Item 8: Development

8.1 DA0170/2020 - Demolition of Dwelling House, 26 Robertson Street, Mudgee

REPORT BY THE MANAGER, HEALTH AND BUILDING
TO 20 MAY 2020 ORDINARY MEETING
GOV400087, DA0170/2020

RECOMMENDATION

That Council:

1. receive the report by the Manager, Health and Building on the DA0170/2020 - Demolition of Dwelling House, 26 Robertson Street, Mudgee; and

2. refuse the application for the demolition of the existing dwelling house for the following reason;

   • demolition of the dwelling house will result in a loss of contribution to the heritage significance of the conservation area due to the rare form of construction used.

Executive summary

| OWNER/S | Mr Gregory and Mrs Claire Toole |
| APPLICANT: | Mr Greg Toole |
| PROPERTY DESCRIPTION | 26 Robertson Street (Lot 2, DP566854) |
| PROPOSED DEVELOPMENT | Demolition of existing Dwelling House |
| ESTIMATED COST OF DEVELOPMENT: | $20,000 |
| REASON FOR REPORTING TO COUNCIL: | Called up by the General Manager based on Public Interest |
| PUBLIC SUBMISSIONS: | Nil |

Council is in receipt of Development Application DA0170/2020 that seeks the Demolition of an existing Dwelling House, located at 26 Robertson Street Mudgee, Lot 2 DP566854, received by Council on 20 January 2020.

The application has been placed on public exhibition in accordance with Mid-Western Regional Community Participation Plan 2019. The exhibition period ended on 11 February 2020 and no submissions were received.

The existing building is a simple Victorian Georgian cottage containing an original front portion that includes an identified rare form of ‘adobe wall’ construction and an attached skillion addition to the rear. Council’s Heritage Advisor has stated that the design of the adobe construction suggests that
the house could date from the earliest years of the township, perhaps around 1850 to the end of the nineteenth century.

The proposed demolition is not supported due to impacts on the heritage significance of the conservation area as recommended by Council’s Heritage Advisor.

Disclosure of Interest

Nil

Background

SUBJECT SITE

The subject site has a total area of 1,191m² and is zoned R1 ‘General Residential’ with the Demolition of an existing Dwelling House permissible with consent pursuant to cl 2.7 and 5.10(2) of Mid-Western Regional LEP 2012.

Figure 1: Aerial imagery identifying 26 Robertson Street and the existing structures thereon

The existing dwelling house is not listed as a contributory item in any Council instrument or policy, however it is located within the southern cusp of the heritage conservation area (see Figure 2
Therefore consideration has been given to the potential heritage impacts arising from the demolition of the building within the heritage conservation area.

The application was referred to Council’s Heritage Advisor for comment. A copy of the response and heritage report is attached for consideration.

Council’s Heritage Advisor has recommended that “due to the construction method of the primary building being of adobe wall construction (sun dried mud bricks) that is a rare and old technique and coupled with the estimated age of the building, the house should be retained with consideration given to individually listing it as a heritage item”.

Consideration on the recommendation to list the building as a local heritage item is not dealt with under this report.

PROPOSED DEVELOPMENT

Council has received a development application for the demolition of the existing dwelling on the site at 26 Robertson Street, Mudgee. Plans submitted with the application and photographs of the existing dwelling are included as attachments to this report.

The proposal does not involve a variation to the requirements prescribed within Mid-Western Regional Local Environmental Plan 2012.

There have been no details provided by the applicant of the future development proposed for the site.
Detailed report

The application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The main issues are addressed below as follows.

(a) **Provisions of any Environmental Planning Instrument and any draft EPI – 4.15(1)(a)(i) and (ii)**

State Environmental Planning Policy No 55- Remediation of Land

A site inspection and a search of Council’s records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The following clauses of *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012) have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The proposed development is contrary to the relevant aims and objectives of the plan in that the demolition of the existing dwelling would not result in the aim of conserving buildings of heritage significance.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as the demolition of a dwelling house.

**demolish**, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

**dwelling house** means a building containing only one dwelling.

Clause 2.3 Zone objectives and Land Use Table

The land is zoned R1 General Residential pursuant to MWRLEP 2012. The proposal being the demolition of a dwelling house is permissible with consent in the zone and complies with two of the three relevant objectives.

The objectives of the zone and how the proposal does/does not satisfy the objectives is addressed below:

**R1 General Residential**

- To provide for the housing needs of the community.
  
  **Comment:** The proposal would provide a vacant development site and the ability to further develop the site to meet the housing needs of the community.

- To provide for a variety of housing types and densities.
Comment: The proposal will remove the existing Victorian Georgian cottage and rare adobe wall construction, which would result in the loss of its contribution to the significance within the heritage conservation area.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment: The proposal is not expected to obstruct other possible permissible land uses within the immediate area.

Clause 2.7 Demolition requires development consent

In satisfaction of this clause, the development application seeks approval for the demolition of an existing dwelling house.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal does not include any of the listed uses contained under this clause.

Clause 5.10 Heritage Conservation

Clause 5.10(2) states that development consent is required for the demolition of a building within a heritage conservation area. In satisfaction of this clause, the development application seeks approval for the demolition of the existing dwelling house.

The subject dwelling house is not a listed item however is located within the Mudgee Heritage Conservation Area. As the proposal includes works in a heritage conservation area, consideration must be given to the relevant heritage significance in accordance with Clause 5.10(4).

It is considered that the proposed demolition of the existing Victorian Georgian cottage and its unique adobe wall construction does not meet the objectives of this clause in that the heritage significance of the conservation area will not be conserved without the retention of such a rare form of construction.

(b) The provisions of any Development Control Plan or Council Policy – 4.15(1)(a)(iii)

Mid-Western Regional DCP 2013

An assessment is made of the relevant chapters and sections of the Mid-Western Regional Development Control Plan 2013 (DCP). Notwithstanding notification requirements, there are no specific controls contained within the DCP, relevant to demolition of dwelling houses.

(c) Provisions of any Planning Agreement or Draft Planning Agreement – 4.15(1)(a)(iiiia)

No planning agreement applicable.

(d) Regulations – 4.15(1)(a)(iv)

No regulations applicable.

(e) The likely impacts of development – 4.15(1)(b)

Context and Setting
The proposal is considered not to be appropriate given the impacts it will have on the heritage significance of the conservation area.

**Access, transport and traffic**

The proposed additions and alterations have no impact on traffic, car parking and access.

**Public domain**

The demolition of the dwelling house will result in a loss to the streetscape and heritage significance of the area.

**Utilities**

All relevant utilities are available or can be made readily available to the site.

**Heritage**

This aspect has been discussed in detail within other sections of this report.

**Other land resources**

The proposal is not expected to impact upon other land resources as discussed throughout this report.

**Water**

No significant impact expected.

**Soils**

No significant impact expected.

**Air and Microclimate**

No significant impact expected.

**Flora & fauna**

No significant impact expected.

**Waste**

Waste service available.

**Energy**

Not applicable.

**Noise & vibration**

Not applicable.

**Natural Hazards**
No natural hazards are identified.

*Technological hazards*

Not applicable.

*Safety, security and crime prevention*

The existing building has evidence of cracking, mainly in the cement render. The applicant has raised concerns regarding the safety of any occupants residing in the existing building and has been provided with the opportunity to obtain a structural report to support the application for demolition. At the time of writing this report, a structural report has not been provided.

*Social impact in the locality*

Generally positive.

*Economic impact in the locality*

Generally positive.

*Site design and internal design*

Not applicable.

*Construction*

Not applicable.

*Cumulative Impacts*

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

(f) **The Suitability of the Site for the Development – 4.15(1)(c)**

*Does the proposal fit in the locality?*

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development.

*Are the site attributes conducive to development?*

Yes. The site is not subjected to any natural hazards and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

(g) **Submissions made in accordance with Act or Regulations – 4.15(1)(d)**

*Public Submissions*
The proposal was required to be notified for a period of 14 days in accordance with MWRDCP 2013 and the regulations. The submission period ended on 11 February 2020 and no submissions were received.

**Submissions from public authorities**

No submissions were sought or received from public authorities.

**(h) The Public Interest – 4.15(1)(e)**

**Federal, State and local government interests and community interests**

Other than heritage matters discussed above, there are no significant issues in the interests of the public are expected as a result of the proposed development.

6. **CONSULTATIONS**

**(a) Health & Building.**

Report prepared by Health and Building.

**(b) Technical Services**

No consultation necessary.

**(c) Heritage Advisor**

As the site is located within the Mudgee Heritage Conservation Area, a referral was requested from Council’s Heritage Advisor. The Heritage Advisor is not in support of the proposed demolition for reasons stated above. A copy of the Heritage Advisor’s referral comments is provided in Attachment 1.

**Community Plan implications**

<table>
<thead>
<tr>
<th>Theme</th>
<th>Looking After Our Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal</td>
<td>Vibrant towns and villages</td>
</tr>
<tr>
<td>Strategy</td>
<td>Respect and enhance the historic character of our Region and heritage value of our towns</td>
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</tbody>
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**Strategic implications**

**Council Strategies**
- Mid-Western Regional Local Environmental Plan 2012
- Mid-Western Regional Development Control Plan 2013
- Mid-Western Regional Community Participation Plan 2019

**Council Policies**
- Not Applicable

**Legislation**
- Environmental Planning & Assessment Act 1979
- Environmental Planning & Assessment Regulation 2000
Financial implications

Nil.

Associated Risks

Should Council refuse the application, the applicant may seek a further review of the decision or appeal the decision through the Land & Environment Court.

JOSH BAKER
MANAGER, HEALTH AND BUILDING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

23 April 2020

Attachments:
2. Photographs of Existing Dwelling.
3. Site Plan Lodged with Application.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER
MID-WESTERN REGIONAL COUNCIL
HERITAGE MEMORANDUM

TO: GARY CHAMBERS

FROM: HERITAGE AND URBAN DESIGN ADVISER

REF: DA0170/2020: DEMOLITION OF 26 ROBERTSON ST MUDGEE

DATE: 5 MARCH 2020

The proposal is the demolition of the house on the above site, which is located within the Mudgee Heritage conservation Area. The application form fails to identify this heritage status and the application does not include a Statement of Heritage Impact.

The issue is the contribution the house makes to the heritage significance of the Conservation Area.

The house is a simple Victorian Georgian cottage, with a central front door, windows on each side, a hipped corrugated galvanised iron roof with small gambrels, and separate bullnosed front veranda returning on one side. It is largely intact, i.e. unaltered, except for extensions at the rear.

What makes it rare is that it is built of adobe, or sun-dried mud bricks. It should be noted that this form of construction is more robust and durable than might be thought: there are a number of examples close to 200 years old in the Central West of the state, and some are thousands of years old in the middle East. Also, the high thermal mass of the walls is advantageous in drier climates.

The design and adobe construction suggest that the house could date from the earliest years of the township, perhaps around 1850, to the end of the nineteenth century. Indeed it may satisfy the criteria for individual heritage listing. It clearly contributes to the historical and aesthetic heritage significance of the Conservation Area, which may be defined as follows:

The Mudgee Conservation Area is an area of largely intact buildings and public places from the Victorian, Federation and inter-war periods, with some notable post-war buildings. It has historical significance, demonstrating the growth of the CBD and suburban housing over those periods; aesthetic significance as a heterogeneous yet coherent group of good examples of architectural styles; and social significance, being highly valued by the community.

It also contributes to the streetscape.

It is occupied and appears to be in reasonable condition. The original bagged finish has been re-coated with a cement based finish which has come away in a small area on one side. There are some minor (about 1 mm) cracks in the front wall and one in a side wall. These are not structural and can be repaired using simple techniques.

For all these reasons the application is not supported.

However the applicants, who appear not to have been aware of the house’s heritage status, should be advised of possible options.
The site is quite large. The extensions at the rear could be demolished. The original part of the house could be conserved and sympathetic new extensions added, using modern construction methods. Planning advice on the possibilities of subdivision and secondary dwellings could be provided.

Specialised advice can be provided on the conservation of the house. Conservation work would be eligible for a grant from the Local Heritage Fund and regarding the grants available from the Local Heritage Fund. If the house were to be individually listed, the benefits of the LEP heritage incentive clause 5.10 (10) would be available.
26 Robertson St Site Plan. (Not To Scale)