

PLANNING & ENVIRONMENT COURT
APPEAL NO. 313 of 2010

BARNES & COOK v
SOUTHERN DOWNS REGIONAL COUNCIL
& ORS

TOWN PLANNING REPORT

by

Annette Doherty

July 2011

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1.0 INTRODUCTION

- 1.0.1 This report has been prepared as evidence to the Planning and Environment Court in the matter of Appeal No. 313 of 2010.
- 1.0.2 The appeal has been lodged by John Edward Mytton Barnes and Geoffrey Fredrick Cook against the Southern Downs Regional Council's approval of an application for preliminary approval for the demolition of part of a building located at 84 Fitzroy Street, Warwick. The Chief Executive of the Department of Environment and Resource Management is the First Co-respondent to the appeal, and The McConaghy Group Pty Ltd (the applicant for the development approval) is the Second Co-respondent.
- 1.0.3 The report has been prepared by Annette Doherty, whose qualifications and experience are outlined in Appendix A.
- 1.0.4 I have read and understood Part 3 of the Planning and Environment Court Rules 2010. I acknowledge that my duty in this appeal is to assist the Court, and this duty overrides any obligation I may have to any party or any person who is liable for my fee or expenses.
- 1.0.5 I have not been given, and have not accepted, any instructions to adopt or reject a particular opinion in relation to any issue in dispute in this appeal or in the preparation of this report.
- 1.0.6 In preparing this report I have inspected the site and surrounding area, and read and considered the following material:
- All documents held by the Southern Downs Regional Council (SDRC) in relation to this application including the development application and all supporting information provided by the applicant as part of the application process, all documents provided to SDRC by the Second Co-respondent, and all documents prepared by SDRC in relation to this application including the planning report on this application;
 - Warwick Shire Planning Scheme 1999;
 - Warwick Shire Planning Scheme Policy No. 1 Cultural Heritage;
 - Warwick Shire Cultural Heritage Study;
 - Court order relating to this appeal dated 14 December 2010;
 - Court order relating to this appeal dated 3 June 2011;
 - Court order relating to this appeal dated 16 June 2011;
 - The joint report of the structural engineering experts dated 29 June 2011;
 - The joint report of the heritage experts dated 27 June 2011, and the amendment to this report dated 30 June 2011; and
 - The joint report of the town planning experts dated 13 July 2011.

2.0 DESCRIPTION OF THE LAND AND LOCALITY

- 2.0.1 The subject site is located at 84 Fitzroy Street, which is on the corner of Fitzroy Street and Haig Avenue, Warwick (as shown on Figure 1). The subject land is described as Lot 1 on RP94676, Parish of Warwick, County of Merivale. The land has an area of 736m² and contains a building known as Plumb's Chambers.



Figure 1: The subject land

- 2.0.2 The adjoining land to the east, described as Lot 1 RP5801, contains a brick building. (The demolition of this building is also subject to the application; though following the Court Order of 14 December 2010, the demolition of this building is not subject to the appeal.)
- 2.0.3 To the west of the subject land, on the opposite side of Haig Avenue, is the Warwick Police Station. There are several buildings located in this precinct making up the police station complex. The main building on this site is a two storey sandstone building located with frontage to Fitzroy Street and Haig Avenue. The site further to the west is the location of the Warwick Court House.
- 2.0.4 To the south of the subject land is the Rose City Shoppingworld shopping centre. Haig Avenue gives access to a loading zone servicing the shopping centre, and also provides access to the underground carpark of the shopping centre.
- 2.0.5 To the north of the subject land, on the opposite side of Fitzroy Street, is Leslie Park.
- 2.0.6 The subject land, and the surrounding land south of Fitzroy Street, is included in the City Centre Land Use Area under the Warwick Shire Planning Scheme 1999 (the Planning Scheme), as shown on Figure 2. The preferred land uses within the City Centre Land Use Area are higher order retail uses, professional offices and services, and government offices and services.

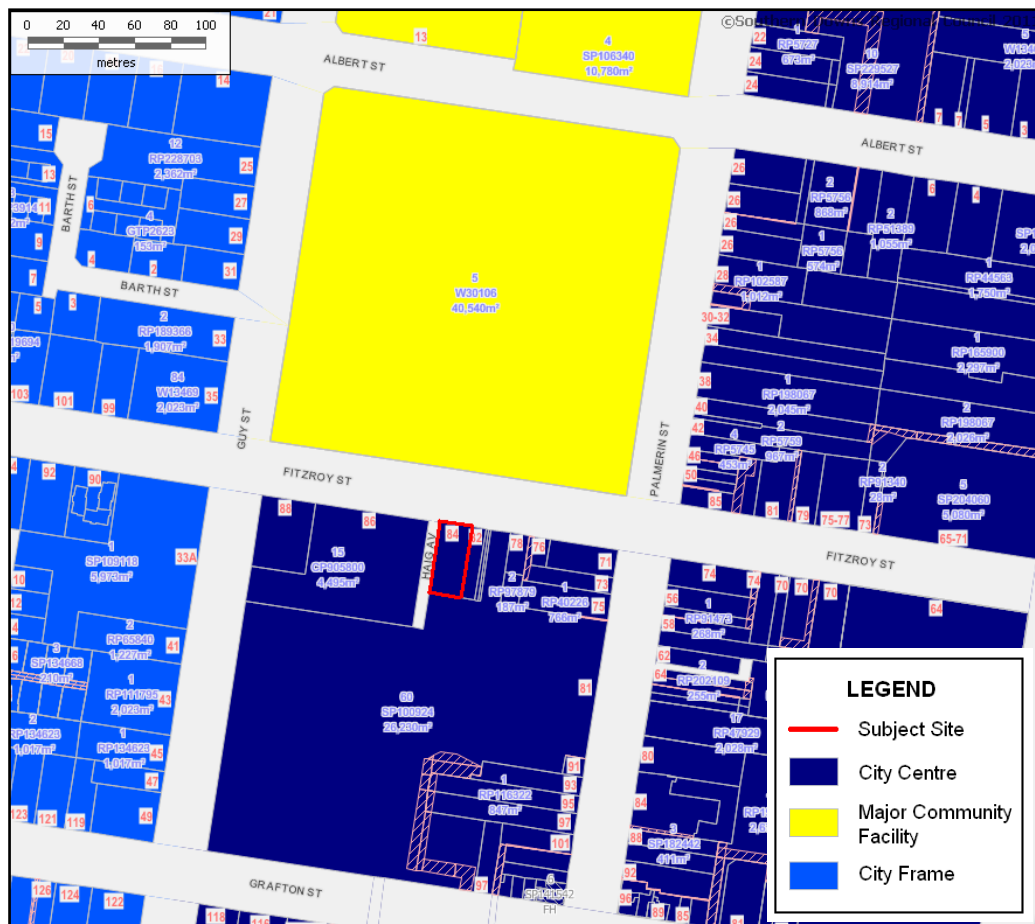


Figure 2: Land use areas

3.0 THE DEVELOPMENT APPLICATION

3.0.1 The application was made to the former Warwick Shire Council and properly made in accordance with section 3.2.1(7) of the *Integrated Planning Act 1997* on 5 October 2007.

3.0.2 The application seeks preliminary approval for building work for the demolition of:

- (i) A building located at 82 Fitzroy Street, Warwick; and
- (ii) The rearmost part of a building located at 84 Fitzroy Street, Warwick.

The proposal includes the conservation of the remaining section of the building at 84 Fitzroy Street.

3.0.3 Both buildings at 82 & 84 Fitzroy Street are included on the Queensland Heritage Register, and are jointly described as "Plumb's Chambers". The building at 84 Fitzroy Street, Warwick, is also included on the Warwick Shire Register of Cultural Heritage Places attached to Warwick Shire Planning Scheme Policy No. 1 Cultural Heritage.

- 3.0.4 The building located at 84 Fitzroy Street consists of three main sections:
- (i) The original section of building being a double storey sandstone building built to the property alignment of Fitzroy Street and Haig Avenue. A verandah extends from the second storey over the Fitzroy Street footpath;
 - (ii) A sandstone addition to the original double storey sandstone building, with skillion roof built onto the rear of the double storey building; and
 - (iii) A brick and timber extension built onto the rear of the skillion addition, along the western boundary of the land (the "rearmost western wing").
- 3.0.5 It is the demolition of the rearmost western wing which is the subject of this appeal (see Figure 3 below).



Figure 3: Plan showing proposed demolitions

- 3.0.6 The demolition or external building works to a building listed in Planning Scheme Policy No. 1 (other than minor external building works as described in the Planning Scheme) is impact assessable development under the Planning Scheme. Therefore, the application for preliminary approval for demolition of part of the building at 84 Fitzroy Street was subject to impact assessment.
- 3.0.7 Under Schedule 8A of the *Integrated Planning Act 1997*, the assessment manager for the application was the local government; i.e. the former Warwick Shire Council.
- 3.0.8 Under Schedule 2 of the *Integrated Planning Regulation 1998*, the Queensland Heritage Council (QHC) was a concurrence agency for the application. At that time the QHC was part of the Environmental Protection Agency, which is now known as the Department of Environment and Resource Management.
- 3.0.9 The application was publicly notified and attracted six submissions.

3.0.10 On 25 November 2009 the local government, which was by this time the Southern Downs Regional Council, approved the application subject to conditions, including those conditions required by the concurrence agency to be attached to any approval. The conditions of the concurrence agency include the requirement for conservation works to the remainder of the building to be carried out prior to the commencement of demolition works.

4.0 RELEVANT PLANNING SCHEME PROVISIONS

4.0.1 The sections of the Planning Scheme relevant to the application are shown in Appendix B.

4.0.2 The applicable provisions of the Planning Scheme can be summarised as follows:

- The central city area is to maintain its economic role;
- The city centre is to have a high standard of amenity with a cohesive streetscape;
- Buildings of heritage significance within the city centre are to be used for commercial activities, subject to their heritage values being protected;
- Buildings of heritage significance are to be retained in a context that is appropriate to an understanding of their cultural value and respectful of their design qualities;
- There will be effective conservation of places of cultural heritage significance;
- Buildings of heritage significance may be used for purposes that may otherwise be considered inappropriate;
- Sympathetic alterations are permitted to existing buildings of heritage significance;
- New development must be sensitive, sympathetic and respectful to places of cultural heritage, and the heritage qualities of the locality particularly when viewed from public spaces;
- For an application involving demolition of a building of heritage significance, a conservation study must demonstrate that:
 - Either conservation actions are not feasible or viable; or
 - The building is of no significance in terms of its historical, architectural, streetscape and other special value; and
- For an application involving external building work to a building of heritage significance, a conservation study must demonstrate that the new work will not detract from the heritage significance of the building and will be compatible with the streetscape.

5.0 THE DISPUTED ISSUES

5.0.1 The grounds of appeal, as amended on 11 April 2011, include non-compliance with the following sections of the Planning Scheme:

- 4.2.1 City Centre - Key Policy Statements
- 4.2.2 City Centre - Policy Intent
- 4.2.4.1 City Centre - Impact Assessment Criteria
- 4.2.5.2 City Centre Development Code - Purpose
- 4.2.5.4 City Centre Development Code - Development Controls
- 5.3.3.1 Carrying Out Building Work - Impact Assessment Criteria

- 5.0.2 The areas of disagreement identified in the joint report of the town planning experts included compliance with the above sections of the Planning Scheme and the following additional matters:
- Compliance with Section 3.1.4.2 of the Planning Scheme; Shire Wide Measures - Shire Wide Strategies and Assessment Principles - Landscape and Cultural Heritage;
 - The extent to which the rearmost western wing contributes to streetscape character and amenity; and
 - Whether there are sufficient grounds to justify the approval despite any conflict with the Planning Scheme.
- 5.0.3 Compliance with the above noted sections of the Planning Scheme, and the additional matters raised in the joint report of the town planning experts, are addressed separately below.
- 5.1 THE SHIRE WIDE STRATEGIES AND ASSESSMENT PRINCIPLES FOR LANDSCAPE AND CULTURAL HERITAGE (SECTION 3.1.4.2 OF THE PLANNING SCHEME)
- 5.1.1 Section 3.1.4.2 of the Planning Scheme was not identified by the Appellant as a disputed issue in the amended Grounds of Appeal. Nonetheless it was discussed in the joint report of the town planning experts.
- 5.1.2 This section of the Planning Scheme states that the impact on the character of a particular locality (especially when viewed from public spaces) will be a matter for consideration with a development proposal, as will whether the proposed development will be sympathetic to the heritage qualities of the locality.
- 5.1.3 The building is currently in a state of disrepair and detracts from the amenity of the area.



Figure 4: View of ground floor from Fitzroy Street footpath

- 5.1.4 In addition to the demolition of the rearmost western wing, the development approval includes requirements for the conservation of the remaining parts of the building. The proposed conservation of the sandstone parts of the building will be sympathetic to this heritage place and the other heritage places in this locality, and will result in a positive impact on the locality (particularly when viewed from the public spaces of the footpath, roadways and Leslie Park).
- 5.1.5 This section of the Planning Scheme also states that favourable consideration may be given to a development proposal that may otherwise not have been granted, provided it involves the active use of a heritage place at the same time as conserving its heritage qualities.
- 5.1.6 This is a significant provision of the Planning Scheme which demonstrates the importance of the conservation and reuse of heritage buildings. This provision also reinforces the importance of the proposal to conserve the sandstone parts of the building; i.e. the demolition of the rearmost western wing should not be considered in isolation but as part of a larger proposal that includes the conservation of the remainder of the building. This provision also suggests that following the conservation works, the building could be actively used for a range of purposes, and is not strictly limited to uses preferred in the City Centre Land Use Area.
- 5.1.7 The proposal to conserve the majority of the building will ensure the building and locality will retain its heritage character, and allow for the reuse of the building for commercial or other purposes.
- 5.1.8 I am of the opinion that the development as proposed achieves compliance with the Shire Wide Strategies and Assessment Principles.
- 5.2 THE KEY POLICY STATEMENTS FOR THE CITY CENTRE LAND USE AREA (SECTION 4.2.1 OF THE PLANNING SCHEME)
- 5.2.1 The Key Policy Statements state that the city centre will have a high standard of amenity, and a cohesive streetscape character in which buildings of heritage significance are protected and new development occurs in a compatible form.
- 5.2.2 The building is currently vacant and in a state of disrepair. The conservation of the sandstone parts of the building as proposed would provide for a higher standard of amenity than is currently the case.
- 5.2.3 This site has frontage to both Fitzroy Street and Haig Avenue. I am of the opinion that Fitzroy Street is the major frontage; not in terms of length, but in terms of its prominence and streetscape value. The streetscape from the subject building to Guy Street to the west is of particular importance. Of the four buildings within this section of the streetscape, three are included on the Queensland Heritage Register. This streetscape includes the original two-storey sandstone building of the Warwick Police Station and the Warwick Court House.



Figure 5: South side of Fitzroy Street from Plumb's Chambers to the Guy Street intersection



Figure 6: South side of Fitzroy Street from the Guy Street intersection to the Palmerin Street intersection

5.2.4 The view from Fitzroy Street of the rearmost western wing proposed to be demolished is limited. The figure below shows this section of the building at its most visible from Fitzroy Street.



Figure 7: Building at 84 Fitzroy Street viewed from the northern side of Fitzroy Street

- 5.2.5 The entry for Plumb's Chambers in the Queensland Heritage Register cites as one of the reasons for the inclusion of this place in the register its prominent role in the Fitzroy Street streetscape, specifically how the pitch of the roof contributes to the unity of the street. The Conservation Assessment Report by Watson Architects states that "much of the aesthetic and townscape significance of the building lies in its form and association with similar sized buildings in the streetscape, most notably the police station and the courthouse". Based on these statements and assessment, the contribution of the rearmost western wing to the Fitzroy Street streetscape is minimal. By retaining the majority of the building, and all of that part of the building fronting onto Fitzroy Street, the cohesive streetscape character of Fitzroy Street is retained.
- 5.2.6 Haig Avenue is a very short narrow street, and views of this street are only visible from close proximity. It comprises the subject building, the Rose City Shoppingworld and the Warwick Police Station. Plumb's Chambers is the only building on the eastern side of the avenue. The Haig Avenue streetscape could be best described as limited and mixed in nature. It is not a cohesive streetscape.



Figure 8: Haig Avenue from the northern end



Figure 9: Haig Avenue from the southern end

- 5.2.7 The part of the building proposed to be demolished, i.e. the rearmost western wing, is constructed along the Haig Avenue property boundary. Due to the materials, scale and style of this rearmost section of the building being in contrast to the sandstone parts of the building, this part of the building does not add to and may detract from the streetscape. While the demolition of the rear part of the building will change the Haig Avenue streetscape, this change will be of no importance or significance.
- 5.2.8 I am of the opinion that the development complies with the Key Policy Statements.
- 5.3 THE POLICY INTENT FOR THE CITY CENTRE LAND USE AREA (SECTION 4.2.2 OF THE PLANNING SCHEME)
- 5.3.1 The Policy Intent states that buildings of heritage significance are intended to be used for commercial activities, subject to development being undertaken in such a way as to protect their heritage values.
- 5.3.2 The building in its current condition is not fit for occupation. The conservation of the sandstone parts of the building as proposed in the application would provide for the building to be used for commercial or other purposes.
- 5.3.3 That part of the building proposed for conservation equates to 87% of the building's footprint, and 91% of the building's floor area. The part of the building proposed for demolition is the last of the additions to the building and located at the rear of the building. The conservation of the building as proposed will ensure the protection of the heritage values of the building.
- 5.3.4 The conservation and reuse of the building will allow for it to contribute to the social, cultural and economic role of the city centre. This would achieve compliance with the Desired Environmental Outcomes (section 2.3 of the Planning Scheme) which states that higher order retail, professional and commercial services and government facilities

will be located within the central city area to strengthen the role of Warwick as the major community and economic centre for the Southern Downs sub-region.

5.3.5 I am of the opinion that the development as proposed complies with the Policy Intent.

5.4 THE IMPACT ASSESSMENT CRITERIA FOR THE CITY CENTRE LAND USE AREA (SECTION 4.2.4.1 OF THE PLANNING SCHEME)

5.4.1 The impact assessment criteria state as follows:

4.2.4.1 Impact Assessment Criteria

(c) For applications involving the demolition or removal of buildings listed in Planning Scheme Policy No.1, [Council will consider] whether a conservation study has demonstrated that:

- conservation actions are not feasible or viable; or
- the building is of no significance in terms of its historical, architectural, streetscape and other special value.

(d) For applications involving external building work to buildings listed in Planning Scheme Policy No.1, [Council will consider] whether a conservation study demonstrates that the new work will not detract from the heritage significance of the building and will be compatible with the streetscape.

5.4.2 Whilst the joint report of the town planning experts focused on section 4.2.4.1(c) and the development's compliance with it, on reflection Section 4.2.4.1(d) also seems to be relevant and important. Section 4.2.4.1(c) appears to apply only to the demolition of whole buildings, not necessarily parts of buildings. As the proposed development involves the demolition of part of a building, it seems to more comfortably fit within the definition of "external building works" and Section 4.2.4.1(d) may well be the controlling provision. In this context I note the definition of "external building work" in the Planning Scheme is as follows:

Means any building work related to the exterior portion of a building, other than development that is made exempt or self-assessable under the *Standard Building Regulations*. The term does not include repair or maintenance work.

In addition, "building work" as defined in the Planning Scheme includes demolition. Notwithstanding this view, I will address both (c) and (d).

Section 4.2.4.1(c)

5.4.3 Section 4.2.4.1(c) requires the assessment manager to consider whether a conservation study has demonstrated:

- that conservation of a heritage building proposed for demolition is not feasible or viable; or
- that the heritage building proposed for demolition is of no significance in terms of its historical, architectural, streetscape and other special value.

5.4.4 The following reports were submitted with the development application:

- Heritage Report, by Thomson Adsett, dated September 2007
- Conservation Assessment Report, by Watson Architects, dated July 2008
- Statement of Heritage Impact, by Watson Architects, dated July 2008

- 5.4.5 These reports do not address the issue of whether conservation of the rearmost western wing would be feasible or viable. However, the structural engineering experts found that this part of the building is structurally sound for its intended purposes as an occupation room and ablution block. It can therefore be taken that conservation of this part of the building is feasible and viable.
- 5.4.6 In their Conservation Assessment Report, Watson Architects provides the results of an assessment of the entire building and assigns levels of significance for the fabric and setting of the building. The ratings used range from A (Exceptional Significance) to E (Intrusive Element). The rearmost western wing is described in the report as "single storey west wing additions and ablutions wing" and "single storey wing addition verandah". Both these elements were given a rating of D - Little or No Significance, meaning:
- Intervention and/or new work are appropriate provided that no nearby areas of higher cultural significance are compromised.
- 5.4.7 The Watson Architects' report states that the "removal of the western service wing will have a potential impact on the cultural significance of the 84 Fitzroy, however this is considered minimal in respect to the retention of the principal building".
- 5.4.8 The Statement of Heritage Impact by Watson Architects describes the rearmost western wing as follows:
- This single storey structure is attached to the rear of the sandstone skillion structure on the western side of the building and consists of rendered brick walls with chamferboards facing the rear court area. This additional structure appears later in construction and features a low-pitched hip roof. It contains a recently constructed timber framed and fibrous cement-sheeted room and an ablutions area at the rear. The building has a recent custom orb roof sheeting and quad guttering.
- This rear-most western wing was assessed in Section 3 of the Conservation Report to have little remaining fabric of cultural heritage significance and its removal is considered acceptable.
- 5.4.9 While in their joint report the heritage experts agree that the demolition of the rearmost western wing would not destroy the cultural heritage significance of the place, they disagree on the level of significance of this part of the building.
- 5.4.10 The building is included as Listing No. 55 of the Warwick Shire Cultural Heritage Study. The heritage study states that the building is significant:
- for its association with the local historical theme of the development of Warwick as an administrative centre; and
 - for its architectural value as a sandstone building in a district characterized by the use of local sandstone.
- 5.4.11 As the proposed development includes the retention of the older sandstone sections of the building, it is considered the development as proposed will not compromise the heritage or architectural significance of the building as noted in the Warwick Shire Cultural Heritage Study.
- 5.4.12 The building is Place No. 601725 on the Queensland Heritage Register. The entry in the heritage register states that the place satisfies criteria A, B, C, D, E and H as

specified in section 35(1) of the *Queensland Heritage Act* as evidenced by, but not exclusive to, the following statement of cultural heritage significance:

Criterion	
A	Plumb's Chambers, comprising brick and timber building [at 82 Fitzroy Street] possibly dating to the 1860s and an 1874-75 building [at 84 Fitzroy Street], is important in illustrating the transformation of Warwick in the late 1860s and 1870s from a squatters' town to the principal urban centre of Queensland's most prosperous pastoral and agricultural district. The possibly c1860s brick building may represent the beginnings of this movement and the 1874-75 building is indicative of Warwick's first building boom. Both buildings [at 82 & 84 Fitzroy Street] also illustrate a tradition of masonry construction in Warwick and district dating from at least 1860s and sustained well into the early 20th century, which sets the district apart from any other in Queensland.
B	The 1874-75 building survives as an excellent example of substantial, two-storeyed, stone building with commercial premises on the ground floor and residence on the first floor, designed to impress and inspire confidence. Few buildings of this type and material have survived in Queensland, and even fewer Georgian-styled stone shop-houses in Queensland overlook a town square. The building provides rare evidence of the nature of the accommodation and work place of a successful 1870s business family in a developing Queensland rural town. More particularly, it is important in illustrating the nature of such buildings in a town in which stone and brick construction for commercial buildings was the norm at this period.
C	Both buildings are important in illustrating the design, materials and construction techniques of mid-19th century masonry building in Queensland, and both have potential to reveal further information about 19th century stone and brick construction.
D	Both buildings are important in illustrating the design, materials and construction techniques of mid-19th century masonry building in Queensland, and both have potential to reveal further information about 19th century stone and brick construction. The 1874-75 building survives as an excellent example of a substantial, two-storeyed, stone building with commercial premises on the ground floor and residence on the first floor, designed to impress and inspire confidence.
E	Both buildings occupy a prominent role in the streetscape along Fitzroy Street between Guy and Palmerin Streets, and the pitch of the roofs contribute to the unity of the street.
H	The 1874-75 building is significant for its close association with Warwick chemist and seedsman David Clarke, who made a substantial contribution to the expansion of agriculture in the Warwick district 1860s and 1870s.

5.4.13 The entry in the Queensland Heritage Register indicates the significance of the building as being due to:

- Its importance in the development of Warwick;
- Its association with David Clarke;
- An excellent example of a two-storeyed stone building of Georgian style, overlooking a town square, designed to impress and inspire confidence;
- A rare example of evidence of the nature of the accommodation and work place at this time, i.e. commercial use on ground floor, residence on first floor;
- An important example illustrating the design, materials and construction techniques of the time; and
- Its prominent role in the Fitzroy Street streetscape.

5.4.14 The entry in the Queensland Heritage Register mentions, almost exclusively, the two-storey sandstone section of the building fronting onto Fitzroy Street. There is little, if any, reference to the sandstone addition or the rearmost western wing.

5.4.15 In my view "significance" is a term that may vary in meaning depending on its context. In the current context I have assumed it means "importance". Therefore, if the test in this context is that this partial demolition is of no importance in terms of the historical, architectural, streetscape and other special value of the part of the building to be demolished, I do not think that this part of the building is significant due to:

- its minimal contribution to the historical significance of the building as noted in the Warwick Shire Heritage Study and the Entry in the Queensland Heritage Register;
- its limited architectural value due to the materials and style of the building being in contrast to the older parts of the buildings, and its lack of any particular architectural merit in its own right; and
- its limited contribution to the Fitzroy Street and Haig Avenue streetscapes as outlined in section 5.2 of this report.

5.4.16 I am of the opinion that the development as proposed complies with Section 4.2.4.1(c) of the Impact Assessment Criteria for the City Centre Land Use Area.

Section 4.2.4.1(d)

5.4.17 Section 4.2.4.1(d) requires the assessment manager to consider whether a conservation study has demonstrated that proposed external building works to a heritage building will not detract from the heritage significance of the building and will be compatible with the streetscape.

5.4.18 As outlined previously, the contribution of the rearmost western wing to the historical significance of the building is minimal as noted in the Warwick Shire Heritage Study and the Entry in the Heritage Register. On this analysis the demolition of the rearmost western wing will not detract from the heritage significance of the building.

5.4.19 The minimal impact on the streetscape due to the demolition of the rearmost western wing has been discussed previously in section 5.2 of this report.

5.4.20 I am of the opinion that the development as proposed complies with Section 4.2.4.1(d) of the Impact Assessment Criteria for the City Centre Land Use Area.

5.5 THE PURPOSE OF THE CITY CENTRE DEVELOPMENT CODE (SECTION 4.2.5.2 OF THE PLANNING SCHEME)

5.5.1 The purpose of the City Centre Development Code is to retain the heritage qualities of the City Centre through the retention of highly significant and significant heritage places in a streetscape context which provides for sympathetic alterations to existing buildings.

5.5.2 The proposal provides for the retention and conservation of the more prominent and significant parts of the building. This will improve the amenity of the area while maintaining the streetscape context.

5.5.3 The Planning Scheme envisages alterations to heritage buildings, and the conservation measures proposed provide for sympathetic alterations to the building.

5.5.4 I am of the opinion that the development as proposed complies with the Purpose of the City Centre Development Code.

5.6 THE DEVELOPMENT CONTROLS OF THE CITY CENTRE DEVELOPMENT CODE (SECTION 4.2.5.4 OF THE PLANNING SCHEME)

- 5.6.1 The development controls of the City Centre Development Code ensure heritage places are retained in a context which is appropriate to an understanding of their cultural value and respectful of their design qualities. This is achieved if development incorporates design elements which are compatible, complementary and respectful to the heritage place.
- 5.6.2 The retention and conservation of the building, notwithstanding the proposed demolition, will achieve compliance with this requirement.
- 5.6.3 I am of the opinion that the development as proposed complies with the Development Controls of the City Centre Development Code.

5.7 THE IMPACT ASSESSMENT CRITERIA FOR CARRYING OUT BUILDING WORK (SECTION 5.3.3.1 OF THE PLANNING SCHEME)

- 5.7.1 This section of the Planning Scheme requires consideration of Section 4.2.2 (Policy Intent) and Section 4.2.4.1 (Impact Assessment Criteria for the City Centre Land Use Area), and the purposes for which the building is likely to be suitable.
- 5.7.2 These sections of the Planning Scheme and the likely use of the building have been addressed previously.
- 5.7.3 For those reasons outlined previously, I am of the opinion that the development as proposed complies with the Impact Assessment Criteria for Carrying Out Building Work.

5.8 EXTENT TO WHICH THE REARMOST WESTERN WING CONTRIBUTES TO THE STREETScape AND AMENITY

- 5.8.1 This was a matter of disagreement arising from the meeting of the Town Planning Experts.
- 5.8.2 The impact on the streetscapes and the amenity of the area has been discussed previously in section 5.2 of this report.
- 5.8.3 For those reasons outlined previously, I am of the opinion that the rearmost western wing contributes very little to the Fitzroy Street and Haig Avenue streetscapes.

5.9 SUFFICIENT GROUNDS TO JUSTIFY APPROVAL DESPITE CONFLICTS

- 5.9.1 To the extent the Court may find conflict with the planning scheme, it is appropriate to consider whether there are sufficient grounds to justify the approval despite any such conflict in accordance with Section 3.5.14 of the *Integrated Planning Act 1997*.
- 5.9.2 I believe there to be a significant benefit to the community in allowing the development to proceed. Currently this building is in a dilapidated condition. The proposal provides for the retention and conservation of the more significant parts of the building. This will ensure the building will retain its heritage character and its cultural significance, and the Fitzroy Street streetscape will be enhanced. The building will be made suitable for reuse and will again contribute to the economic role of the city.

6.0 CONCLUSION

- 6.0.1 The proposed development involves the demolition of the rearmost western wing of the Plumb's Chambers building located at 84 Fitzroy Street, Warwick. The proposal also provides for the conservation of the remaining sandstone sections of the buildings.
- 6.0.2 The proposal complies with all relevant provisions of the Warwick Shire Planning Scheme.
- 6.0.3 The Planning Scheme supports the reuse of buildings of heritage significance by allowing for sympathetic alterations of these buildings, and allowing for the reuse of these buildings for purposes that may not otherwise be considered appropriate.
- 6.0.4 As the proposal includes the conservation of the more significant sandstone sections of the building, it provides for the reuse of this building for purposes consistent with the intent of the Planning Scheme. The demolition of the rearmost western wing will have minimal impact on the heritage significance of the building, and the conservation of the remainder of the building will provide for a higher standard of amenity and will not only be compatible with the streetscape but will enhance the streetscape.
- 6.0.5 To the extent that the Court finds that there is conflict with any part of the Planning Scheme, the community benefit that will derive from this development provides sufficient grounds for the approval of the application.
- 6.0.6 It is my opinion that the proposal has town planning merit, and should be approved subject to reasonable and relevant conditions.

APPENDIX A - CURRICULUM VITAE

PERSONAL PARTICULARS

Name: Annette Mary Doherty
Address: 92 Pratten Street, Warwick
Telephone: (07) 4661 1657 (home)
(07) 4661 0335 (work)
Email: annette.doherty@southerndowns.qld.gov.au

EDUCATION

2005 Graduate Diploma of Urban and Regional Planning (University of New England)
1999 Bachelor of Arts (Education Studies) (Murdoch University)

EXPERIENCE

2008- Manager Planning Services, Southern Downs Regional Council
2004-2008 Manager Planning Services, Warwick Shire Council
2003-2004 Town Planner, Warwick Shire Council

- Responsibility for the staff and functions of the Planning Services section.
- Providing professional and technical advice to the Director, other Directorates, Council and the public on matters relating to Planning.
- Implementation of the Warwick Shire and Stanthorpe Shire Planning Schemes and related policies, including management and implementation of heritage provisions.
- Preparation and implementation of amendments to the Warwick Shire Planning Scheme.
- Formulation and implementation of policies and procedures to improve the operation and delivery of services to the public in the areas of planning, cultural heritage and environment.
- Processing of development applications in accordance with the *Sustainable Planning Act* and *Integrated Planning Act*, including monitoring of the stages of IDAS applications and processing times, and reporting to Council.
- Monitoring and investigating breaches of the Warwick Shire and Stanthorpe Shire Planning Scheme and related Local Laws, and the carrying out of associated legal action.
- Instructing Council's solicitor in relation to appeals to the Planning and Environment Court and development enforcement matters.
- Preparation, development and implementation of local laws on planning related matters.
- Revision of draft Southern Downs Region Planning Scheme.

PROFESSIONAL MEMBERSHIPS

Member of the Planning Institute of Australia (PIA)

APPENDIX B - APPLICABLE SECTIONS OF THE WARWICK SHIRE PLANNING SCHEME

2.0 Desired Environmental Outcomes

2.3 The Economy

(iii) Warwick City will have a strengthened role as the major community and economic centre for the Southern Downs sub-region, by providing:

- Higher order retail, professional and commercial services and government facilities within the central city area

2.4 Cultural, Economic, Physical and Social Wellbeing

(ii) There will be effective conservation of places of cultural heritage significance in the Shire and new development which sensitively responds to them.

3.0 Shire Wide Measures

3.1 Shire Wide Strategies and Assessment Principles

3.1.4 Landscape and Cultural Heritage

3.1.4.2 Assessment Principles

(ii) Development proposals will be subject to consideration of their impact on the character of the Shire and the landscape qualities and character of a particular locality, especially when viewed from major transport routes or other public spaces. Council may require the submission of a detailed assessment in this regard.

(iii) In considering applications for development at or near places listed in the policy, Council will have regard to the heritage qualities of the locality and whether the proposed development will be sympathetic to them. Council may request the submission of a conservation report, as described in the policy.

Council may give favourable consideration to a development proposal which may not otherwise have been intended in a particular land use area, providing that it would provide for the active use of a heritage place listed in the policy at the same time as conserving its heritage qualities.

4.0 Measures for Particular Land Use Areas

4.2 City Centre

4.2.1 Key Policy Statements

(ii) The city centre will have a high standard of amenity, with a cohesive streetscape character in which buildings of heritage significance are protected and new development occurs in a compatible form.

4.2.2 Policy Intent

The buildings of heritage significance within the city centre are listed in Planning Scheme Policy – Cultural Heritage. It is intended that these

buildings are to be used for commercial activities, however, development is to be undertaken in such a way as to protect their heritage values.

4.2.4 Application Assessment Criteria and Codes

4.2.4.1 Impact Assessment Criteria

(c) For applications involving the demolition or removal of buildings listed in Planning Scheme Policy No.1, [Council will consider] whether a conservation study has demonstrated that:

- conservation actions are not feasible or viable; or
- the building is of no significance in terms of its historical, architectural, streetscape and other special value.

(d) For applications involving external building work to buildings listed in Planning Scheme Policy No.1, [Council will consider] whether a conservation study demonstrates that the new work will not detract from the heritage significance of the building and will be compatible with the streetscape.

4.2.5 City Centre Development Code

4.2.5.2 Purpose

The purpose of this code is to retain the heritage qualities of the City Centre through the retention of highly significant and significant heritage places in a streetscape context which provides for sympathetic alterations to existing buildings and the incorporation of new development which is compatible with, and respectful to, the existing streetscape character.

4.2.5.4 Development Controls

(a) Heritage Context

Performance Objective

- To ensure that heritage places are retained in a context which is appropriate to an understanding of their cultural value and respectful of their design qualities.

Acceptable Solutions

- Development, including external building work to existing buildings which adjoin a place identified as having heritage significance in Planning Scheme Policy No.1, shall incorporate design elements (including building setback, form, scale, proportion, character, materials, and ornamentation) which are compatible, complementary and respectful to the heritage place.

5.0 Measures for Development Other than a Material Change of Use

5.3 Carrying Out Building Work

5.3.3.1 Impact Assessment Criteria

Council will also have regard to other relevant provisions of this planning scheme, including the policy intent and impact assessment criteria set out

in section 4.0 for the particular land use area in which the site is located. To this end, the purposes for which the building is intended to be used, or is likely to be suitable for, will be a relevant consideration.

(a) Demolition or Removal

In assessing an application for a proposal to demolish or remove a building listed in Planning Scheme Policy No.1, consideration will be given to whether a conservation study has demonstrated that:

- the building is of no significance in terms of its historical, architectural, streetscape and other special value; or
- where the building is of significance, that conservation actions are not feasible or viable.

(b) External Building Work

In assessing an application for external building work to a building listed in Planning Scheme Policy No.1, consideration will be given to whether a conservation study has demonstrated that the new work will not detract from the heritage significance of the building and will be compatible with the streetscape.