

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-40
DA Number	DA 234/2018(1)
LGA	Orange City Council
Proposed Development	Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal)
Street Address	129 – 131 Sale Street Orange
Applicant/Owner	Health Administration Corporation
Date of DA lodgement	3 July 2018
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> 10 10
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Not Applicable Applicable section of the Environmental Planning and Assessment Act 1979: Section 4.33
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> Orange LEP 2011 State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) Orange Development Control Plan 2004
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Report to Planning and Development Committee – Orange City Council dated 7 July 2020 including Plans, Draft Notice of Determination and Public Submissions
Clause 4.6 requests	<ul style="list-style-type: none"> Not Applicable
Summary of key submissions	<ul style="list-style-type: none"> Loss of a significant heritage item
Report prepared by	Andrew Crump
Report date	2 October 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

2020/

REPORT TO WESTERN REGION PLANNING PANEL MEETING
FROM SENIOR PLANNER (CRUMP)
DATE 2 OCTOBER 2020
ON DEVELOPMENT APPLICATION
129-133 SALE STREET, ORANGE
DEMOLITION OF A HERITAGE ITEM (ALL BUILDINGS, STRUCTURES AND
VEGETATION TO BE REMOVED) AND CATEGORY 1 REMEDIATION
(ASBESTOS REMOVAL)

PR27695 – IC20/21056

Application Lodged	4 July 2018
Development Application No	DA 234/2018(1)
Plan No/s	Plans by Peter Basha Planning and Development – Reference 17067DA – dated 28.06.2018 sheets 1– 4 (including aerials) (8 sheets)
Applicant	Health Infrastructure on behalf of Health Administration Corporation
Owner/s	Health Administration Corporation C/- WLHD, Assets & Facilities Ward 12 Bloomfield Campus, Forest Road ORANGE NSW 2800
Land Description	Lot 2 DP 1230592 - 129-133 Sale Street, Orange
Proposed Land Use	Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal)
Value of Proposed Development	\$1,800,000.00 (as originally submitted) \$3,945,295.00 (revised application)
Provisions of LEP 2011 (amended)	Zone R1 General Residential
Details of Advertisement of Project	The application was advertised in the local press on two separate occasions. One period followed the initial lodgement and the second followed the receipt of additional information.
Recommendation	Approval

EXECUTIVE SUMMARY

Application lodged	4 July 2018
Applicant/s	Health Infrastructure on behalf of Health Administration Corporation
Owner/s	Health Administration Corporation
Land description	Lot 2 DP 1230592 - 129-133 Sale Street, Orange
Proposed land use	Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal)
Value of proposed development	\$1,800,000.00 (as originally submitted) \$3,945,295.00 (revised application)

A development application made by or on behalf of the Crown is before Council seeking consent to demolish all buildings, structures and vegetation on the subject land, known as 129-133 Sale Street, Orange (refer Figure 1).



Figure 1 – locality plan (subject land shown red outline)

The subject land contains Caldwell House (former nurses quarters) and the more recent nurse's quarters on the corner of Sale and Dalton Streets. Caldwell House is a Heritage Item pursuant to Schedule 5 Orange LEP 2011.

The buildings have been vacant for a number of years and have been neglected in more recent times. Over the course of the last decade or so the buildings have been subject to numerous break and enters, with perpetrators searching for copper wire and other materials of value left in the buildings upon them being vacated. In the process of illegally obtaining the copper wire and other material, friable asbestos has been disturbed and has been distributed throughout the buildings.

The applicant has presented a case purporting that the buildings would be unable to be occupied for future adaptive re-use as a result of asbestos contamination; or, in the event that the buildings could be successfully cleaned and encapsulated, the buildings would be subject to ongoing asbestos management plans, making the buildings undesirable to future occupants.

In addition to this, the applicant has suggested that the cost of remediating Caldwell House would be substantially more expensive than a full demolition option, resulting in any future adaptive re-use of the buildings being financially unviable.

The applicant is not contesting the heritage significance of Caldwell House – indicating that, if it were possible, they would prefer to see the building remain and be adaptively reused.

It is important to note that it is understood from the application that Health Infrastructure (NSW Health) have no intention of carrying out the work, but are rather seeking consent for demolition so that the property can be divested and another party can carry out the work if so desired.

Council staff have scrutinised the claims presented within the application with the assistance of a contamination expert and a consultant engineer. Council's experts were directed to focus their advice on the heritage significant Caldwell House as it is accepted by Council staff that the more recent nurse's quarters (located in the north-eastern corner of the site) has only low levels of heritage significance.

The expert advice obtained by Council staff concluded that:

1. Caldwell House could be successfully remediated and occupied under an ongoing asbestos management plan¹. **Council's expert notes that the building is required to be cleaned under all the scenarios presented by the applicant.**
2. The building is structurally adequate to the extent that the necessary remediation steps suggested as being necessary by the applicant (such as lifting the floor, removing internal wall linings etc) could be safely undertaken.

It should be noted that one of the submissions from Adaptive Architects offers a methodology for cleaning and encapsulating that meets heritage conservation principles. Such a methodology would need to be fully resolved when Caldwell House is remediated.

3. Retention of Caldwell House would be approximately 33% more expensive than the complete demolition option. Noting that the additional cost purported by the application does not factor in the cost of a complete re-development of the site incorporating an adaptive re-use of Caldwell House.

It is important to reiterate, that under all possible scenarios, the asbestos must be removed from the building prior to it being demolished or adaptively re-used as required by Clause 452 of the *Work Health and Safety Regulation 2017* and the Safe Work Australia's Demolition Code of Practice. In other words, the building needs to be cleaned of asbestos or asbestos-containing material in any case.

It is also important to note that at the moment, the land with the significant heritage building still retained on the land, benefits from Council's generous incentives clause within the LEP.

¹ Asbestos Management Plans are very common, particularly for buildings the same era as Caldwell House.

This clause effectively allows an impermissible use on the land such as offices or retail; or even a pub for instance provided that Council can be satisfied amongst other things that conservation of the heritage item was facilitated by the granting of a consent and that any proposal was in accordance with a heritage management document approved by the consent authority. Should it be agreed that the building can be demolished, the ability to rely on this clause evaporates.

The economic arguments presented within the application and discussed in detail in the attached planning report to Council, fail to account for this. That is, the demolition of Caldwell House would have a far greater negative impact on the value of the land than if the building was retained and the highest and best use sought for the land.

Council Staff prepared a report to Council which is attached to this report which recommended draft conditions requiring the retention of the most significant portion of Caldwell House.

Council unanimously accepted the terms of the Draft Notice of Determination.

The draft notice was furnished to the applicant. Upon receiving the draft notice, the applicant advised Council that agreement could not be reached on the draft conditions and consequently, the applicant referred the application to the Western Region Planning Panel.

A copy of the applicant's response to Council's request for concurrence of the draft conditions has been provided via the NSW Planning Portal.

RECOMMENDATION

With respect to development application DA 234/2018(1) for *Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal)* at Lot 2 DP 1230592 - 129-133 Sale Street, Orange it is recommended that the Western Region Planning Panel:

- 1 *Note the contents of the attached planning report and the recommendations therein.***
- 2 *Accept and endorse the terms of the draft notice of determination.***
- 3 *Consult with the Minister and seek his determination of the application as per the draft notice of approval.***

Andrew Crump

SENIOR PLANNER

Enc.:

- Report by Senior Planner (CRUMP) to the Planning and Development Committee of Orange City Council, dated 7 July 2020 including plans, draft notice and public submissions.