

DATE OF DEFERRAL	11 October 2023
DATE OF PANEL MEETING	10 October 2023
PANEL MEMBERS	Garry Fielding (Chair), Sue Francis, Donna Rygate, Lachlan Ford, Barry Hollman
APOLOGIES	Graham Brown
DECLARATIONS OF INTEREST	None

#### MATTER DEFERRED

PPSWES-166 – Bourke Shire Council – DA 2023/0009 at 44-46 Oxley Street, Bourke – Alterations and Additions to Existing Police Station (as described in Schedule 1).

#### REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings listed at item 8 in Schedule 1. In particular, the Panel noted and discussed the Reditus Consulting *Combined Preliminary & Detailed Site Investigation* report (15 June 2023) which at p31 states the following:

*Based on the findings of the combined PSI/DSI, the site is currently not suitable for the proposed commercial development (ongoing use as Police Station), however, the site may be made suitable subject to the following recommendations.*

#### **13.2 Recommendations**

*Based on the results of the investigation, Reditus recommends the following works:*

- *Completion of a groundwater assessment to delineate the extent of PAH and VOC concentrations in groundwater hydraulically downgradient of MW01, confirm the water bearing zone at the site and groundwater flow direction and to assess if there is any potential offsite groundwater contamination.*
- *Completion of a soil vapour assessment to assess if a vapour risk is present.*

The matter was deferred to allow for the completion and provision of the assessments recommended by Reditus Consulting.

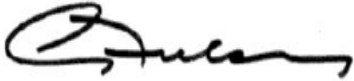
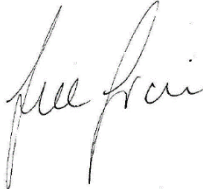



The decision to defer the matter was unanimous.

#### ACTIONS

To allow for the progression of the Development Application to determination, the Panel resolved that:

1. The Applicant provide groundwater and soil vapour assessments as recommended by Reditus Consulting and, if required, a Remediation Action Plan. (Note: refer to attached extracts from SEPP (Resilience & Hazards) 2021 and EP&A Act regarding public notification requirement of 28 days, if a RAP is required)
2. All documentation required under 1., above, is to be uploaded to the Planning Portal when submitted to the Council.

3. Council is to provide an amended assessment report responding to the above matters within 7 days of receipt of the required documentation (and post notification, if required). The amended report is to be uploaded to the Planning Portal by the Council.
4. When the amended assessment report is received the Panel will arrange a Final Determination Meeting.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Sue Francis
 Donna Rygate	 Lachlan Ford
 Barry Hollman	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-166 – Bourke Shire Council – DA 2023/0009
2	PROPOSED DEVELOPMENT	Development Application (DA) 2023/0009 seeks consent for alterations and additions to the existing emergency services facility (Bourke Police Station) at 44-46 Oxley Street, Bourke (the 'site'). The proposal was first presented to Council in a pre-DA meeting on 12 February 2021, before being formally submitted on 31 October 2022. Notification to external agencies was conducted prior to the panel briefing on 23 February 2023, as well as issue of requests for information relating to contamination and heritage. An amended design was provided to Council on 31 March 2023, as was additional information relating to contamination on 20 June 2023.
3	STREET ADDRESS	44-46 Oxley Street, Bourke
4	APPLICANT/OWNER	Rachael Helsham - Urbis Owner: NSW Police Force
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>• Bourke Local Environmental Plan 2012</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Industry and Employment) 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Bourke Development Control Plan 2012</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council Assessment Report: <b>5 October 2023</b></li> <li>• Written submissions during public exhibition: Nil</li> </ul>

		<ul style="list-style-type: none"> <li>Total number of unique submissions received by way of objection: Nil</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 23/02/2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate, Lachlan Ford, Barry Hollman</li> <li><u>Council assessment staff</u>: Carolyn Crain, Mark Raikhman, Dwayne Willoughby, Leonie Brown.</li> </ul> </li> <li>Applicant Briefing: 04/04/2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate, Lachlan Ford <ul style="list-style-type: none"> <li><u>Council assessment staff</u>: Brooklyn McInerney, Dwayne Willoughby, Mark Raikhman, Leonie Brown, Kate Higgins</li> <li><u>Applicant representatives</u>: Toni Walter, Rachael Helsham, Anthony Kiliyas, Kate Paterson, Ross Gardner, Abby Tyler, Jake To, Terry Stevens, Tim Chinn, David Piddington, Jason Caparano</li> </ul> </li> </ul> </li> <li>Final briefing to discuss council's recommendation: 10/10/2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry Fielding (Chair), Sue Francis, Donna Rygate, Lachlan Ford, Barry Hollman</li> <li><u>Council assessment staff</u>: Carolyn Crain, Mark Raikhman, Dwayne Willoughby, Leonie Brown</li> <li><u>Applicant representatives</u>: Lindsay Henry, Abby Tyler, Toni Duncan</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval subject to conditions
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

## **Extracts from State Environmental Planning Policy (Resilience and Hazards) 2021 & EP&A Act 1979**

**Note: From the below extracts, should a RAP be required following the investigations required by the contamination report it will need to be prepared and then exhibited for 28 days prior to DA determination**

### **4.6 Contamination and remediation to be considered in determining development application**

(1) 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.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

### **Div 2 Min public exhibition periods – EP&A Act**

#### **9A Application for development consent for category 1 remediation work under [State Environmental Planning Policy No 55—Remediation of Land](#)**

**Minimum public exhibition period for an application for development consent for category 1 remediation work under [State Environmental Planning Policy No 55—Remediation of Land](#)—28 days.**