

**2.5: DEVELOPMENT APPLICATION – DEMOLITION - (SINGLE HOUSE LISTED ON MUNICIPAL HERITAGE INVENTORY) - LOT 49 (45) SEYMOUR STREET, MIRA MAR**

**Land Description** : Lot 49 (45) Seymour Street, Mira Mar  
**Proponent** : A Bremner & A Barrett-Lennard  
**Owner/s** : P Bremner  
**Business Entity Name** : Nil  
**Director of Owner Company** : Nil  
**Attachment(s)** : Covering letter/s  
: Heritage Assessment  
: Extract from the City's Municipal Heritage Inventory  
**Councillor Workstation** : Nil  
**Responsible Officer(s)** : E/Director Planning and Development Services (D Putland)

**Maps and Diagrams:**



**IN BRIEF**

- A development application has been received to demolish an existing single house which is currently listed on the City of Albany's Municipal Heritage Inventory at lot 49 (45) Seymour Street, Mira Mar.

**RECOMMENDATION**

**ITEM 2.5: RESPONSIBLE OFFICER RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to ISSUE a Notice of Planning Scheme Refusal for Demolition - (Single House listed on Municipal Heritage Inventory) at lot 49 (45) Seymour Street, Mira Mar as:

- a. The proposal does not comply with the requirements for the 'Demolition of Heritage Buildings' contained within Councils Local Planning Policy 2H – *Heritage Protection*.
- b. The development does not satisfy Town Planning Scheme No.1A, section 7.8A (Matters to be Considered by Council) Part (k) with regard to *“the cultural significance of any place or area affected by the development”* as the proposal would result in the loss of building that has cultural heritage significance.
- c. The development does not satisfy Town Planning Scheme No.1A, section 7.8A (Matters to be Considered by Council) Part (n) with regard to *“the preservation of the amenity of the locality”*, as the proposal will have a detrimental impact on the amenity of the locality and on the streetscape.

**ITEM 2.5: ALTERNATE MOTION BY MAYOR WELLINGTON**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: MAYOR WELLINGTON**  
**SECONDED: COUNCILLOR ATTWELL**

**THAT this item lay on the table.**

**CARRIED 9-0**

**Mayor's Reason:**

A development plan is essential for Council to be aware of the proposed future for the site. Another vacant block of land is not a positive for the City as we have too many of those in inner city areas now.

**Officer's Comment (Executive Director Planning and Development Services):**

As Town Planning Scheme No.1A currently has no 'Deemed Refusal' requirements, the City is not required under legislation to determine the application within a certain period of time. Given this the applicant is unable to take the matter to the State Administrative Tribunal. However this could result in the application being in 'pending' indefinitely.

Staff have already requested the applicant/s on several occasions to submit redevelopment plans. However the applicant/s have been unwilling to do so and have advised through correspondence that they want Council to determine the application based on the current information provided. Given the request by the applicant/s, staff would recommend the application be determined as per the officer's recommendation. The determination could also include an advisory note to the effect of;

*“The City is open to considering an application for demolition, however are unwilling to do so until suitable redevelopment plans have been approved by Council.*

**BACKGROUND**

1. This application is to demolish an existing single house which is currently listed on the City of Albany's Municipal Heritage Inventory (MHI) as a category 'C' at Lot 49 (45) Seymour Street, Mira Mar.
2. According to the City's records the subject site is 2023m<sup>2</sup> in area and is zoned 'Residential' with a Residential Design Code Density of R20 under the City of Albany's Town Planning Scheme No. 1A (TPS 1A).
3. The proposal was referred to the City's Regional Heritage Adviser for comment. The response received will be discussed in further detail under the Government Consultation section of this report; a full copy of the comments is within the agenda attachment section.
4. Council is required to determine whether the demolition of the single house is considered appropriate.

**DISCUSSION**

5. The subject site is relatively flat and is located on the western side of Seymour Street directly to the north of the gravesite of Sir Richard & Lady Spencer's. The grave site has heritage significance and is listed under *Appendix VIII – Schedule of Places of Heritage Value* of TPS 1A, the City's MHI and is on the State Heritage Register. Any new redevelopment on the subject land will be referred to the State Heritage Office for comment/advice.
6. The existing house is setback approximately twenty metres from the front boundary and located near centrally on the block. A large timber framed outbuilding is located behind the building. There are also a number of mature trees and shrubs on the property.

7. Below is an aerial showing the subject site and the location of Sir Richard and Lady Spencer's Grave.



8. The house itself is in fair condition and is a single storey cottage constructed from formed brickwork walls with wide mortar joints and areas of fibre cement cladding (which has been noted to contain asbestos). The cottage consists of two different abutting sections both with hipped roofs, tall brick chimneys and is clad in corrugated metal. The front facade of the cottage is asymmetrical with a wide verandah on the western end and a section of fibre cement cladding at the eastern end. The verandah on the northern and western facade has been in filled to create additional internal rooms.
9. Throughout the internal of the building there are concrete floors, painted plaster and fibre cement walls and ceilings with exposed timber battens.

10. The house is listed as a category 'C' building on the City's MHI and is considered to have cultural heritage significance for the following reasons:

- Aesthetic value for its contribution to the streetscape;
- Value as part of a group/precinct;
- In addition it has some value for its architectural merit and rarity value.

11. The management recommendations for this house under the MHI are;

*"Retain and conserve if possible: make every endeavour to conserve the significance of the place through the provisions of the City of Albany Planning Scheme. A Heritage Assessment/Impact Statement will be required before approval given for any development. Photographically records the place prior to development"*.

12. The proponent has submitted a Heritage Assessment (HA) along with the application which was prepared by H + H Architects, a full copy of this can be found within the agenda attachment section. The HA states that the house is a fair example of a simple holiday cottage from the inter war period, it has some social heritage significance. There appears to be no other simple cottages on the MHI that were constructed from the 1930's on the MHI. The HA concludes that the details contained within the current listing for 45 Seymour Street on the MHI are incorrect and states the following;

*"Given the buildings condition, integrity and significance we believe that it is appropriate to either remove the building from the inventory or adjust it to management category D – "Significant but not essential to an understanding of the history of the district" In line with the Municipal Heritage Inventory's recommendations an archival photographic record of the place should be completed prior to any major redevelopment or demolition"*

13. (In spite of the historical information in the MHI being incorrect), the HA prepared for the proponents, which provided more accurate historical record fails to demonstrate that the place has no cultural heritage significance. While the HA demonstrates that its significance is slightly different from that stated in the MHI, the significance attributed in the HA is not necessarily of lesser value and rests on being a rare example of an Inter-War holiday cottage.

14. The proponents justification for demolishing the house is (in summary);

- Their intention is to subdivide and redevelop the site, to do so we need to have the confidence that the existing residence will not restrict the subdivision or development options.
- The existing building is not suitable for retention because it is largely constructed from asbestos and will not meet any current building codes for energy efficiency without major alterations, which would destroy the heritage significance of the place.
- Assessing the application against the information in the MHI is inappropriate as the information in the MHI is misleading and does not reflect the construction date or history.

15. It should be noted that the City cannot retrospectively enforce new requirements of the Building Code of Australia on existing developments. New development including additions and alterations are required to comply with current standards/requirements.
16. Councils Local Planning Policy 2H – *Heritage Protection* requires that prior to demolition, an acceptable redevelopment proposal (including subdivision) is approved, refer to policy implication section below. Although staff have urged the proponents to defer this application until such a time as a redevelopment proposal has been provided, no proposals have been submitted.
17. As there are no redevelopment plans the development may not occur subsequent to demolition of the building. There is the possibility that the site could remain vacant for a long period of time or sold on to another party for financial gain after removal of the house. Two examples where this has previously occurred include the old 'Esplanade' site where the previous hotel was demolished, and a dwelling previously located adjacent to 'Dog Rock' at 298 Middleton Road. The application for demolition of the existing dwelling at 298 Middleton Road was presented at the Ordinary Council Meeting 15 January 2002 where an alternate recommendation was put forward and it was resolved;

*"THAT delegated authority be issued to the Manager Development to grant a conditional Planning Scheme Consent for the demolition of the existing dwelling at 298 Middleton Road, Centennial Park once an application for a replacement building to house Professional Offices has been approved".*

The dwelling was subsequently demolished in August 2004, however both this site and the 'Esplanade' site remain vacant.

## **GOVERNMENT CONSULTATION**

18. The application was referred to the City's Regional Heritage Advisor. A summary of her comments are below:
  - Although the historical information in the MHI is incorrect, the HA which provided a more accurate historical record fails to demonstrate that the place does not have cultural heritage significance. While significant now it demonstrates that its significance is slightly different, (it is not necessarily of lesser value either); Significance now rests more on it being a rare example of an Inter-War holiday cottage.
  - The current management category does not preclude demolition, however it discourages demolition unless there is no prudent and feasible option that allows full or part retention.
  - Council will need to make the final decision whether it supports the demolition.
  - The owner's justification for wanting to demolish the building would be that the existing cottage is not habitable and cannot be accommodated in the owner's redevelopment plans.
  - If Council does support the application there are several options/considerations with regard to progressing the issue:

- That only planning approval is granted but not a demolition permit until subdivision/redevelopment plans are approved by Council, in order to avoid the empty block scenario.
- The City requires surety that the owners do not demolish and then sell the vacant land.
- The City refuses to issue a demolition permit without receiving the planning application for subdivision/redevelopment.

### **PUBLIC CONSULTATION / ENGAGEMENT**

19. The application has not been subject to public consultation given that it was unlikely to be recommended for approval. Should Council be prepared to consider approval for the application, it is recommended that consultation be undertaken prior to any determination being made..

### **STATUTORY IMPLICATIONS**

20. Clause 6.1 *Creation of Places of Heritage Value* of TPS 1A states;

*“There are hereby created Places of Heritage Value as specified in the Schedule contained in Appendix VIII and delineated on the Scheme Map according to the legend thereon.*

Appendix VIII of TPS 1A lists only the name and address of the place. Although the subject site is not listed in Appendix VIII the site is listed in the MHI, which provides information and informs why a place has heritage significance.

21. Clause 7.2 section (c) (iii) of TPS 1A requires an application for Planning Scheme Consent where any building or structure that is included on the Municipal Inventory is proposed to be demolished.

### **STRATEGIC IMPLICATIONS**

22. This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021):

***Key Focus Area***

*Sustainability and Development*

***Community Priority***

*A Preservation of Albany’s uniqueness*

- *Preserve Albany’s heritage buildings through incentives and advocacy*

**POLICY IMPLICATIONS**

23. The objectives of Councils Local Planning Policy 2H – *Heritage Protection* are:

- *To ensure that development does not adversely affect the significant of heritage places.*
- *To conserve and protect places of heritage and cultural significance.*
- *To preserve and where possible rehabilitate development that portrays the early settlement periods.*
- *To provide incentives to encourage the conservation of heritage buildings and the maintenance and adaptive reuse of existing buildings which contribute to the urban character of a locality.*

24. Section H2.2 (Demolition of Heritage Buildings) of Councils Local Planning Policy 2H – *Heritage Protection* states;

*“Approval for demolition will require the prior approval of an acceptable redevelopment proposal.*

*Demolition of places having heritage significance should be avoided whenever possible and any proposed demolition will require clear justification to be provided by the applicant, via the submission of a heritage impact statement.*

*Consideration of any proposed demolition will be based on the significance of the place, and the feasibility of restoring or adapting it, the possible incorporation of all or parts of the structure into a new development, and any potential incentives that can be provided to facilitate its retention, or relevant policy.*

25. The City has not been presented with any redevelopment proposals for the site. As such the application does not comply with the Heritage Protection Policy. The application is also considered to be contrary to several of the objectives and intent of the Policy.

**RISK IDENTIFICATION & MITIGATION**

26. The risk identification and categorisation relies on the City's Risk Management Framework.

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Council's support for the proposal could create a precedent for the demolition of other heritage places.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<p><i>Should Council support the proposal it should consider whether Council policy should be reviewed to accommodate similar applications.</i></p> <p><i>Council should also consider that suitable conditions be implemented on the approval ensuring that a demolition permit is not issued until such a time that redevelopment plans have been approved by the City to avoid the empty block scenario.</i></p>
<i>If the application is refused the applicant could appeal the decision to the State Administrative Tribunal.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>The decision is based on sound planning grounds.</i>

**FINANCIAL IMPLICATIONS**

27. The proponent has paid the appropriate fee as per the Planning Application Fees Schedule adopted by Council. This fee is non-refundable.

**LEGAL IMPLICATIONS**

28. If Council refused the application, the proponent would then be entitled to seek a review of that decision with the State Administrative Tribunal.

**ALTERNATE OPTIONS**

29. Council has the option to approve the application for Demolition - (Single House listed on Municipal Heritage Inventory).

If Council chooses to approve the application for demolition, it is recommended that Council adopt the Alternative Recommendation below.

*Part 1 of Alternate Recommendation*

*That Council resolves to ISSUE a Notice of Planning Scheme Consent for Demolition - (Single House listed on Municipal Heritage Inventory) at lot 49 (45) Seymour Street, Mira Mar, subject to the following condition/s:*

*A demolition permit will not be issued for the single house until redevelopment plans (including subdivision) are approved by Council and the owners are ready to proceed with the redevelopment, to the satisfaction of Council.*

**SUMMARY CONCLUSION**

30. The proponent proposes to demolish the existing house at 45 Seymour Street, Mira Mar which is currently listed on the City's Municipal Heritage Inventory as a category 'C'.
31. The proponent's main justification for the application is that the house is a category 'C' building (which is at the lower end of heritage significance on the MHI), there are traces of asbestos in the cladding, it is inhabitable for certain times of the year given and the location of the house restricts redevelopment. The proponents are unwilling to consider redeveloping the site and retaining the house.
32. Demolition of the house is contrary to Councils Local Planning Policy 2H – *Heritage Protection*. If the application is supported it will result in the loss of a rare example of an Inter-War holiday cottage in Albany. There are few if any examples remaining of similar houses that were built in the same era in the Mira Mar area. There is also potential for the building to be demolished and for the site to remain vacant for a long period of time or sold on to another party after demolition has occurred. This could have a detrimental impact on the amenity of the area and streetscape particularly in relation to the adjacent gravesite of Sir Richard & Lady Spencer's Grave which has State heritage significance. For these reasons staff recommend that the proposal not be supported.

<b>Consulted References</b>	Councils Local Planning Policy 2H – <i>Heritage Protection</i> Town Planning Scheme No. 1A City of Albany Municipal Heritage Inventory Review – Inner Albany Places
<b>File Number (Name of Ward)</b>	A143915 (Breaksea Ward)
<b>Previous References</b>	OCM 15/01/2002 – Item 11.1.5