

DEVELOPMENT ASSESSMENT REPORT - 019/11DA

PROPOSED DEMOLITION OF COTTAGE AND SHEDS - IVANHOE COLLIERY PORTLAND ROAD PIPERS FLAT NSW 2790

PROPOSAL

Council is in receipt of Development Application 019/11 from Ivanhoe Coal Pty Ltd for the demolition of a cottage and surrounding sheds at Lot 5 in DP 858201, Portland Road, Pipers Flat.

The proposal is for the demolition of an existing dwelling and sheds at Pipers Flat Road, Wallerawang.

The dwelling was originally constructed at Sunny Corner in the 1870 to the 1880, and was relocated piece by piece to Piper's Flat Road in about 1902, when the Portland Cement Works was getting under way. At the time, three cottages were relocated to the site with two previously being demolished.

The dwelling was reconstructed from most of its original fabric and appears to be structurally sound but in a poor condition. The dwelling is clad with vertical timber boards sealed with timber batons, some walls are galvanised iron, and the front/back verandas have been enclosed with fibro panelling. Some timber lattice is utilised at the front. The roof is painted corrugated iron and there are two brick chimneys, neither of which is in use. Foundations are brick and the internal floors are timber. Window frames are a mix of aluminium and timber, with some side windows being double hung timber framed.

The outbuildings include a large galvanised iron shed/garage, a galvanised iron toilet building and a zincalume storage shed.

There are remnants of the original garden around the dwelling, including exotic and native trees and shrubs, roses and spring bulbs.

Access to the subject lot is off the Pipers Flat Road. It crosses the rail line and veers off to the east towards the dwelling.

Beyond the dwelling the land has some minor grazing areas. The majority of the land to the north is bushland. There is one entrance onto Pipers Flat Road across the railway line.

SUMMARY

To assess and recommend determination of DA 019/11 Recommendation will be for APPROVAL.

LOCATION OF THE PROPOSAL

Legal Description : Lot 5 DP 858201
Property Address : IVANHOE COLLIERY PORTLAND ROAD PIPERS FLAT NSW
2790

The legal description of the Ivanhoe Colliery is Boulder Road, Blackmans Flat. The subject land is 282.5ha and is located off the north eastern side of Pipers Flat Road between Portland and Wallerawang approximately 7km north west of Wallerawang, and 2km south of Portland within an existing rural area. The site is known as Lot 5 DP 858201 Parish of Falnash Country of Cook, and is on the north eastern side of the Wallerawang-Gwabegar rail line.

ZONING: The land is zoned 1(a) Rural in accordance with Lithgow City Local Environmental Plan 1994.

PERMISSIBILITY: The development is considered permissible under Lithgow City Council's Local Environmental Plan 1994 Zone 1(a), subject to development consent.

POLICY IMPLICATIONS (OTHER THAN DCP's)

There is no policy implications associated with the proposal.

FINANCIAL IMPLICATIONS (eg Section 94)

No.

LEGAL IMPLICATIONS

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the Environmental Planning and Assessment Act 1979. These matters for consideration are as follows:

Any Environmental Planning Instrument

Consider SEPPs, REPs & LEPs. RELEVANT Provisions of LEP (eg permissibility, development standards, heritage listing, advertising requirements of another authority who administers a SEPP or REP). Is a SEPP1 objection required?

Lithgow City Local Environmental Plan 1994

| LEP 1994 – Compliance Check | |
|-----------------------------|------------|
| Clause | Compliance |
| 9 1(a) zoning table | Yes |

Comment: The land is currently not used for intensive agricultural production as it is used for grazing purposes for a small amount of cattle. Surrounding agriculture would not be impacted upon or disadvantaged. Sediment and erosion control devices would be in place prior to and site disturbance, to be maintained throughout the demolition process. There are no forests known to be relevant to this development.

The property is owned by Ivanhoe Colliery therefore resources are located on the property but they would not be impacted upon by the development.

The development is to be utilised in conjunction with the management of coal company land in the vicinity. There is no land clearing or environmentally significant land known to be relevant to this development. Water resources are not required for this development.

The services of electricity and telephone have been previously available and adequate on the property. The works proposed are not landuses which are likely to conflict with adjoining landuses. However the distance to the closest off farm dwelling from the shed is noted at less than 80m to the south.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

| SEPP(Sydney Drinking Water Catchment) 2011 – Compliance Check | |
|--|------------|
| Clause | Compliance |
| 10 Development consent cannot be granted unless neutral or beneficial effect on water quality | Yes |

Comment: The proposed development is for demolition and does not propose any new works. Demolition is to be undertaken under the legislation, relating to the appropriate disposal of building waste and site rehabilitation. A NorBE assessment was undertaken for the proposal in which is deemed to be satisfied.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

| State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 – Compliance Check | |
|--|------------|
| Clause | Compliance |
| 13 Compatibility of proposed development with mining, petroleum production or extractive industry | Yes |

Comment: The property is located within the Ivanhoe Colliery mining lease area. As the development involves the removal of buildings, the resources on the property would not be affected. Therefore the development complies with the above SEPP.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

If applicable, is the development consistent with the objectives of the draft instrument?

None.

Any Development Control Plan

Is the proposal consistent with the DCP? If not, is a variance warranted and has it been justified?

No.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

No.

Any matters prescribed by the regulations that apply to the land

Refer to clause 92, 93, & 94 of the Regulation. If a DA for demolition, the provisions of AS 2601-1991; The Demolition of Structures. Fire Safety considerations – DA that does not seek the rebuilding, alteration, enlargement or extension of the building. Consent Authority may require buildings to be upgraded – DA comprising the rebuilding, alteration enlargement or extension, take into consideration whether it is appropriate to require the building to be brought into conformity with the BCA.

The application is for the demotion and buildings on the property. The proposal does not include the rebuilding or alterations to the buildings. To ensure that the development complies with the above regulations a condition would be placed on the consent, if approved, stating:

Demolition works are to be carried out in accordance with Australian Standard 2601-“Demolition of structures”.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The relevant matters are up to assessment and merit. **As a guide only**, the following may be considered if they are considered to be of relevance to the proposal. Amenity, streetscape, scenic quality, bulk, scale character, density, design, adjacent landuse compatibility, solar access, noise, access & traffic, utility services, heritage, water, soils, air, flora & fauna, wastes, safety, security, crime prevention, natural hazards, social, economic & cumulative impacts.

Heritage: The dwelling is an old mining cottage which was moved to the property. As such the buildings or the property are not identified as being heritage listed within Council’s Local Environmental Plan 1994 or Council’s Draft Heritage List.

Although the buildings are not heritage listed they still contain heritage significance as they were reconstructed to provide housing for the Portland Cement Works (which is heritage listed) and they contain original fabric.

A Statement of Heritage Impact was therefore submitted to Council with the application.

Councils Heritage Advisor has reviewed the Statement of Heritage Impact (SOHI) that was lodged with the Statement of Environmental Effects.

It is recommended that as the cottage is a sound lightweight structure, an appropriate course of action would be to relocate the cottage.

Council therefore makes the following suggestions:

1. Contact be made with the family member, Mathew Lyneham, to discuss the family issues,

2. contact be made with the National Trust to obtain copies of the formal comments (if any) mentioned in the SOHI,
3. contact the community groups in Portland and Sunny Corner to investigate opportunities for relocation;
4. contact the Progress Association/Community Group in Sunny Corner to see whether the cottage would be relocated back to Sunny Corner, either to the community centre site or to another site in the village. There was a small group active a few years ago in Sunny Corner trying to start a 'mainstreet' improvement program for the village.

The applicant has advised Council of the following justification:

- Although the building has some elements of its original fabric, there has been a significant alteration that have taken place that detracts from any heritage value it may have had,
- The cottage is not in a suitable safety standard to be occupied as a dwelling purpose

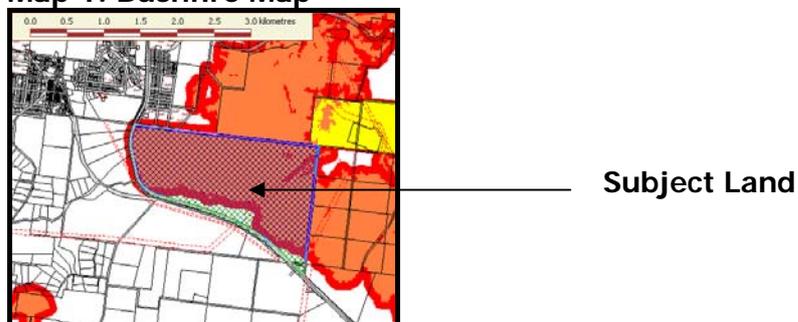
As the property and buildings are not identified as being heritage listed and with the above justification, the development as such is permissible within the zone with minimal heritage impacts.

Topography and Soils: The Pipers Flat Creek flows east/west through the land. The topography of the site varies from relatively flat around the dwelling and south of the Creek, to steeply sloping rocky bushland to the north.

It was stated within the Statement of Environmental Effects that was submitted with the application that soil on the site is reasonably stable and not particularly susceptible to erosion on the flatter areas, due to considerable stock and vehicle movement over time and good vegetation cover. Creek areas are stable but susceptible to erosion where disturbed. Most exposed areas are given over to driveways and vehicle manoeuvring areas. Elsewhere on the property, soils are stabilised with grass, trees and weed growth around fence lines.

Bushfire: The property is located within the Rural Bushfire zone. As the development involves the demolition of buildings, it complies with the Rural Fire Standards and does not need to be referred to the Rural Fire Service for commenting as no construction works are involved. Refer to map below:

Map 1: Bushfire Map



Flora and Fauna: The Statement of Environmental Effects Report states that the vegetation is extensively cleared open woodland and forests. The report also notes that common species on the property which include: mountain gum, ribbon gum,

apple box, snow gum, candlebark and black wattle. Grassy understorey is typical of the area and includes tussocks, blown grass and kangaroo grass. Wattle, tea-tree, guinea flower and bracken can also occur. Vegetation on the dwelling site is limited to grasses, trees and weeds. This vegetation is not considered to constitute significant habitat and is unlikely that it would provide suitable habitat for native species. The bushland area has the potential to provide considerable habitat and is located approximately 300m from the dwelling site. No native fauna other than grey kangaroos have been observed on site. Furthermore no clearing is involved with the development therefore no further flora and fauna assessment is required to be undertaken.

Visual Amenity: The subject land is located on the edge of the Portland settlements are in a general rural zone. The site is partly screened along the road from landscaping (shrubs and trees), which is similar to several other premises along the road. The distance across the line also helps to buffer the site from view.

Other existing buildings in the neighbourhood include dwellings and rural sheds, and are a mix of cladding from corrugated iron through to brick, colour bond and zincalume.

Waste: A condition on the consent would state that:

All waste from the demolition works would be taken to Lithgow Solid Waste Disposal Depot.

Services: services that have been connected to the site in the past include; electricity and telephone. Water and sewer are not available to the site.

Access and Traffic: The subject buildings have no direct road frontage. The site has access across the rail line via a single lane driveway from Pipers Flat Road, which is a two lane sealed road with a speed limit of 100km. This road has a high traffic volume. The proposal will therefore not increase traffic. The access situation has limited alternatives for improvement or relocation. The sight distance at Pipers Flat Road is in a good condition. The entrance is adjacent to the Range Road intersection and a bus stop has been established on the eastern side of the entrance which can limit visibility. In addition, the rail crossing is not a designated one and this would have to be formalised. As such the development would minimise the impact on access and traffic due to reducing the amount of dwellings on the property.

Pollution: Erosion and Sediment control measures are proposed to be installed during demolition to prevent offsite movement of sediment. Any waste building materials, including asbestos, would be collected and stored safely on site for removal and disposal at an appropriate waste disposal facility.

Surrounding Landuses: The property is surrounded by farming land to the south across the rail line and the Pipers Flat Road. To the north is a heavily timbered hillside owned by the proponent, to the east is farming land and the Pipers Flat storage dam. To the west is the rail line and bushland which divides the locality from the Portland Township.

Context and Setting: The proposed development will support the coal mining industry by rationalising property management for Ivanhoe Coal P/L in the area, by reducing public risk, and protecting visual amenity.

Amenity: The company does not wish to renovate the building, as this is not justified in terms of the costs involved and the rent returns possible. It is not feasible to allow the building to slowly deteriorate, due to the possibility of public injury, bushfire risk and weed invasion on the site and a negative impact in visual amenity of a derelict building.

Noise: There may be some local disturbance in the demolition phase, but with reasonable hours in which these works would occur; dust depression, erosion and sediment control measures in place, harm would be minimal and temporary.

The Suitability of the site for the development

Does the proposal suit the site? Bulk/Scale/Sensitivity? Are there any natural or man made hazards?

The social and economic impacts of the proposed development relate to the demolition of an existing dwelling in a rural area. The development is permissible in the zone with the consent of Council and would not place an unacceptable adverse impact on the community for demolition.

The suitability of the site for the development is unknown as there is not enough information submitted to determine if there would be any heritage impacts.

Any submissions made in accordance with this Act or the Regulations

If relevant, consider public and authority submissions. Do submissions relate to valid Planning issues?

The proposal was sent to the Rural Fire Service (RFS), Councils Building Surveyors, Heritage Advisor and Waste Officer for commenting. The proposal was also sent to neighbouring land owners.

RFS

The application is just for demolition not for construction therefore the application did not need to be referred to the RFS for commenting.

Council's Waste Officer

Asbestos removal is covered by regulation and would need to be disposed of at a licensed landfill such as the Lithgow Solid Waste Facility. Before 1970, paints containing high levels of lead were used in many Australian houses. Exposure to lead is a health hazard. Even small amounts of dust or chips of paint containing lead, generated during minor home repairs, can be a health risk. Anyone painting a house or doing maintenance that could disturb paint containing lead should avoid exposing themselves and their families, neighbours or pets to its hazards.

Council's Building Surveyor

1. Demolition works are to be carried out in accordance with Australian Standard 2601- "Demolition of structures". **Note: Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a**

business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.

2. The works shall be executed, by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
3. That minimal disturbance is caused to the site during construction works
4. No demolition activity shall cause damage to or adversely affect the structural integrity of adjoining buildings.
5. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
6. Precautions shall be taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site will be maintained in the event of sudden and severe weather changes.
7. All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council. No material is to be burnt on site.
8. Approval must be obtained from Council's Environmental and Development Department prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate.

COUNCILS HERITAGE ADVISOR

Councils Heritage Advisor has reviewed the Statement of Heritage Impact (SOHI) that was lodged with the Statement of Environmental Effects.

It is recommended that as the cottage is a sound lightweight structure, an appropriate course of action would be to relocate the cottage.

Council therefore makes the following suggestions:

1. Contact be made with the family member, Mathew Lyneham, to discuss the family issues,
2. contact be made with the National Trust to obtain copies of the formal comments (if any) mentioned in the SOHI,
3. contact the community groups in Portland and Sunny Corner to investigate opportunities for relocation;
4. contact the Progress Association/Community Group in Sunny Corner to see whether the cottage would be relocated back to Sunny Corner, either to the

community centre site or to another site in the village. There was a small group active a few years ago in Sunny Corner trying to start a 'mainstreet' improvement program for the village.

In this circumstance Council has advised the applicant in writing in regards to the above recommendations and as to the course of action they wish to undertake for the dwelling.

As such it was advised that the applicants do not wish to proceed with Council's recommendations due to the following reasons:

- The dwelling is not listed on the Heritage Register by the National Trust of Australia or included in Council's Local Environmental Plan 1994 as a heritage item,
- Although the building has some elements of its original fabric, there has been a significant alteration that have taken place that detracts from any heritage value it may have had,
- The cottage is not in a suitable safety standard to be occupied as a dwelling purpose

The issues raised by the applicant are relevant to the assessment of this application.

Adjoining neighbours

The proposed demolition did not receive any submissions from the public over the 14 day period. One objection was received prior to the lodgement of the application in regards to the heritage status of the dwelling. It was advised from Council strategic planning staff in October 2010 that the dwelling is not located on Councils LEP 1994 or proposed to be on Councils new LEP as a heritage significant building.

The public interest

Have any genuine Planning issues been raised in by the wider public? Is there genuine irrefutable concerns relating to public health & safety?

There has been no issues raised from the public regarding planning issues.

DISCUSSION AND CONCLUSIONS

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

ATTACHMENTS

Schedule A- Conditions of consent.

RECOMMENDATION

THAT development application DA 019/11 is approved subject to conditions set out in Schedule A.

Report prepared by:..... Supervisor:.....

Dated:..... Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. Demolition works are to be carried out in accordance with Australian Standard 2601- "Demolition of structures". **Note: Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.**
3. The works shall be executed, by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
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6. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
7. Precautions shall be taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site will be maintained in the event of sudden and severe weather changes.
8. All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council. No material is to be burnt on site.
9. Approval must be obtained from Council's Environmental and Development Department prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate.
10. All waste from the demolition works would be taken to Lithgow Solid Waste Disposal Depot.