia (NSW) Conservation Appeal
- Illawarra Regional Heritage Study
- Shoalhaven City Heritage Study
- Part of the Berry Showground Conservation Area
- NSW State Heritage Register

OBJECTS

The objects of the Association are to conserve, maintain, renovate and as necessary rebuild and to promote community interest in the building and gardens known as Berry Court House and maintain them for community use and future generations.

THE HISTORY OF THE BERRY COURT HOUSE

Prepared by Jennifer Clapham

This history was written at the request of the Berry Court House Conservation Committee to celebrate the tenth anniversary of the return of this landmark building to public ownership.



This book is dedicated to all who have helped in the past and to those who continue to run this community project. There are well over one hundred community members who have participated and thus too many to mention in this publication but the documentation of individual contributions is contained within the Berry Court House archives in the Berry Museum

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THE BEGINNING

As settlement spread the need for courts did also and as the population of an area increased it thus became able to sustain its own court where previously people had to travel to a larger centre. Prior to 1832 Courts were established in an ad hoc and informal way, but an Act of Parliament in that year regularised the procedure. Then the District Court Act of 1858 stimulated the clamour for instant court houses. This Act was to constitute in NSW District Courts like the County Courts in England. They provided a jurisdiction intermediate between the Supreme Court and the Courts of the Magistrates.

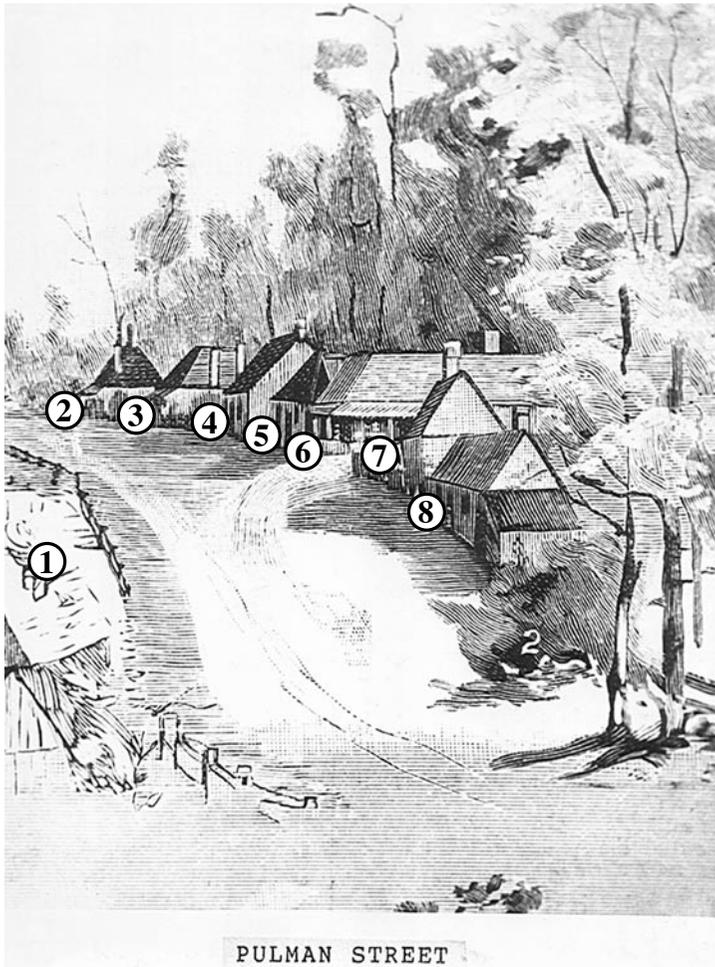
“The News” of 17th August 1867 announced that Broughton Creek had obtained a Justice of the Peace but he had not yet taken his oath.

Following this on 24th April 1869 The Shoalhaven News says: *“We understand that a memorial is in the course of signature and which will shortly be presented to the Government, praying that a Court of Petty Sessions, and Small Debt Court be held at least once a month, at Broughton Creek. The district is a very populous one, and two magistrates are already living in the neighbourhood, and it is suggested that the C.P.S. (Clerk of Petty Sessions), at Nowra, might attend without any addition to his present salary, more particularly as that gentleman has not to attend the court at Numba. The population in the immediate neighbourhood of the Creek exceeds 1500 souls, for upon looking through the Electoral Roll of this district we find that there are upwards of 300 Electoral residents at Jaspers Brush, Kangaroo Valley, and Broughton Creek.”*

On the 18th January 1872 David Berry, in a letter to his brother Alexander in Sydney, says: *“The lockup at Broughton Creek is only to be two slab cells put to one end of the slab cottage the council meets in, after they are put up, it will be their police office as well and it will keep so many from having to go to Nowra.”*

On the 23rd August 1872 the first Court of Petty Sessions was proclaimed in Broughton Creek, this being the original name for Berry.

The court was held in a building near the Constable’s Cottage where the original Broughton Creek township was, on the other side of Broughton Mill Creek to the present main part of town. This building appears to be the same one in which the police offices and lockup were and where council meetings



EARLY SKETCH OF PULMAN STREET AND PACIFIC HIGHWAY

1. Post Office 1861 – 1886
2. Church of England Minister's Manse
3. Presbyterian Minister's Manse
4. School House 1860 – 1884
5. School Master's Residence
6. Store 1877 – 1892
7. Police Residence
8. Court House and Lock-up

were held although one ‘reminiscence’ does put the courthouse separate to the Constable’s cottage which has the lockup and police offices in it and does not mention the council chambers. The cottage was on the opposite side of Princes Highway to the Wilson & Co. store. This cottage was provided by David Berry as manager of the Berry Estate and appears to be the one mentioned above. Both the Constable’s Cottage and Wilson’s store are still standing.

TOWARDS A NEW COURT HOUSE

The Police Constable was acting Clerk of Petty Sessions until 1889 and Justices of the Peace were acting Magistrates. As well as the Court of Petty Sessions, a Small Debts Court and a Court of Requests, with a visiting Commissioner, were held.

There was a great courthouse boom in the 1880s under the direction of the Colonial Architect James Barnett. The preoccupation with finding new court accommodation meant that existing buildings were often not maintained.

From late 1886 there was pressure from the community of Broughton Creek and the surrounding district for a new Court House as the old one was inadequate. On 22nd September 1886 the Crown Solicitor’s Office received a letter from the inhabitants of Broughton Creek urging the erection of a new court house and on 21st October 1886 it received one from P. F. Humphries M. P. Legislative Assembly, saying that David Berry was willing to give a block of land to the Government for a site for a court house in Broughton Creek.

The Broughton Creek Register of 30th October 1886 printed a copy of a letter received by the Mayor of Broughton Creek and Bomaderry Council that had been sent from the Department of Justice by H. C. Johnston, Undersecretary for F. T. Humphrey, Legislative Assembly. This letter said that the Minister of Justice had approved a sum of £1500 being placed on the next Estimates for the erection of a courthouse, etc. at Broughton Creek and accepting the offer of land from David Berry. Broughton Creek at this time was still a private town with all land owned by the Berry Estate.

There appears from letters to and from the Solicitor General’s Office and from articles in newspapers to have been some dispute. The Broughton Creek Register of 12th March 1887 in its report of the Broughton Creek and Bomaderry Council

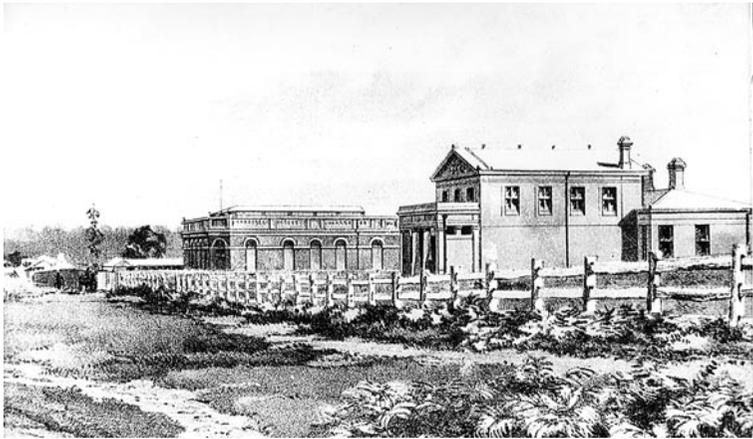
meeting of Saturday 5th March says in Correspondence received: “2. *Department of Justice, with reference to the proposed new court house for Broughton Creek, and stating that no action would be taken in the matter unless Mr Berry will submit the land without any instructions whatsoever as to cost of building. The letter was received, and ordered to be forwarded to Mr Berry for his consideration.*”

In a letter to John Hay (cousin to the Berrys who was helping to run the estate and would inherit it upon the death of David Berry) dated 20th January 1888 written from the Empire Hotel in Sydney, Morton writes “*Re Broughton Creek Court House. The sum of £1500 has been placed in the estimates for the building of this court house but it is understood in the department that the total cost before finishing will far exceed this sum. They are however drawing plans for a courthouse alone not to exceed £1500. This is only for the courthouse and there will probably be police quarters, cells, stables and other offices before completion. The above sum will build a very small court house and as this is the main thing it would be well for the municipal council to see into the matter at once. However the plans are being prepared and tenders will be called for, when they will all be exhibited at the police office Broughton Creek.*”

MEANWHILE

There is evidence that by 1888 the court had moved to temporary rented premises in a warehouse in Wharf Road. The Broughton Creek Register of 25th May 1889 reports that “*When visiting Berry last week the Police Magistrate (Mr. J. H. Nisbett) had his attention called to the obvious lack of accommodation at the Court House which has long been an eyesore to the local Bench, and a source of complaint to suitors and the general public having business at the local Temple of Justice. It was represented to his worship that the existing Court House was too far away from the business centre of town, and that if a building could be procured on the other side of Broughton Mill Creek it would be a great convenience to the community at large. Mr Nisbett subsequently inspected a large vacant store in Wharf-street, which he promised to recommend to the Department should be procured for a temporary Court House pending provision for a permanent building being made upon the estimates.*”

“*Out and About*” by “*Suez*” in the Broughton Creek Register of 1st June 1889 says: “*It is proposed to rent a disused store as a court house. All very well*



COURT HOUSE AND AGRICULTURAL HALL
CIRCA 1891 LITHOGRAPH
Reproduced courtesy of Berry Museum



COURT HOUSE AND POLICE STATION
Undated
Reproduced courtesy of Berry Museum

but if a new court house be needed why cannot steps be taken to have one, and not dilly dally with temporary places.”

On the 14th June 1889 the Court of Petty Sessions at Broughton Creek was abolished and one at Berry was proclaimed. This was due to the change in name of the town. It was renamed Berry, it is believed, in honour of the Berry family.

THE NEW BUILDING

The Broughton Creek Register of 27th July 1889 printed the following communication sent to them by Mr P. H. Morton, M.P., Legislative Assembly for publication. *“Department of Justice, Sydney, 12th July 1889. Sir. – Referring to your letter of the 7th Instant, I have the honor to inform you that the Minister of Justice has approved of the sum of £1500 for a new Court-house at Berry, being placed on the draft additional Estimates of this year for consideration, and the papers have accordingly been forwarded to the Department of Public Works in order that the necessary steps may be taken in the matter.”*

David Berry gave one acre of land for the new Court House, police residence, lockup and stables. This was finalised on the 31st August 1889, just before his death in September. The land is on the corner of Albany and Victoria Streets.

The building was designed by the Government Architect of the time, James Barnett, in Greek Revival Style. He worked at the Colonial Architect's Office from 1860 until he retired in 1890. During that time he was Clerk of Works then Acting Colonial Architect from November 1862 and Colonial Architect from January 1865. Buildings attributed to him include the Sydney GPO, the Lands Department Building in Sydney and many court houses.

The final design however was strongly influenced by the wishes of the town of Berry's owner, David Berry and later his heir John Hay. This building is outwardly somewhat more grandiose than the court houses of Nowra and Kiama which were constructed according to the wishes of their Municipal Councils.

Tenders were called for the building of the Court House on 21st March 1890 with the closing date being 16th April 1890 and the Plan, Specification and Form of the Tender were displayed at the Colonial Architect's Office in Sydney and the Court House in Kiama.



INTERIOR OF COURT HOUSE 1992
Reproduced courtesy of Berry Museum



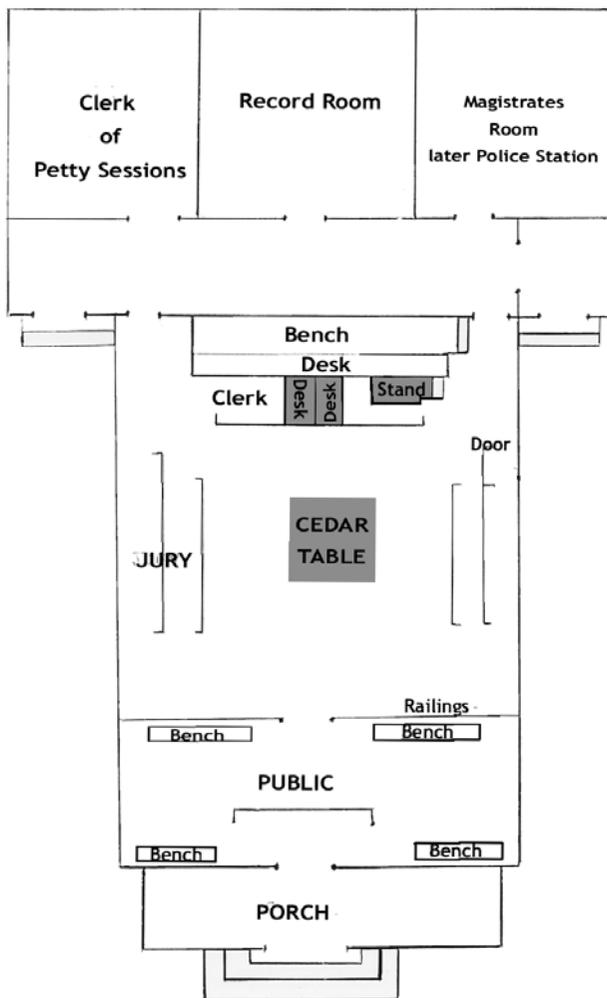
The acceptance of the tender submitted by A. and P. Ettingshausen for £1093/10/- was announced in the Government Gazette by the Department of Public Works on 17th June 1890 and the Broughton Creek Register published a letter from P. H. Morton M.P., Legislative Assembly of 17th July 1890 announcing that the Minister for Justice considers that the proposed size of the Courthouse at Berry of 35 foot by 26 foot is sufficient for all requirements and that a tender for £1093/10/- had been accepted. P. Ettingshausen was a Carpenter, Joiner, Cooper, Cabinetmaker and Undertaker of Broughton Creek according to his advertisements in the newspapers.

The Town and Country Journal of 26th April 1890 says that the Courthouse will soon be started and the site is a good one and near the new Agricultural Show building. On the 31st January 1891 it reported that good progress had been made on the building. The Shoalhaven News of Saturday 15th August 1891 says that the new courthouse erected by townsman Ettingshausen will be ready for occupation in a few weeks time. *“The ‘agony’ room is spacious, being 35 foot long, 26 foot wide and 20 foot high; the prisoners’ iron spiked dock is a most horrible looking arrangement, in fact more uninviting than the one in Darlinghurst. The cost of the building is near £1700.”*

The Court House thus appears to have been completed in September 1891 at a final cost of £1658/10/7. However in September 1891 John Hay arrived back from overseas and many receptions and public gatherings were held and reported and much was made of the will of David Berry and the hospital bequest but nothing was said of any opening of the new courthouse.

THE COURT HOUSE IN USE

Police Magistrates Court, Court of Petty Sessions, and Small Debts Court were held in the building. It was also used for such things as the official opening of the Berry Show by the Governor of NSW, Lord Jersey in 1893. He was entertained in the Courthouse before proceeding to the Showground for the official opening ceremony. The official illuminated address celebrating this event is held in the Berry Museum.



PLAN OF INTERIOR OF COURT HOUSE
 Reproduced courtesy of Berry Museum

P. Ettingshausen,
 Carpenter, Joiner, Cooper, Cabinet-
 maker, and Undertaker,
BROUGHTON CREEK.
 Funerals Conducted in any Part of the District.
 Charges Moderate.

Broughton Creek Register
 26th January 1889



the berry courthouse

The Development Application currently before Council involves:

- **15 room guesthouse + 2 bedroom managers flat**
- **60 seat public dining room**
- **internal + external restoration of the courthouse** for use as an art house, theatrette, small functions (max 50 to 60 people), conferences, chamber music and choral recitals, poetry reading, displays, public meetings, art exhibition and sale, auctions, corporate and other presentations etc

One of the Development Applications made for the Court House.

In the Government Gazette of 29th April 1895 it was announced by the Department of Public Works that J. H. Read of 1 King Street Balmain was the successful tenderer for the erection of a Police Station at Berry. This was built next door to the court house on the same block given by David Berry.

In the Berry Register of 12th March 1898 concern was expressed by the magistrates over the state of the approach to the courthouse. It was unsatisfactory and “*vehicles could not enter the court yard without risk of breakage. It was decided to bring the matter under the notice of the Police Magistrate, and ask him to apply to the Department in connection with it. This is a move in the right direction for the approach to the Police Station should be made worthy of the town.*” In December 1900 there were reports of agitation by council for the Department of Public Works to pay half the cost of asphaltting the footpath and kerbing and guttering in front of the courthouse and police station. Council minutes and newspaper reports show dispute between council and the department over estimates of cost as council would be doing the work and the department wanted to pay half its estimate not that of the council.

The court house continued to serve the community for nearly 100 years with no other problems except those of routine maintenance and updates.

THE END?

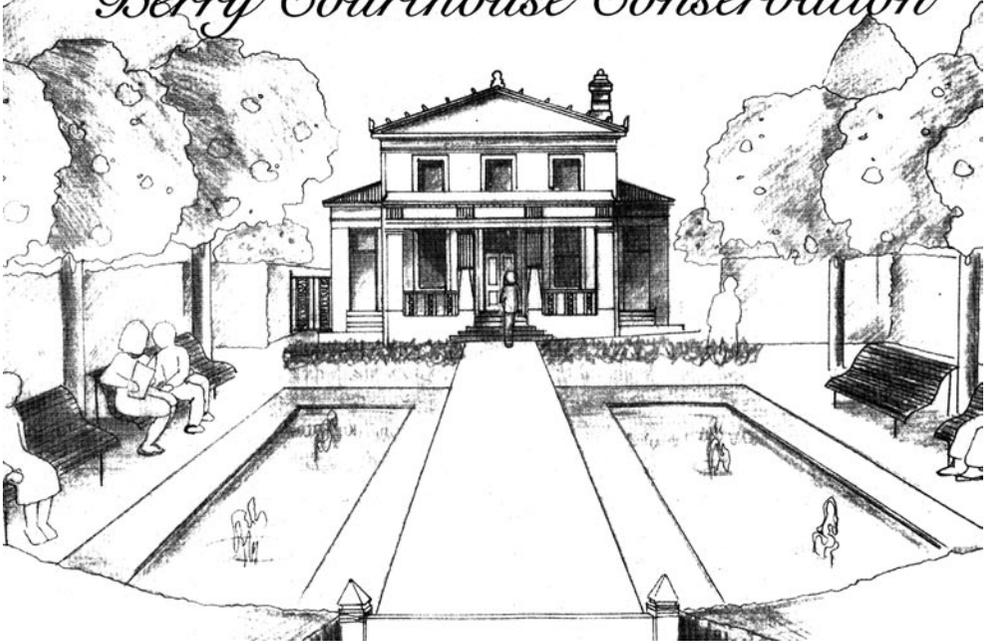
On the 30th July 1988 the Court was abolished as it was no longer needed. The back rooms were used as a police station until 1994 when duties were transferred to Nowra.

On the 26th October 1992 the Court House was listed on the National Trust Register.

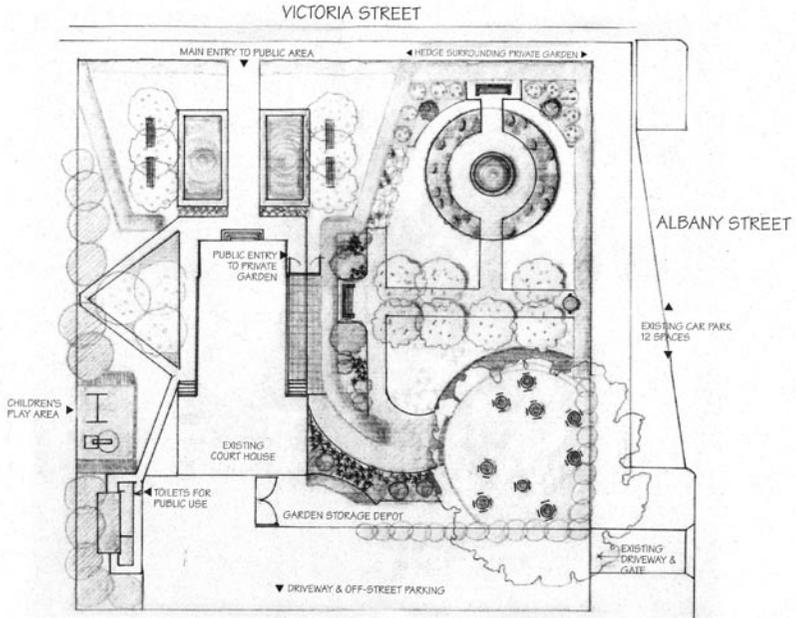
Most of the original cedar fittings built by the Ettingshausens were removed between 1992 and 1994 to be reused in other Court Houses.

The building was sold into private hands by auction on the 24th September 1994 on behalf of the Department of Courts and Administration (Justice Department).

Berry Courthouse Conservation



THE ORIGINAL GARDEN PLAN



Since then there have been development plans submitted to Council and there has been a long and vigorous fight by local residents against these plans and to have the building returned to the community, it being a very important part of its heritage.

Eventually, at a Special Policy and Planning Committee Meeting of Council on Tuesday the 27th April 1999 a unanimous decision was taken that the detailed acquisition proposal submitted by the Berry Alliance be adopted. This proposal was that the Council purchase the Berry Court House with the help of the Berry Alliance. The building was purchased in July 1999 for \$350,000 with the deposit of \$35,000 being raised from the Berry Community. A ten year lease was signed by the Berry Court House Conservation Committee Inc., a new committee formed to govern the building. This committee was formed from the Berry Alliance and other interested community groups and individuals.

A NEW ERA

Since then the Berry Court House Conservation Committee Inc. has run the property. The aim was to have it available for rent for private and community use and develop it as a sustainability showplace.

A Conservation Management Plan was prepared for the Shoalhaven City Council and this has been the guide for repairs, maintenance and use of the property.

The building was repaired, restored and painted by community members and local tradesmen who generally donated their time. The cost of materials needed was paid by memberships and donations raised from the Berry Community and some grant money from the NSW Government. A new door and an Honour Roll were made by local volunteers. A replacement crest in bronze was given by the Attorney General Department to replace the original wooden one but being too heavy it had to be hung rather than put on the canopy in place of the original painted timber one.

A design for the garden was drawn up by two community members and this was implemented by the committee with volunteers from the Berry Community and some members of the Berry and District Garden Club. The garden is divided into a public area at the front with seating and two pools of reflection, a Xeroscape Garden to show low water use gardening, and a formal hedged Victorian garden,

in keeping with the era of the building which is rented out for weddings and other events.

The garden has matured and has changed over the ten years of its existence in detail and some plantings but not in overall design. A statue of Blind Justice was donated to go into the formal garden. The building and garden has been used as envisaged by the committee with many community and private events being held there. The two back rooms have been rented out to small businesses and community groups for most of this time. The use as a sustainability showcase has so far been beyond the resources of the committee.

In 2005 following an application prepared by the Court House Conservation Committee Inc. the Berry Court House was listed on the NSW State Heritage Register.

The Conservation Committee has overseen all and the building at this point in time, on its tenth anniversary in community hands, is self supporting, and has the plans and resources to continue as such. This could not have been done without the many members of the Berry community who have given and continue to give their time, money and skills to make this possible.

The Shoalhaven City Council has cooperated with two not for profit organisations, first the Berry Alliance and then the Berry Court House Conservation Committee Inc., to preserve the Court House for the Berry community. This successful venture shows that private ownership of this heritage building was not the only viable option for the preservation of this building for future generations.

Now that the first ten year lease has finished the Shoalhaven City Council has invited the Courthouse Conservation Committee to apply for a new lease and this is currently under way.

