



# DEVELOPMENT APPLICATION

Proposed Demolition  
(Dwelling, Structures, and Trees)  
39 Short Street, Mudgee

Prepared for  
MLPL Investments Pty Ltd  
September 2021

Ref: DA1PJB21006

## TABLE OF CONTENTS

|                                                                                 |           |
|---------------------------------------------------------------------------------|-----------|
| Section 1.0.....                                                                | 1         |
| <b>THE APPLICATION .....</b>                                                    | <b>1</b>  |
| 1.1 THE PROPOSAL .....                                                          | 1         |
| 1.2 DOCUMENTATION .....                                                         | 2         |
| 1.3 APPLICANT .....                                                             | 3         |
| 1.4 OWNERSHIP .....                                                             | 3         |
| 1.5 THE SUBJECT LAND .....                                                      | 3         |
| 1.5.1 Location and Title .....                                                  | 3         |
| 1.5.2 Site Description.....                                                     | 4         |
| 1.5.3 Condition of Existing Dwelling .....                                      | 5         |
| 1.6 SURROUNDING DEVELOPMENT PATTERN.....                                        | 6         |
| Section 2.0.....                                                                | 7         |
| <b>TOWN PLANNING CONSIDERATIONS .....</b>                                       | <b>7</b>  |
| 2.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS .....                      | 7         |
| 2.1.1 Mid-Western Regional Local Environmental Plan 2012 .....                  | 7         |
| 2.1.2 State Environmental Planning Policy 55 – Remediation of Land .....        | 16        |
| 2.2 PROVISIONS OF DEVELOPMENT CONTROL PLANS .....                               | 17        |
| 2.3 MATTERS PRESCRIBED BY THE REGULATIONS.....                                  | 18        |
| 2.4 THE LIKELY IMPACTS OF THE DEVELOPMENT .....                                 | 18        |
| 2.4.1 Heritage .....                                                            | 18        |
| 2.4.2 Traffic Impacts .....                                                     | 23        |
| 2.4.3 Noise .....                                                               | 23        |
| 2.4.4 Water Quality .....                                                       | 23        |
| 2.4.5 Waste Management .....                                                    | 24        |
| 2.4.6 Site Management .....                                                     | 24        |
| 2.4.7 Utility Services .....                                                    | 24        |
| 2.4.8 Biodiversity .....                                                        | 25        |
| 2.4.9 Social and Economic Impacts.....                                          | 26        |
| 2.5 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT .....                       | 26        |
| 2.6 SUBMISSIONS IN ACCORDANCE WITH ACT OR REGULATIONS.....                      | 27        |
| 2.7 THE PUBLIC INTEREST .....                                                   | 27        |
| Section 3.0.....                                                                | 28        |
| <b>CONCLUSION .....</b>                                                         | <b>28</b> |
| <br><b>Annexure A</b><br><b>Plans by Peter Basha Planning &amp; Development</b> |           |
| <br><b>Annexure B</b><br><b>Building Inspection Report</b>                      |           |
| <br><b>Annexure C</b><br><b>Timber Pest Building Inspection Report</b>          |           |
| <br><b>Annexure D</b><br><b>Heritage NSW Inventory Sheet (Anglican Church)</b>  |           |



## THE APPLICATION

### 1.1 THE PROPOSAL

This development application seeks approval to demolish the existing dwelling and structures and remove all trees within the property at 39 Short Street, Mudgee.



The subject land is located within the B3 Commercial Core Zone. The existing residential character and attributes of the subject land limit the potential for it to meet the B3 Zone objectives or accommodate the range of land uses that are permitted in the B3 Zone.

While adaptive reuse of residential buildings for commercial purposes is relatively common, it is submitted that this particular building has limited value in this regard due to the following:

- As a cottage, the range of commercial (or B3 Zone) uses to which it may be put is relatively narrow. It would have limited appeal or suitability as retail premises or food and drink premises. While it may be converted to perhaps office premises, health consulting rooms or the like; it is submitted that there would be other/better premises in Mudgee that are more appropriate in this respect.

- The scope of work and cost attributed to NCC (BCA) compliance particularly in regard to fire protection measures and accessibility would not be justified for a building that already has such modest appeal or suitability for commercial use.

The proposed demolition would create a clear site. This, in conjunction with the secondary access that is provided via the public lane along its western boundary, would make the land suitable and more appealing for a broader range of uses in accordance with the B3 Zone provisions.

## **1.2 DOCUMENTATION**

This report describes the proposal and provides an assessment as required under Section 4.15 of the Environmental Planning and Assessment Act, 1979. It concludes that there are no reasons that would prevent approval.

The development application comprises this report and the following documentation:

### **Annexure A Plans by Peter Basha Planning & Development**

- |          |                                     |
|----------|-------------------------------------|
| Figure 1 | Location                            |
| Figure 2 | Existing Boundaries and Site Layout |
| Figure 3 | Surrounding Development Pattern     |
| Figure 4 | Proposed Demolition Plan            |

### **Annexure B**

Building Inspection Report

### **Annexure C**

Timber Pest Building Inspection Report

### **Annexure D**

Heritage NSW Inventory Sheet (Anglican Church)

### 1.3 APPLICANT

MLPL Investments Pty Ltd  
c/- Peter Basha Planning & Development  
PO Box 1827  
ORANGE NSW 2800

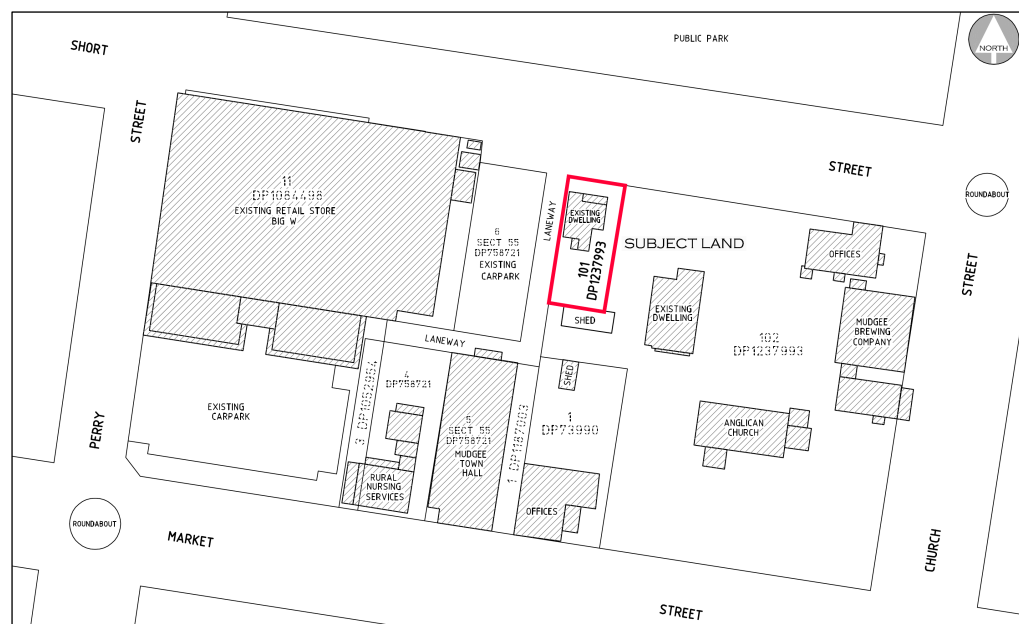
### 1.4 OWNERSHIP

MLPL Investments Pty Ltd  
2 Ralston Drive  
ORANGE NSW 2800

### 1.5 THE SUBJECT LAND

#### 1.5.1 Location and Title

The subject land is located at 39 Short Street within the northern fringe of the Mudgee town centre. The nearest cross streets are Church Street to the east and Perry Street to the west (refer Figure 1 and below).



The real property description is Lot 101 DP 1237993, Parish of Mudgee and County of Wellington.

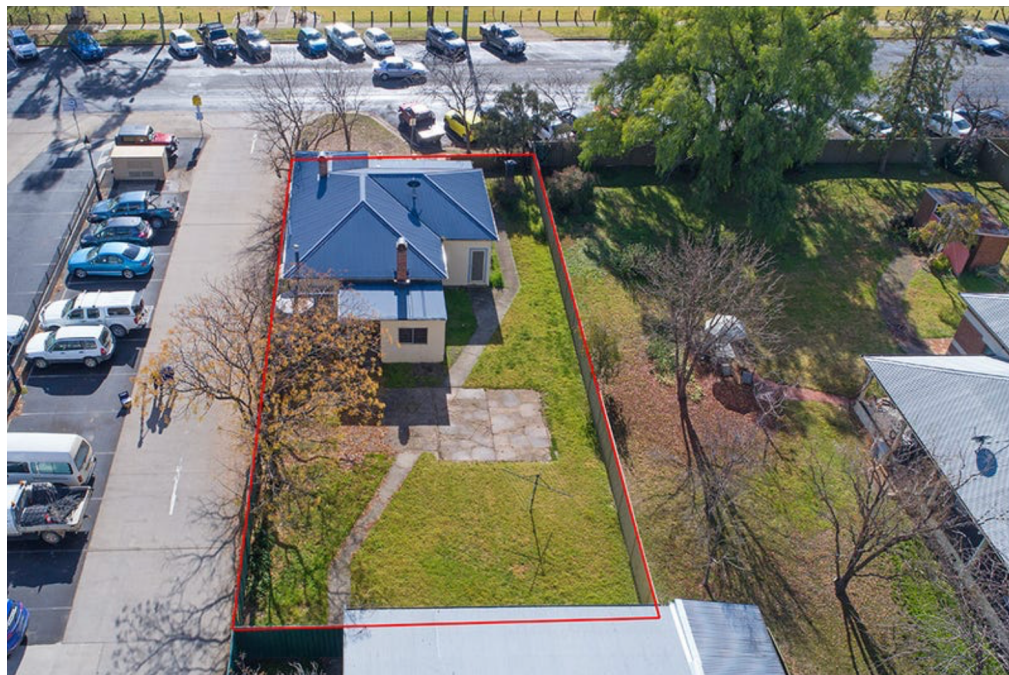


### 1.5.2 Site Description

The subject land is a corner allotment with an area of 548m<sup>2</sup>. It has a frontage of 16.65 metres to Short Street which forms the northern boundary; and a frontage of 35.28m to a public lane which forms the western boundary. The eastern boundary is 35.46 metres long. The southern (rear) boundary is 14.875 metres long.

The land is a residential property. It comprises a fibro dwelling with a GI roof. It is setback from Short Street behind a landscaped front yard. The rear yard is grassed. Fencing is provided along all boundaries.





The land does not contain a garage. However, vehicle access is available to the rear yard via the public lane that extends along the western boundary of the property. A deciduous tree exists in the front yard and another exists in the rear yard. Both trees are adjacent to the western (laneway) boundary.

### 1.5.3 Condition of Existing Dwelling

The existing dwelling is a mid-20<sup>th</sup> century fibro cottage with a GI roof. The condition of the dwelling was assessed in a Pre-Purchase Property Inspection (24.07.17) by Trent Hampshire Property Protect Pest and Building. A copy of this inspection report is provided in *Annexure B*. A Timber Inspection Report was also prepared (refer *Annexure C*).

The inspection report assessed the overall condition of the building to be Average-Poor (refer page 6).

The inspection report summarised the major defects as follows (refer page 8):

1. Piers, where visible need replacing.
2. Termite damage throughout (see Timber Pest Inspection Report).
3. Floorboard missing in front room.
4. Front verandah cracked. North Eastern corner lower.



## 1.6 SURROUNDING DEVELOPMENT PATTERN

The subject land is on the northern fringe of the Mudgee town centre. In effect it stands as a lone residential property within a non-residential land use pattern.



With reference to the aerial plan above:

- The grounds and buildings associated with the Anglican church adjoin the subject land to the east and south.
- A group of town centre buildings (including the town hall) that face Market Street lie further to the south.
- A public land and car park adjoin the subject land to the west and the Big W shopping centre is just further west.
- A public reserve is to the north on the opposite side of Short Street.

---

## TOWN PLANNING CONSIDERATIONS

In determining the application, Council must take into consideration the relevant matters under section 4.15 of the Environmental Planning and Assessment Act, 1979. These are assessed below.

### 2.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS

#### 2.1.1 Mid-Western Regional Local Environmental Plan 2012

The proposal is subject to the provisions of Mid-Western Regional Local Environmental Plan 2012 (the LEP). The relevant provisions are considered below.

##### ***LEP Mapping***

The subject land is identified on LEP sheets numbered 6 and 6G. A summary of LEP mapping matters is provided in the table below.

| LEP Matter                                                           | Comment                                     |
|----------------------------------------------------------------------|---------------------------------------------|
| Land Application Map                                                 | Not applicable                              |
| Groundwater Vulnerability Map                                        | Land within groundwater vulnerable area     |
| Land Zoning Map                                                      | Land zoned B3 Commercial Core               |
| Land Reservation Acquisition Map                                     | Not applicable                              |
| Lot Size Map                                                         | No MLS                                      |
| Flood Planning, Active Street Frontages, Visually Sensitive Land Map | Land is within Active Street Frontages area |

| LEP Matter                        | Comment                                                                                                                 |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Former LEP Boundaries Map         | Not applicable                                                                                                          |
| Height of Buildings Map           | Maximum Building Height of 8.5m applies                                                                                 |
| Heritage Map                      | Land is within Conservation Area<br><br>Land identified as heritage item (considered an anomaly – see commentary below) |
| Sensitivity Biodiversity Map      | Not applicable                                                                                                          |
| Sewage Treatment Plant Buffer Map | Not applicable                                                                                                          |

### ***Zoning***

The land is zoned B3 Commercial Core. The objectives of the zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To promote the central business district of Mudgee as the major focus for retail and commercial activity in Mid-Western Regional.
- To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.



- To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.
- To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity within the commercial core.

The proposal is considered to be consistent with the zone objectives as follows:

- The proposal satisfies the first stated objective. The removal of the dwelling will facilitate future use of the subject land for the range of uses that are permitted and encouraged within the B3 Zone. It should be noted that the B3 objectives do not encourage residential development. Rather, the objectives explicitly encourage *a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- The proposal is consistent with the second stated objective. The future development of the subject land for B3 land uses may generate employment opportunities in an accessible location.
- The proposal is consistent with the third stated objective. The subject land is centrally located and therefore reasonably accessible via public transport, walking and cycling.
- The proposal is consistent with the fourth stated objective. By making the land available for a broader range of uses allowed in the B3 Zone, it has greater potential to contribute to the role of the Mudgee town centre as the primary retail and business centre for the Mid-Western LGA.
- The proposal is consistent with the fifth stated objective. The demolition will create a vacant site that has potential to be developed for B3 zone land uses. An increase in useable land within the existing B3 Zone consolidates the town centre and minimises the need to expand into the surrounding residential neighbourhoods.
- The proposal is not adverse to the sixth stated objective. As justified by this report, the demolition will not adversely affect heritage values in the area. Future development of the site will be subject to separate assessment and will be required to demonstrate suitability and acceptability in terms of local historic architectural and streetscape character.

- The proposal is not adverse to the seventh stated objective. Due to its location and relationship to the street and lane network, there is potential for future development within the subject land to achieve satisfactory pedestrian movement and connectivity to other areas within the Mudgee town centre.

### ***Permissibility***

The proposed demolition is permissible but requires the consent of Council pursuant to Clause 2.7 and Clause 5.10(2) of the LEP.

### ***Clause 1.2 – Aims of Plan***

The aims of the LEP are as follows:

- a) to promote growth and provide for a range of living opportunities throughout Mid-Western Regional,
- b) to encourage the proper management, development and conservation of resources within Mid-Western Regional by protecting, enhancing and conserving:
  - i) land of significance to agricultural production, and
  - ii) soil, water, minerals and other natural resources, and
  - iii) native plants and animals, and
  - iv) places and buildings of heritage significance, and
  - v) scenic values,
- c) to provide a secure future for agriculture through the protection of agricultural land capability and by maximising opportunities for sustainable rural and primary production pursuits,
- d) to foster a sustainable and vibrant economy that supports and celebrates the Mid-Western Regional's rural, natural and heritage attributes,

- e) to protect the settings of Mudgee, Gulgong, Kandos and Rylstone by:
  - i) managing the urban and rural interface, and
  - ii) preserving land that has been identified for future long- term urban development, and
  - iii) promoting urban and rural uses that minimise land use conflict and adverse impacts on amenity, and
  - iv) conserving the significant visual elements that contribute to the character of the towns, such as elevated land and the rural character of the main entry corridors into the towns,
- f) to match residential development opportunities with the availability of, and equity of access to, urban and community services and infrastructure,
- g) to promote development that minimises the impact of salinity on infrastructure, buildings and the landscape.

In consideration of the aims of the LEP, the following comments are provided in support of the development:

- The proposal is consistent with *Aim (a)* because it facilitates future B3 Zone development and therefore has the potential to promote growth.
- The proposal is not adverse to *Aim (b)* because it involves land within a zoned commercial area and does not impact on values pertaining to agricultural production; soil, water, minerals and other natural resources; native plants and animals; and scenic values. For the reasons provided later in this report, the proposal will not adversely affect places and buildings of heritage significance.
- The proposal is not adverse to *Aim (c)* because it does not involve development of, or impact upon, agricultural land.
- The proposal is not adverse to *Aim (d)* because it involves land within a zoned commercial area and can be demonstrated to not detract from the rural, natural or heritage attributes of the Mid-Western Regional area.

- Due to its location in a zoned commercial area, the proposed development upholds the goals expressed in *Aim (e)* in that it does not adversely affect the urban and rural interface; or land identified for long term urban development. Further, the development does not generate land use conflict issues; and it does not detract from the visual or heritage elements that contribute to the character of Mudgee.
- The development is not adverse to *Aim (f)*. Mudgee provides broader residential areas that enjoy reasonable access to urban and community services and infrastructure. In this context, the loss of the subject dwelling is of minor concern.
- In consideration of *Aim (g)* there are no aspects of the proposal that would increase the effects of salinity.

#### ***Clause 4.3 Height of buildings***

Clause 4.3 applies to the subject land. The objectives of this clause are:

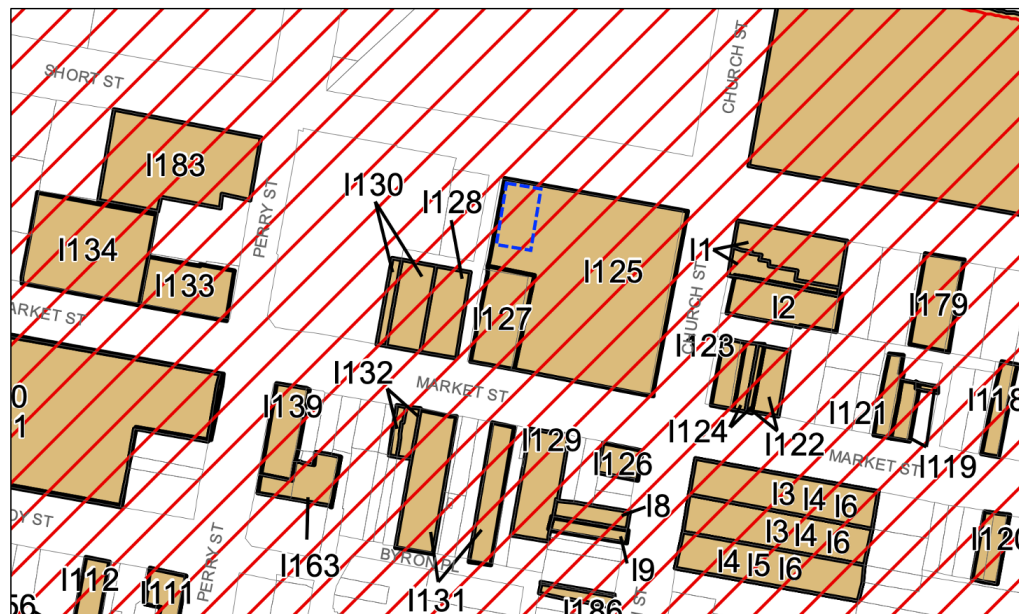
- a) to establish a maximum height limit to which buildings can be designed in particular locations,
- b) to enable infill development that is of similar height to existing buildings and that is consistent with the heritage character of the towns of Mudgee, Gulgong, Kandos and Rylstone.

Pursuant to Clause 4.3(2), the height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*. According to this map, a maximum building height limit of 8.5 metres applies to the subject land.

The proposed development involves demolition of an existing building and therefore does not require further consideration in terms of building height. This clause is a matter for consideration when future development is proposed within the subject land.

#### ***Clause 5.10 Heritage Conservation***

As indicated in the extract over the page, the subject land (outlined in blue) is shown on the LEP Heritage Map as being within the Mudgee Conservation Area.



The subject land is also mapped as being a heritage item. However, this is an anomaly as explained below.

- The mapping includes the subject land within the heritage item mapped as I125 Anglican Church. Schedule 5 of the LEP lists the subject land as Item I125 and describes the land upon which it sits as Part Lot 1 DP 1043650.
- Lot 1 DP 1043650 was the parent lot that was subdivided to create the subject land (Lot 101 DP 1237993) and the Anglican Church land (Lot 102 DP 1237993). It is entirely logical that “Part Lot 1 DP 1043650” referred to in Schedule 5 of the LEP would actually be the land now known as Lot 102 DP 1237993.
- The inventory sheet (Heritage NSW), attached to this report as *Annexure D* focusses on the Church building itself (as does the LEP listing). It also states that the Church is *part of a group of aesthetically important freestanding buildings that are visually central to Market Street and Mudgee*.
- In the context of the above information, it is clear that the subject land has been incorrectly mapped as a heritage item due to the following:
  - The parent lot has been subdivided. The fact that the subject dwelling has been excised on a separate lot suggests that Council allowed the subdivision because it was not considered part of the important group of buildings. In line with typical heritage considerations, if the dwelling was regarded as integral to the “important group of buildings”, then it is likely that the subdivision would not have been approved.



- The LEP heritage map was gazetted in 2012. The subdivision has occurred since 2012 (it actually occurred in 2018). Therefore, it is suggested that Council has simply not updated its LEP heritage map to reflect the new boundaries.
- The Heritage NSW inventory sheet only focusses on the *church and other important buildings that are visually central to Market Street*. Due to its age (mid 20<sup>th</sup> century) in comparison to the Church (mid to late 19<sup>th</sup> century); setting; and orientation to Short Street, the subject dwelling could not be regarded as one of those important buildings.

Pursuant to Clause 5.10(4) Council is required to consider the potential impact that the development may have on the conservation area or any heritage item within the vicinity of the subject land.

Heritage matters are considered later in this report at *Section 2.4.1*.

#### ***Clause 6.4 Groundwater Vulnerability***

- 1) The objectives of this clause are as follows:
  - a) to maintain the hydrological functions of key groundwater systems,
  - b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.
- 2) This clause applies to land identified as “Groundwater vulnerable” on the Groundwater Vulnerability Map.
- 3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following:
  - a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),
  - b) any adverse impacts the development may have on groundwater dependent ecosystems,
  - c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),

- d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- 4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

There are no aspects of the proposed demolition that would cause adverse impacts on groundwater quality.

***Clause 6.7 Active street frontages***

According to LEP mapping the subject land is within an Active Street Frontage area. As such Clause 6.7 applies and provides as follows.

- 1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages on land in Zone B3 Commercial Core.
- 2) This clause applies to land identified as “Active Street Frontage” on the *Active Street Frontages Map*.
- 3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
- 4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—
  - a) entrances and lobbies (including as part of mixed use development),
  - b) access for fire services,
  - c) vehicle access.

- 5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

The proposed development involves demolition of an existing building and therefore does not require further consideration in terms of the provision of an active street frontage. This clause is a matter for consideration when future development is proposed within the subject land.

### ***Clause 6.9 Essential Services***

Clause 6.9 provides that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- a) the supply of water,
- b) the supply of electricity,
- c) the disposal and management of sewage,
- d) stormwater drainage or on-site conservation,
- e) suitable vehicular access.

The subject land is connected to urban utility services, which are to be capped off in accordance with the requirements of the relevant supply authority prior to commencement of any works.

Suitable road access is provided to the land via its frontage to Short Street. the public lane along the side boundary offers secondary access.

Services and suitable vehicle access will remain available to future development within the subject land.

### **2.1.2 State Environmental Planning Policy 55 – Remediation of Land**

Clause 7(1) of SEPP 55 Remediation of Land provides that a consent authority must not consent to the carrying out of any development on land unless:

- a) It has considered whether the land is contaminated, and
- b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

- c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

In terms of potential soil contamination, the subject land is not known to have been used for a purpose listed in Table 1 of *Managing Land Contamination Planning Guidelines SEPP 55 –Remediation of Land*.

The subject land is well established as a residential property with front and rear yards under lawn and garden. Vegetative cover is consistent and there is no bare ground or patches to indicate possible contamination by previous uses. There are no buildings or structures within the site that indicate potentially contaminating activities associated with previous land use.

On the basis of this preliminary information, it is requested that Council not require further assessment.

## **2.2 PROVISIONS OF DEVELOPMENT CONTROL PLANS**

Mid-Western Regional *Development Control Plan 2013* applies to all land within the Mid-Western Regional Council LGA.

The aims of the DCP are to:

- Implement and support the objectives of the Local Environmental Plan (Mid-Western Regional LEP 2012).
- Define development standards that deliver the outcomes desired by the community and Council.
- Provide clear and concise development guidelines for various forms of development.
- Encourage innovation in design and development by not over-specifying development controls.
- Expedite development approvals by providing clear direction of Council's intent and criteria.
- Provide certainty of development outcomes for developers and the community.

The DCP sets provisions for certain types of development. However, there are no specific DCP provisions that are of particular relevance to the proposed demolition.

## **2.3 MATTERS PRESCRIBED BY THE REGULATIONS**

The Environmental Planning and Assessment Regulation 2000 prescribes certain matters that must be considered by Council in determining a development application.

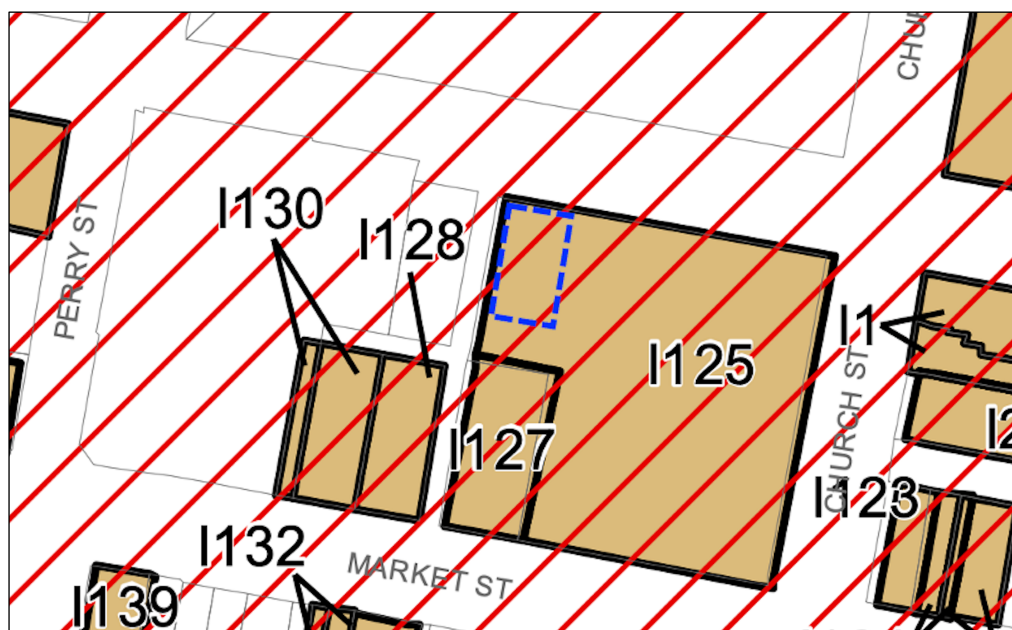
The only relevant prescribes matter is that demolition works are to be undertaken in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*.

## **2.4 THE LIKELY IMPACTS OF THE DEVELOPMENT**

### **2.4.1 Heritage**

In terms of heritage:

- The subject land is within the Mudgee Heritage Conservation Area.
- For the reasons outlined earlier in this report, the subject building should not be regarded as a heritage item.
- With reference to the LEP map extract over the page, the following heritage items are in the vicinity of the subject land:
  - Item I125, Anglican Church on the land that adjoins to the east and south – Local Significance.
  - Item I127, State Bank on the land that lies to the south at 62 Market Street – Local Significance.
  - Item I128, Town Hall on the land that lies to the south at 64 Market Street – State Significance.
  - Item I130, Old Bank Building on the land that lies to the south west at 70 Market Street – Local Significance.



The potential impacts of the demolition upon the heritage conservation area and the identified heritage items are assessed below. This assessment is based on the NSW Heritage Office publication *Statement of Heritage Impact Guidelines* (Table 7 – Relevant HIS Questions).

**The proposal respects or enhance the heritage significance of the item or conservation area for the following reasons:**

The proposed demolition would not adversely affect the heritage conservation area due to the following:

- The dwelling is not an important building. It is an unremarkable mid-20<sup>th</sup> century cottage with no particular heritage value. The building is typical of the period without any distinctive architectural features or details. It is not a landmark and it is not an endangered building type. On this basis it is suggested that the proposed demolition would not result in the loss of a rare type or style of building.
- The dwelling sits within a fragmented streetscape. Any heritage value that may be attributed to this section of Short Street is diminished by the adjacent public car park and a large commercial building to the west; and a long section of colorbond fencing to the east (refer photographs below). In this context, the contribution of the dwelling is unremarkable and its demolition would not result in the loss of an integral streetscape element.





Further to the above points, the proposed demolition will have no impact on the ability to understand the historical significance of the Mudgee Heritage Conservation Area due to the following:

- The removal of the dwelling will not affect the ability to understand and appreciate the historic and aesthetic significance of the Mudgee Heritage Conservation Area in the vicinity of the site.
- The proposed demolition will not affect significant view corridors into, within or out of the Conservation Area.
- The proposed demolition will neither destroy nor detract from the established character of the Conservation Area.

The proposed demolition will not adversely affect the heritage items in the immediate vicinity of the site for the following reasons:

- The proposed works will not affect significant view corridors towards or from the heritage items in the vicinity of the site.
- The existing dwelling was built outside of the key period of development of the heritage items in the vicinity, and therefore does not inform the significance of these items.
- The setting of the nearby items will remain intact.

**The following aspects of the proposal could detrimentally impact on heritage significance.**

For the reasons outlined above, the proposal is not expected to detrimentally affect the heritage value of the conservation area or any heritage items in the vicinity of the subject land.

The subject dwelling has been subdivided (under the current LEP) from the adjacent Anglican Church property, which is a heritage item. This indicates that the subject dwelling is not considered important in terms of heritage value or its association with the Church property.

**The following sympathetic solutions have been considered and discounted for the following reasons.**

There are no aspects of the proposal that are considered unsympathetic in terms of heritage values.

**Demolition of a building or structure:**

- **Have all options for retention and adaptive re-use been explored?**
- **Can all of the significant elements of the heritage item be kept and any new development be located elsewhere on the site?**
- **Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible?**
- **Has the advice of a heritage consultant been sought?**
- **Have the consultant's recommendations been implemented? If not, why not?**

In response to the above questions:

- The potential for retention and adaptive re-use has been considered. While adaptive reuse of residential buildings for commercial purposes is relatively common, it is submitted that this particular building has limited value in this regard due to the following:

- As a cottage, the range of commercial (or B3 Zone) uses to which it may be put is relatively narrow. It would have limited appeal or suitability as retail premises or food and drink premises.
- While the dwelling may be converted to perhaps office premises, health consulting rooms or the like, such a scenario is unlikely as there would be other/better premises in Mudgee that are more appropriate in this respect.
- The scope of work and cost attributed to NCC (BCA) compliance particularly in regard to fire protection measures and accessibility would not be justified for a building that already has such modest appeal or suitability for commercial use.
- The building is not a heritage item. As stated earlier, it is an unremarkable mid-20<sup>th</sup> century cottage with no particular heritage value. The building is typical of the period without any distinctive architectural features or details that warrant retention.
- There are no current or future circumstances that would justify a delay of the proposed demolition.
- Given the modest heritage value of the subject dwelling and the limited contribution that it makes to the conservation area, the advice of a heritage consultant has not been sought.

**Tree removal or replacement:**

- **Does the tree contribute to the heritage significance of the item or landscape?**
- **Why is the tree being removed?**
- **Has the advice of a tree surgeon or horticultural specialist been obtained?**
- **Is the tree being replaced? Why? With the same or a different species?**

The trees to be removed are not considered to represent contributory vegetation. They are not considered to form an integral element of the heritage streetscape or setting.

The removal of the trees from within the site will have little impact upon the Short Street view corridor. The potential visual impacts will be ameliorated to some extent by the existing street trees that remain at the front of the site and contribute to streetscape character.

#### **2.4.2 Traffic Impacts**

The proposal will not cause adverse traffic impacts in the long term.

Demolition traffic will be short term and will be managed as follows:

- Utilise the side lane for vehicle access.
- Clearly identify a single access point.
- Traffic, parking and pedestrian management plan to be implemented.

#### **2.4.3 Noise**

The potential noise impacts will be addressed as follows:

- Ensure activities are confined to standard work hours so as to reduce noise impacts to sensitive receivers where possible.
- Schedule work to avoid cumulative noise.
- Ensure machines comprise properly fitted exhausts.
- Remind drivers to exercise slow and respectful driving practices when entering, exiting or moving within the work site to minimise noise.
- All workers should be briefed on the need to minimise noise as a result of their activities.

#### **2.4.4 Water Quality**

The potential impacts on water quality will be addressed as follows:

- Erosion and sediment control devices should be placed prior to works commencing.

- Immediately after works have been completed the exposed areas should be stabilised and revegetated. Erosion and sediment control devices should remain in place until stabilisation of the exposed areas has occurred.
- The proposal is not expected to involve deep excavation or the use of liquids or substances that may impact on groundwater quality.

#### **2.4.5 Waste Management**

The management of demolition waste should address the following:

- Provide a waste storage area and receptacles that contains rubbish in windy events.
- Separation of green waste; recyclable materials; and land fill materials and undertake appropriate disposal of each stream.
- Should asbestos be detected in any of the demolition materials, it is to be removed, handled, and disposed of in accordance with an asbestos removal control plan and the relevant legislative requirements.

#### **2.4.6 Site Management**

The management of the site during demolition should address the following:

- Provide fencing/hoarding around the site boundaries.
- Vehicle access point to be identified.
- Appropriate safety signage to be established.
- Waste storage areas should be defined and provided in a manner that contains windblown material.

#### **2.4.7 Utility Services**

The existing utility services in and around the site should be accurately located prior to any works commencing.

In the event that services are likely to be affected, the relevant supply authority should be contacted to ensure their requirements are satisfied in terms of protection, capping, termination or relocation.

#### **2.4.8 Biodiversity**

The subject land is a well-established town centre site and is clearly highly modified from its natural state. Notwithstanding, the following information is submitted in accordance with the requirements for assessment of development under the *Biodiversity Conservation Act, 2016*.

Section 1.7 of the Environmental Planning & Assessment Act, 1979 requires consideration of Part 7 of the *Biodiversity Conservation Act, 2016* in relation to terrestrial environments; and Part 7A of the *Fisheries Management Act, 1994* in relation to aquatic environments. The proposal does not involve an aquatic environment. As such, only *Biodiversity Conservation Act, 2016* requires consideration.

There are four matters that may trigger the Biodiversity Offset Scheme to determine whether or not a Biodiversity Assessment Report (BDAR) is required. These are considered below.

**Whether the development occurs on land identified on the OEH Biodiversity Values Map**

The proposal does not involve the clearing of native vegetation (or any other action prescribed by clause 6.1 of the *Biodiversity Conservation Regulation 2016*) on land included on the Biodiversity Values Map published under clause 7.3 of the *Biodiversity Conservation Regulation 2016*.

**Whether the amount of native vegetation being cleared exceeds a threshold area based on the minimum lot size associated with the property**

The proposal does not involve the clearing of native vegetation.

**Whether the development or activity is “likely to significantly affect threatened species”?**

The natural state of the site and its surrounds has been highly modified by the well-established urban development pattern.

It is devoid of native vegetation and has no habitat value, particularly for less common native species.

As such, the proposal will not have an adverse effect on a threatened species; endangered ecological community; or a critically endangered ecological community or their habitat.

**Whether the development or activity development or activity will be carried out in a declared area of outstanding biodiversity value?**

No. The subject land is not a declared area of outstanding biodiversity value.

#### **2.4.9 Social and Economic Impacts**

It is submitted that the proposed demolition would not generate negative social or economic effects.

Whilst the proposal represents a minor loss of housing stock, it is considered acceptable due to the following:

- The subject land is zoned B3 Commercial Core. The demolition of the dwelling provides suitable land for future town centre development in accordance with the B3 Zone objectives.
- The Mudgee urban area comprises expansive areas of land zoned for residential purposes. In this context, the loss of one dwelling is considered negligible.

## **2.5 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

There are no aspects of the site that would unreasonably constrain the proposed demolition.

The proposed demolition would create a clear site. This, in conjunction with the secondary access that is provided via the public lane along its western boundary, would make the land suitable and more appealing for a broader range of uses in accordance with the B3 Zone provisions



## **2.6 SUBMISSIONS IN ACCORDANCE WITH ACT OR REGULATIONS**

According to the *Mid-Western Community Participation Plan 2019* Council will formally advertise the development application.

## **2.7 THE PUBLIC INTEREST**

The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts.

## CONCLUSION

The proposal as submitted could be supported on the following grounds:

- The proposal can be demonstrated to comply with the relevant provisions of Mid-Western Regional LEP 2012.
- The proposal is not adverse to the provisions of the *Mid-Western Development Control Plan 2013*.
- Heritage is the key issue for consideration in this proposal. Based on the information provided in this report, it is concluded that the proposed demolition would not adversely affect heritage values due to the following:
  - The proposed demolition would not result in the loss of a rare type or style of building. The dwelling is an unremarkable mid-20<sup>th</sup> century cottage with no particular heritage value. It is typical of the period without any distinctive architectural features or details. It is not a landmark and it is not an endangered building type.
  - The proposed demolition would not result in the loss of an integral streetscape element. The dwelling sits within a fragmented streetscape. Any heritage value that may be attributed to this section of Short Street is diminished by the adjacent public car park and a large commercial building to the west; and a long section of colorbond fencing to the east.
  - The proposed demolition will not adversely affect the identified heritage items in the immediate vicinity of the site. The setting of these items remains intact and the view corridors towards or from them will be largely unaffected.
- The proposal is considered satisfactory in terms of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The potential impacts of the proposal are considered to be minor and may be addressed by appropriate design, responsible management practices and relevant Conditions of Consent.
- There are no aspects of the development that warrant refusal.

We trust that this application will be given favourable consideration by Council. Any further enquiries may be directed to Mr Peter Basha on 6361 2955.

Yours faithfully

***Peter Basha Planning & Development***



Per:

***PETER BASHA***

Annexure A

---

*Plans by Peter Basha Planning & Development*

Annexure B

---

*Building Inspection Report*

Annexure C

---

*Timber Pest Building Inspection Report*

Annexure D

---

*Heritage NSW Inventory Sheet (Anglican Church)*