

2.2 DEVELOPMENT APPLICATION DA 234/2018(1) - 129-133 SALE STREET (CALDWELL HOUSE)

RECORD NUMBER: 2020/294
 AUTHOR: Andrew Crump, Senior Planner

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)

Council's consent is sought to demolish all buildings, structures and vegetation on the subject land, known as 129-133 Sale Street, Orange (refer Figure 1).

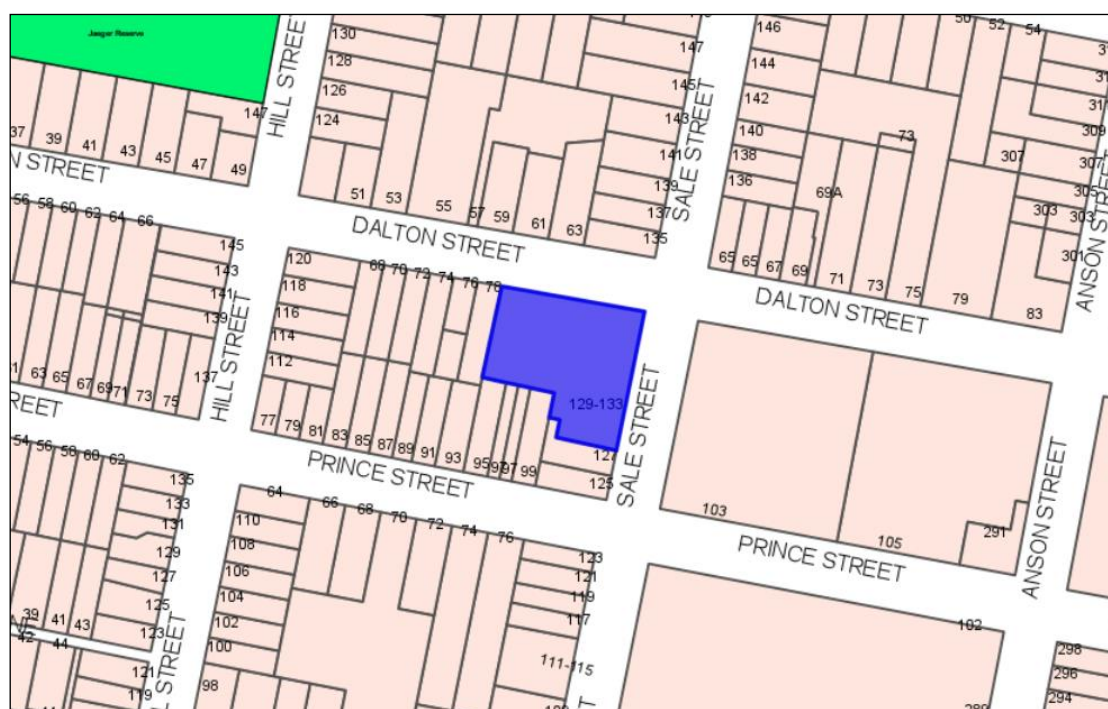


Figure 1 – locality plan

The subject land contains Caldwell House (former nurses quarters) and the more recent nurses quarters on the corner of Sale and Dalton Streets.

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 carryout 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.

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

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. 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 below within the report, 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.

DECISION FRAMEWORK

Development in the Orange LGA is governed by The Environmental Planning and Assessment Act 1979 and the accompanying Environmental Planning and Assessment Regulations 2008. Sitting below the Act and Regulations is the Orange LEP 2011 and other State wide Environmental Planning Instruments (SEPP). Subordinate to the LEP and SEPPs is the Orange Development Control Plan 2004 which is a guiding document used to inform decision making. In addition the Infill Guidelines are used to guide development, particularly in the heritage conservation areas and around heritage items.

Orange Local Environment Plan 2011 – The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

Orange Development Control Plan 2004 – the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

DIRECTOR'S COMMENT

This application relates to the heritage item "Caldwell House" and the associated nurse's quarters.

The applicant has presented a number of reasons to support their intent to demolish the buildings on the land which have been scrutinised in detail by Council's consultants and planning staff. The justification presented by the applicant is considered to be based on flawed logic; and accordingly is not supported by staff.

Due to the technicalities of this proposal in terms of heritage, demolition and remediation, staff engaged independent experts to provide practical advice regarding the application.

Council's experts suggest that the buildings can be saved and adequately remediated. This advice is at odds with the claims of the applicant's experts. Whilst the applicant offered to have the consultants meet to debate the conclusions of both sides, this offer was not taken up as the Council experts suggested such meetings generally are not fruitful.

It is extremely disappointing that the buildings on this site, as significant to the community as they are, have been left by the owners to become accessible to vandals and as a result, dilapidated.

This DA is a Crown Development, therefore Council cannot determine the application without the concurrence of the Applicant or Minister. This process would follow Council's advice on how it would like to progress this application. Council cannot refuse the application (it would have to be referred to the Western Regional Planning Panel).

Ten submissions were received from residents and community groups relating to this proposal. A small number (2) supported the proposal, whilst the majority oppose the application due mostly to the loss of a significant heritage item.

Staff recommend that demolition only be permitted of the later nurse's quarters and other less-significant buildings on the land, not of Caldwell House itself.

I support the recommendations within the report.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "10.1 Preserve - Engage with the community to ensure plans for growth and development are respectful of our heritage".

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

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 Council:

- 1 Note the contents of the planning report and the recommendations therein.**
- 2 Accept the terms of the draft notice of determination.**
- 3 Direct Council staff to obtain the concurrence of either the applicant or the Minister as required by Section 4.33 of the Environmental Planning and Assessment Act.**
- 4 That Council delegate the authority to determine Development Application DA 234/208(1) to the Chief Executive Officer subject to the receipt of concurrence from the Crown.**

FURTHER CONSIDERATIONS

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

SUPPORTING INFORMATION**THE LAND**

The land is a large residentially zoned parcel of land to west of the former base hospital site. The land is described as Lot 2 DP 1230592, known as 129-133 Sale Street, Orange. The land is identified as a Local heritage item as it contains Caldwell House (former nurses quarters). The site also contains the more recent former nurses quarters on the north-eastern corner of the site.

The land is located on the (south-western) corner of the Dalton and Sale Streets intersection. The land adjoining to the west is residentially zoned and contains a single storey dwelling house. To the south of the land, part of the southern boundary shares a boundary with a former dwelling that been converted into health consulting rooms, and then a number of residential properties adjoin for the balance of the southern boundary.

The land across from Caldwell House is the former Orange Base Hospital site which is now three separate lots; the lot closest to the subject land is vacant, while the adjoining lot to the east comprises the partially constructed office building that will house the Department of Industries, and the third lot comprises the former ambulance station.

**THE APPLICATION/PROPOSAL**

Council's consent is sought to demolish all buildings, structures and vegetation on land described as Lot 2 DP 1230592, known as 129-133 Sale Street, Orange. As part of the demolition, the site would be remediated and made good for future development.

BACKGROUND

The subject land contains two primary buildings (Caldwell House and the later former nurse's quarters). It is accepted by Council staff that the later constructed former nurses quarters holds limited heritage significance, and therefore the proposal to demolish that particular building is accepted by Council staff and relevant conditions of consent are attached addressing the asbestos clean-up and other measures such as the control of dust and noise.

The other building on the land, Caldwell House, has been vacant since c2011. This is around the time the hospital moved to the Bloomfield Campus; at this time Community Health (the most recent occupants of the building) moved to the new hospital also.

The applicant advises that in:

June 2016 an EOI sales campaign for the site culminated in a commercial offer from a developer of aged care. The offer was accepted subject to Health Administration Corporation's (HAC) registration of a subdivision and the approval of the developer's DA for that aged care facility.

In late 2016 and again in mid-2017, whilst in final negotiations, there was forced entry, theft and a vandalism attack on the buildings, resulting in significant damage. The vandalism involved the forced removal of copper pipes and wiring. This has caused damage to ceilings and lagging which has resulted in asbestos being dispersed throughout the buildings.

CHRONOLOGY OF APPLICATION

The application was originally lodged on 4 July 2018. Shortly after receipt of the application, Council exhibited the material and engaged relevant experts.

Additional information was requested on 25 September 2018 which requested a revised Heritage Impact Statement (HIS) that provided a more detailed analysis of options and also provided heritage significance mapping. Council expert advice was provided along with the submission received.

Additional information was received 19 August 2019. The additional information purported that the extent of asbestos contamination was underestimated in the original application and that the cost of all options presented originally would be significantly more expensive than first suggested - in the order of approximately double the cost. Further asbestos audits were undertaken, a revised HIS was provided and additional expert advice was presented from Dr Ian Gardiner.

The revised material, along with the original material, was publicly exhibited on 30 September 2019 for a period of in excess of 30 days.

OPTIONS ANALYSIS

The applicant provides the following options analysis of a range of possible scenarios for the use of the site. The options include:

- 1 Asbestos remediation and clean-up; and complete demolition of all buildings, structures and vegetation (this is the applicant's preferred option).
- 2 Asbestos remediation and clean-up; with retention of front facade (and section of return side walls) of Caldwell House only.

- 3 Asbestos remediation and clean-up; demolition of later nurses quarters and ancillary structures, retention of main Caldwell House as shown red below labelled "B".



Figure 2 - extract from HIS – heritage significance mapping (B represents High Heritage Significance, C represents Moderate Heritage Significance and D represents Low Heritage Significance)

DEMOLITION METHODOLOGY

The applicant submits that the demolition will occur as follows:

Stage 1 – Site Establishment

- Site facilities to be located in the western side of the site.
- Provide security fencing around the site perimeter and manage the site against unauthorised entry.
- Provide an access and egress route, connecting all undemolished floors to the nearest street and identify it as an emergency exit.

Stage 2 – Removal of Hazardous Substances

- Prior to any stripping out or demolition, remove hazardous substances as outlined in the Hazard Material Survey by Envirowest Consulting (refer Annexure D).
- Prior to any stripping out or demolition, remove asbestos or materials containing asbestos in accordance with Asbestos Removal Control Plan by Envirowest Consulting (refer Annexure C).

Stage 3 – Removal of Single Storey Structures

- Use 1.8m high temporary fencing panels with appropriate signage to establish an exclusion zone around the immediate work area in accordance with AS 2601.
- Disconnect services at each building.
- Manually remove salvageable material.

- *Remove miscellaneous ground structures (light poles, signs etc).*
- *Use 25-tonne excavator with grab attachment to pull down structures.*
- *Wet down work face continually to minimise potential impact of raised dust within the site and upon adjoining properties.*
- *Sort and stockpile materials for recycling.*
- *Concrete/masonry waste may be crushed onsite or removed off-site for recycling*
- *Scrap metal stored and for removal from site.*
- *Clean up Stage 3 work area before commencing the removal of the multi storey buildings.*

Stage 4 – Removal of Multi Storey Buildings

- *Demolish Caldwell House first to allow greater access to the three-storey Nurses Accommodation building.*
- *Establish an exclusion zone around the immediate work area in accordance with AS 2601.*
- *Disconnect services at each building.*
- *Manually remove salvageable material.*
- *Remove miscellaneous ground structures (light poles, signs etc).*
- *Use 38-47 tonne excavator with grab attachment to pull down Caldwell House. A hammer attachment will likely be required for the demolition of the suspended first floor slab. The work face should be sprayed continuously during the demolition to minimise and dust being generated that may affect the subject site and adjoining properties. It is anticipated that demolition work will commence at the western end of Caldwell House and progress towards the eastern, Sale Street end.*
- *During the demolition works for Caldwell House, rubble should be progressively dropped to the ground by the excavator, and not stockpiled on the suspended concrete slab. Once rubble has been deposited on the ground, the area is to be made safe and the rubble moved to a designated stockpile area.*
- *Clean up the Caldwell House work area before commencing the removal of the 3-storey Nurses Accommodation building.*
- *Use 38-47 tonne excavator with grab attachment to pull down For the Nurses Accommodation building. Temporary work platforms constructed with compacted fill material may be required to be constructed along the southern side of the Nurses Accommodation Quarters to ensure that the entire structure can be safely demolished from the southern side of the building. A hammer attachment will likely be required for the demolition of the suspended first and second floor slabs. The work face should be sprayed continuously during the demolition to minimise and dust being generated that may affect the subject site and adjoining properties;*
- *During the demolition works rubble should be progressively dropped to the ground by the excavator, and not stockpiled on the suspended concrete slabs. Once rubble has been deposited on the ground the area is to be made safe and the rubble moved to a designated stockpile area;*

- *Once the above ground structure of the Nurse's Quarters has been demolished work can then commence on the demolition of slabs on ground, foundations and concrete hardstands. The excavator, with hammer attachment should pulverize the concrete foundations and any adjacent hardstand;*
- *Following the completion of demolition works on the multi storey buildings any remaining hardstand should be demolished by the excavator using conventional means;*
- *Any recyclable materials should be separated from the demolition waste and stockpiled. Concrete and masonry may be crushed onsite or carted off-site for recycling;*
- *Any scrap metal should be demolished and stored in a designated lay-down area for removal from site;*
- *Once all buildings and structures have been demolished a general clean-up of the site should be completed, with the site generally levelled to approximate natural ground levels.*

Stage 5 – Demobilisation of Site

- *Following the completion of all demolition, remediation works and site clearance the contractor shall be responsible for the removal of all plant equipment and rubbish generated throughout the demolition works. The site shall then be returned to the client upon completion of this stage.*
- *Any certifications required by Council should be provided to the client during the final handover of the site. This is likely to include certification from the environmental consultant that all asbestos has been cleared from the site, and certification from a geotechnical consultant that any earthworks, particularly and backfill on basement areas, has been carried out in accordance with Australian Standard AS 3798 – Guidelines on earthworks for commercial and residential developments.*

Stage 6 – Stabilisation of Site

The surface of the site is to be reasonably levelled and sown with appropriate grass seeds. Erosion and sediment controls should be placed as required.

Stage 7 – Final Handover

Following the completion of the Stage 6 works the site shall then be returned to the client. Any certifications required by Council should be provided to the client during the final handover of the site.

This is likely to include certification from the environmental consultant that all asbestos has been cleared from the site, and certification from a geotechnical consultant that any earthworks, particularly and backfill on basement areas, has been carried out in accordance with Australian Standard AS 3798 –Guidelines on earthworks for commercial and residential developments.

REMEDATION COMPARISON

The submitted material by the applicant provides the following list of works that are suggested to be required to clean the site under either the demolition scenario and retain Caldwell House scenario:

Roof space	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> • Collect lagging and vacuum dust • Remove all pipes, cables, other contents • Remove roof tiles and clean and replace • Vacuum all timber trusses and paint to encapsulate remaining fibres • Remove original ceiling and suspended ceiling as contaminated waste • Works undertaken to avoid damage to frame • Remove residue in wall cavity as practical then drench with dilute paint to encapsulate fibres • Manual labour including bagging of waste for removal 	<ul style="list-style-type: none"> • Collection of lagging • Wet and seal all contents for later demolition • Removal comprises combination of manual removal and machines

Ground and First Floor	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> • Remove external pipes • Collect lagging and vacuum asbestos residue dust • Remove all asbestos material in walls, ceiling, doors • Remove vinyl floor. Will require grinding of floor for complete removal • Manual labour including bagging of waste for removal • Cleaning of all surfaces required after removal of asbestos contaminated waste 	<ul style="list-style-type: none"> • Collection of lagging • Remove all asbestos material in walls, ceiling, suspended ceiling • Wet and seal all contents for later demolition • Removal comprises combination of manual removal and machines

Sub floor Space	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> Remove pipes and lagging residue Remove all cables and remaining pipes Alternative is to clean pipes and cables but this incurs higher labour charge Remove all other contents including vinyl floor All access to subfloor to be via existing access doors Limited working height to be considered All sub floor space requires covering with 50mm concrete slab to encapsulate residual asbestos on soil Manual labour including bagging of waste for removal 	<ul style="list-style-type: none"> Collect pipes and lagging residue Wet and seal all contents for later demolition Removal comprises combination of manual removal and machines Excavation of 100mm of soil as asbestos waste
Clean Up	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> After removal of asbestos containing material cleaning would to be undertaken. The preferred method is washing to a collection area where the water is filtered before discharge. The final structure retains the concrete and brick with timber roof frame. Roof tiles will be replaced after cleaning. All remaining timber in the roof frame and sub floor space potentially contains asbestos and spraying with a dilute plastic paint is required for encapsulation. Treatment of the external wall cavity is required to seal asbestos lagging residue. 	<ul style="list-style-type: none"> After building demolition surface soil will be removed and transported to landfill as asbestos waste.

Waste and Traffic	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> Asbestos waste will require disposal at a landfill licenced to accept friable asbestos waste. Some asbestos cement material and vinyl may be removed as non-friable waste if not contaminated with lagging. The waste will be wrapped prior to transport. The quantity of waste has not been accurately determined however only asbestos contaminated waste will be removed and transported off-site. 	<ul style="list-style-type: none"> Asbestos waste will be removed from the building prior to demolition. Separate removal of asbestos will enable reuse or recycling of material not containing asbestos. Material with hard surfaces will be cleaned then classified as non-asbestos waste. Non-asbestos waste such as bricks and concrete will be crushed onsite and sold for reuse as fill. The demolition option will generate additional asbestos waste from all timber surfaces and soil excavations. The demolition option will produce asbestos and non-asbestos wastes. A demolition management plan will be prepared describing the process
Future Restrictions and Management	
Works required if Building Retained	Works required if Building Demolished
<ul style="list-style-type: none"> Asbestos cannot be completely removed from the building due to impact on porous surfaces and inaccessible location in voids. All timber in the roof and timber in sub floor space will remain and is impacted with asbestos fibres. Asbestos in the exterior wall cavity is also impacted with asbestos fibres. The asbestos on all timber surface and the wall cavities will be made safe by sealing with paint. Asbestos will also remain in the soil under the building after the removal works. Due to the nature of the asbestos in the soil it is unlikely it can be removed. The preferred make safe method of remediation is sealing with 50mm of concrete to encapsulate the asbestos residue. The site will need to be registered as contaminated land on the section 149 certificate for the land title deed. The land-use will be subject to implementation of a site management plan which restrict disturbance of the capping layer. The plan will need to be managed by the land owner and enforced by local council as a contaminated site. Restrictions will apply to retaining the building which has cost implications for redevelopment and ongoing maintenance. 	<ul style="list-style-type: none"> No restriction on the land-use following demolition and clearance by hygienist/environmental scientist.

- A site management plan will be required to be prepared for any works potentially breaching the encapsulation layers in the ceiling or sub floor space. The plan will recommend breaches to the encapsulated material are classified as friable asbestos works. Works on friable asbestos is required to be undertaken by a licensed asbestos removalist with SafeWork NSW class A licence.

Uncertainties

It is possible unidentified asbestos is present in the building due to location in inaccessible areas or covered by renovations over time. Asbestos lagged pipes in the walls have not been identified however they may be present which will not be known until the area is disturbed. The location of unidentified asbestos will require management at the time of identification.

It is important to note that a large amount of the identified disturbed material is assumed to be asbestos based on the submitted asbestos audits (testing has not been carried out to positively identify all material as asbestos – the audit relies mostly on visual inspection); and a large proportion of the identified asbestos is intact and not damaged. It is therefore possible that not all of the disturbed material is asbestos and the extent of contamination may be overstated by the applicant.

Further to the above; the *Asbestos Removal Options* report provides the below table which compares the removal factors for the scenarios of the building being retained and the building being demolished.

Factor	Retain Building	Demolition	Staff comment
Practical	Yes (accessibility restrictions)	Yes	Noted – both options are practically possible.
Damage to building	Floor requires grinding for vinyl floor removal All cable and pipes will require reinstallation Ceilings and walls will require replacement Possible accidental damage in removal process	N/A	The damage to the building could easily be managed through recognised conservation principles. These have not been explored as part of the submitted Heritage Impact Statement.
Cost	High	Moderate	33% additional cost for retention of Caldwell House is not considered exorbitant.

Factor	Retain Building	Demolition	Staff comment
			Particularly in consideration of how the building has been irresponsibly managed over the last decade.
Clean-up Time	<i>High</i>	<i>Low</i>	Noted. This could have been dramatically reduced had the building been managed more responsibly.
Asbestos retained onsite	<i>Yes (encapsulated to make safe)</i>	<i>No</i>	This is easily managed through a site specific management plan. This is not uncommon for a building of this era.
Waste generated	<i>Asbestos</i>	<i>Asbestos and non-asbestos</i>	NOTED. Retention of Caldwell House is far better for the environment and presents a much more sustainable option.
Transport	<i>Asbestos waste only</i>	<i>Asbestos waste & non-asbestos waste for re-use material</i>	Noted. As with above, retention presents a much better outcome for the environment.
Reuse of materials	<i>No</i>	<i>Crushed brick/concrete</i>	There is reuse of materials under the retention option as the build materials will remain as part of the building.

The above table does not clearly articulate the significant embodied energy² costs of the demolition scenario. The demolition scenario would have a far greater impact on the environment than the retention option through the additional embodied energy generated as a result of demolition of all buildings and redeveloping the site with all new buildings.

The embodied energy costs would be reduced significantly if only the later 1950s nurse's quarters were to be demolished.

Thus, the full demolition option is fundamentally inconsistent with the objects of the Act, which seeks to:

facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.

² Embodied Energy is the total amount of energy expended in all the processes of constructing a building including: the energy used in manufacturing all of materials used in the building, the energy used in transporting the materials, the energy used to build the building; and the energy used to demolish and dispose of the building at the end of its lifecycle.

NB: embodied energy does not include the energy used to operate the building over its life-cycle (Dixit et. al 2010).

Relying solely on an economic argument is contrary to the intent of the above object of the *Environmental Planning & Assessment Act*.

JUSTIFICATION

The applicant submits that the building is contaminated beyond being able to be made habitable; and even if it were able to be occupied it would be cost prohibitive and the stigma attached to the building as a consequence of the contamination makes the building undesirable.

In response to the presented justification by the Applicant, Council staff make the following comments:

- The building is a listed Heritage Item.
- The extent of asbestos disturbed within the building is a direct consequence of the poor management of the building by the owners.
- The exact extent of asbestos or asbestos-containing material distributed within the building is based on supposition rather than laboratory testing of all disturbed material.
- All asbestos must be removed from the building prior to it being demolished 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.
- The building can be made fit for purpose and can be adaptively reused retaining the heritage significance of the place.
- The highest and best use of the property will only be achieved with retention of the heritage building and having the benefit of Council's generous heritage incentives clause under the LEP. The ability to use the incentives clause will evaporate if the heritage item is removed from the site.
- The cost analysis presented by the applicant is based on flawed logic – it only accounts for the redevelopment of the site to a point that stops at the demolition phase and not the complete redevelopment of the site; where at a point in time the (comparative) additional cost in retaining the building would be recouped by the mere fact that there is a building on the land that does not need to be rebuilt.

MATTERS FOR CONSIDERATION

Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*

Section 1.7 of the EP&A Act identifies that Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

There are four triggers known to insert a development into the Biodiversity Offset Scheme (ie the need for a BDAR to be submitted with a DA):

- Trigger 1: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);

- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016).

The fourth trigger (development proposed to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016) is generally not applicable to the Orange LGA; as no such areas are known to occur in the LGA. No further comments will be made against the fourth trigger.

In relation to the above triggers; the subject land is not within an area of mapped high biodiversity value and there is no clearing of native vegetation proposed.

In terms of a test of significance pursuant to section 7.3 of the *Biodiversity Conservation Act*, given the disturbed urban environment, the development is not likely to significantly affect any threaten species, habitats or endanger ecological communities.

CROWN DEVELOPMENT

Section 4.32 of the *Environmental Planning and Assessment Act* defines a **Crown Development Application** as: *a development application made by or on behalf of the Crown*. The Crown includes a public authority. The EP&A Act defines a **public authority** as including a statutory body representing the Crown. The application was lodged by Health Administration Corporation. Health Administration Corporation as established by S9(1) of the *Health Administration Act*. According to s9(2)(f): *The Corporation ... is, for the purpose of any Act, a statutory body representing the Crown*.

The Crown Development provisions preclude Council from imposing a condition of consent to this development, except with the written approval of the Minister or the applicant. These same provisions also preclude Council from refusing to grant a consent for a Crown Development Application except with the written approval of the Minister (having first put the application before the Western Regional Planning Panel as the consent authority).

As the application is a Crown Development Application, the following process is recommended to be followed by Council:

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 Council:

- 1 *Note the contents of the planning report and the recommendations therein.*
- 2 *Accept the terms of the draft notice of determination.*
- 3 *Direct Council staff to obtain the concurrence of either the applicant or the Minister as required by Section 4.33 of the Environmental Planning and Assessment Act.*
- 4 *Council provide delegated Authority to the Chief Executive Officer that upon concurrence being obtained, that the Development Application be determined (approved) based on the draft consent considered by Council (with minor amendments permitted as part of the concurrence process). Alternatively, a report would have to be prepared to Council for development consent to be granted.*

Section 4.15

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, of which those pertaining to the application are listed below.

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)**Orange Local Environmental Plan 2011****Part 1 - Preliminary****Clause 1.2 - Aims of Plan**

The broad aims of the LEP are set out under Subclause 2. Those relevant to the application are as follows:

- (f) *to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The development, specially the demolition of Caldwell House is fundamentally inconsistent with above aim of the plan.

Clause 1.6 - Consent Authority

This clause establishes that, subject to the Act, Council is the consent authority for applications made under the LEP.

Clause 1.7 - Mapping

The subject site is identified on the LEP maps in the following manner:

Land Zoning Map:	Land zoned R1 General Residential
Lot Size Map:	No Minimum Lot Size
Heritage Map:	Heritage item
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

This clause provides that covenants, agreements and other instruments which seek to restrict the carrying out of development do not apply with the following exceptions: covenants imposed or required by Council

- prescribed instruments under Section 183A of the *Crown Lands Act 1989*
- any conservation agreement under the *National Parks and Wildlife Act 1974*
- any trust agreement under the *Nature Conservation Trust Act 2001*
- any property vegetation plan under the *Native Vegetation Act 2003*
- any biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*
- any planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

Council staff are not aware of the title of the subject property being affected by any of the above.

Part 2 - Permitted or Prohibited Development**Clause 2.1 - Land Use Zones and Clause 2.3 - Zone Objectives and Land Use Table**

The subject site is located within the R1 General Residential zone. If the subject land was still being used for the purposes of Community Health Services (as community health [being a directorate within NSW Health] was the most recent occupant of the building), the current land-use would be characterised as a health services facility which is defined as:

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) *a medical centre,*
- (b) *community health service facilities,*
- (c) *health consulting rooms,*
- (d) *patient transport facilities, including helipads and ambulance facilities,*
- (e) *hospital.*

Health services facilities are permissible in the R1 General Residential zone.

Notwithstanding the above, the applicant is not seeking consent for a health services facility, but rather the demolition of the existing buildings. Accordingly, the demolition provisions are addressed below.

Clause 2.3 of LEP 2011 references the Objectives for each zone in LEP 2011. These objectives for land zoned R1 General Residential are as follows:

1 - Objectives of the R1 General Residential Zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.*
- *To ensure that development along the Southern Link Road has an alternative access.*

Retention of Caldwell House would be consistent with the objectives of the zone in so far as an adaptive re-use of the building could accommodate a future use that provides facilities or services to meet the day-to-day needs of the occupants of surrounding residential properties. Or alternately, Caldwell House could be adaptively re-used for residential purposes, adding to the diversity of the existing housing market.

Clause 2.7 - Demolition Requires Development Consent

This clause triggers the need for development consent in relation to a building or work.

The applicant is seeking consent to demolish all buildings and structures upon the land. The development requires consent given the heritage listing of the site, and the applicant has sought consent.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 5 - Miscellaneous Provisions

5.10 - Heritage Conservation

The subject land is identified as a heritage item pursuant to Schedule 5 of Orange LEP 2011. The relevant heritage inventory for the property provides the following statement of significance:

The 1937 Nurses Home is an historically and socially important element of the Orange Hospital which has retained the distinctive original character, including the Sale Street wing with art deco influences, complements the streetscape and contributes to the City as a heritage item.

(1) Objectives

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Orange,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The development, specifically the proposal to demolish Caldwell House, is fundamentally antipathetic to the above objects of this clause, specifically objects (a) and (b). The development will result in the loss of a highly significant heritage item.

The demolition of Caldwell House is also antipathetic with the objects of the *Environmental Planning and Assessment Act*, specifically object (f) which seeks :

To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

Allowing the demolition of Caldwell House is not an example of sustainable management of a significant heritage item; and accordingly the demolition of Caldwell House is not supported.

(2) Requirement for Consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) a heritage item,*

The development involves the demolition of a heritage item, and as such development consent is required, which the applicant has sought.

(4) Effect of Proposed Development on Heritage Significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under Subclause (5) or a heritage conservation management plan is submitted under Subclause (6).

As mentioned above, if demolition of Caldwell House was agreed to it would have a substantial detrimental effect on the heritage significance of the site, effectively removing the significance entirely.

Council's Heritage Advisor has strongly opposed the development and has prepared detailed advice to Council. This was provided to the applicant, who in turn provided a detailed response. The heritage advice received by Council (**bold** and paraphrased in the applicant's response) and applicant's response (*italics*) is provided below:

In regard to the heritage value of Caldwell House, it is noted that:

- 1. The potential exists for the building to be converted to many uses as facilitated by the heritage conservation incentives of Orange LEP 2011; and*
- 2. The preferred approach would be for the building to be remediated (in terms of asbestos) and adaptively re-used.*

However, the ability to pursue the above is significantly constrained by the environmental risks to future occupants and the economic burden and risk outlined earlier.

In response to the matters raised in the Summary and Recommendations sections of the heritage advisor's report dated July 2018, we advise as follows:

- 1. The heritage advisor states that the HIS is not consistent with the NSW Heritage template or guide.**

The Heritage Impact Statement (HIS) by Weir Phillips Heritage has been revised and a copy is attached.

- 2. The heritage advisor is concerned that appropriate expert heritage advice has not been used to pursue appropriate options for the site. In response to this:**

a) Despite the fact that the HIS could not recommend retention of the building; it is our submission that Weir Phillips has provided "appropriate expert heritage advice". The HIS has assessed the proposal in the context of the following heritage publications:

- *NSW Heritage Office, Statements of Heritage Significance (2002 update)*
- *NSW Heritage Office, Statements of Heritage Significance (2002)*

In particular, Sections 5.3.3 and 5.4 of the revised HIS consider sympathetic solutions and explain why they have been discounted in terms of heritage values.

b) The conclusion reached in the HIS (essentially that there is no alternative but to demolish the building) is reflective of the well supported argument, that the environmental risks and the economic burden associated with asbestos remediation and demolition/retention of the building outweigh the heritage values.

- 3. Orange Council's heritage advisor is concerned that the SoEE and HIS draw erroneous conclusions of non-viability related to decontamination costs which are unrelated to heritage options.**

The process of having specialist contractors (in conjunction with asbestos assessors) provide detailed quotations has demonstrated that:

a) The level of asbestos contamination is greater and more complicated than what was expressed in the original DA documentation, particularly in terms of the difficulty in treating inaccessible areas and minimising the risk of airborne fibres for future occupants.

b) The cost of remediation is far greater than the estimates that were provided in the original DA documentation.

- 4. The heritage advisor is concerned that the justification for the demolition of the last remaining buildings associated with the Orange Base Hospital are not borne out by the evidence presented.**

It is suggested that the additional information provided in this document would address any concerns in this regard.

5. The heritage advisor is concerned that the proposal does not include an end use and built form which would replace the existing development of the site.

We agree; however, it is considered appropriate for Council to allow demolition without having this information provided due to the following:

- a) The circumstances around the asbestos situation suggest that demolition of the building is required (particularly for environmental reasons) regardless of future development plans for the site.*
- b) It is difficult to practically nominate “an end use and built form” option as part of this development application. In this regard, there is a range of future development options for the site, but none are known at this stage; and there is no obligation to pursue any option that may be put forward at this stage.*
- c) Once a development option is determined, the appropriateness and impact of such development will be guided, assessed and addressed as part of the DA process.*

6. The heritage advisor recommends that:

The Applicant is encouraged to engage with skilled and experienced heritage architects who can develop options for the adaptive re-use of the original East wing known as Caldwell House and the sympathetic development of the remainder of the site in accord with market indicators and use of the incentive clauses under the Orange LEP.

The options should then be costed in relation to the related decontamination and structural issues and reviewed with Council and following suitable discussions and market testing an application be prepared and lodged.

We appreciate the intent of the recommendation; however, our response is as follows:

- a) Before considering heritage appropriate options for re-use of the East wing, the first step is to address concerns regarding the asbestos contamination.*
- b) In pursuit of point (a), both specialist contractors (with their respective assessors) were asked to consider the following scenarios:*
 - Undertake the asbestos remediation of Caldwell House and retain front façade and verandah only. In this regard:*
 - DEMEX/ERS provided a quotation which has been provided to Council as commercial-in-confidence. In short, the cost is unrealistic; impractical; and prohibitive. This also should be regarded as a theoretical price only as a clearance certificate cannot be issued for the retained elements.*
 - IP/Airsafe refused to offer a quotation.*
 - Undertake the asbestos remediation of Caldwell House and retain the sale Street building (i.e. the east wing as referred to by the heritage advisor). In this regard both DEMEX/ERS and IP/Airsafe refused to offer a quotation because neither were confident that the remaining building would achieve a satisfactory standard of asbestos clean-up and could not obtain a clearance certificate.*

- c) *Given that a satisfactory situation is unlikely to be achieved in terms of asbestos remediation, we don't think that engaging a "skilled and experienced heritage architect" to consider adaptive re-use options for the East wing is necessary. It is recognised that the Orange LEP 2011 heritage conservation incentives facilitate a broad range of adaptive re-use options for Caldwell House. However, the highest and best land use will always be constrained by the asbestos situation and it is likely that the building and site will remain undeveloped and boarded up for the foreseeable future.*

The justification presented within the application is not centred on a proposition that the building is not heritage significant. The applicant fully acknowledges this by stating: *The preferred approach would be for the building to be remediated (in terms of asbestos) and adaptively re-used.*

The applicant's justification rather centres on the proposition that the building has deteriorated (although not expressly acknowledged by the applicant; the deterioration has occurred as a direct consequence of the neglect and inattention given to one of NSW Health's assets) to the point where it is unsalvageable/unusable; and therefore this results in it being acceptable to lose one of the City's valued heritage assets: a building that is effectively the only remnant health related building in an area of the City that has provided significant health care to the community within the region, an area much broader than just the Orange LGA.

Therefore, given that Council staff and the applicant are in agreement that the building is an important heritage item and should be retained, and given that the applicant has not categorically ruled out that the building cannot be cleaned-up, there is very little justification to support the demolition of Caldwell House.

With the proposition put forward by the applicant that the building is required to be demolished due to the deteriorated state (again caused directly by the neglect of the owners) refuted; it is then necessary to explore the applicant's secondary argument around the financial imposition of retention of the significant heritage item.

The applicant suggests that retaining the building following remediation would be cost prohibitive. Of the three options referred to above, retention *is* the most expensive. However, the applicant indicated that their consultant/contractors were not prepared to price the option of retention as they were of the view it could not be successfully achieved.

As indicated above, Council's experts disagree with the assertion that the building cannot be appropriately cleaned and occupied. Council engaged engineering consultants Bradford Barker to complete a peer review of the submitted material, carry out a basic inspection of Caldwell House in terms of its structural adequacy, and finally provide the missing costings that the applicant was unwilling to provide.

Bradford Barker concluded that:

- they agree with findings of Council's Contamination Expert;
- that the building would be structurally adequate to enable the necessary remediation works to be carried out; and
- that the option to retain Caldwell House is approximately 33% more expensive than the applicant's preferred option of complete demolition.

There is an important observation to make at this point. The applicant's cost argument is somewhat flawed. The focus of cost has been entirely focused only on the cost of demolition. But as indicated in the application, Health Infrastructure are not intending on carrying out the work. It is understood that their interests to date are simply in divesting the property with the consent in place.

Therefore, when a new party comes to acquire the land, it is very unlikely that they would stop at the completion of the demolition, but rather they would continue to develop the land to its highest and best use³.

What has been provided by the applicant is only an analysis of the demolition cost, not a realistic cost to redevelop the site. It is highly likely that the 33% additional cost at the remediation stage (to retain the building) would be partly or fully recouped by the mere fact that there was an existing building on the land that could be simply adapted for the desired highest and best use; albeit with the necessary upgrades required under the NCC.

The point being, the additional cost at the remediation stage to retain the building would not be the actual additional cost when accounting for the total redevelopment of the site.

In the absence of such a detailed, realistic and rigorous cost analysis of the complete redevelopment of the site, the cost argument is not one that could be supported.

So in summary:

- Caldwell House is a significant heritage item, a remnant of the historic and significant use of this locality as a regional medical precinct.
- Caldwell House is capable of being successfully remediated, albeit with an ongoing management plan (again such a document is not uncommon).
- The cost analysis provided by the applicant provides an incomplete picture of the total redevelopment cost of developing the subject land.

On this basis, allowing the demolition of Caldwell House would be fundamentally contrary to the objects of the *Environmental Planning and Assessment Act*, the aims of the LEP and the objects of this clause. **Thus, demolition of Caldwell House should not be supported.**

(5) Heritage Assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
 - (b) on land that is within a heritage conservation area, or*
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

³ The highest and best use of the property as a commercial use that could complement the new DPI building for example would only be permissible with the heritage items remaining on the land and an applicant utilising the incentives clause under the LEP.

A heritage management document as defined in the LEP means:

- (a) *a heritage conservation management plan, or*
- (b) *a heritage impact statement, or*
- (c) *any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*

A heritage impact statement has been submitted in support of the application.

(6) Heritage Conservation Management Plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

At present there is no Conservation Management Plan prepared for the land. Given the recommendation for the retention of Caldwell House, it is appropriate to require that a Conservation Management Plan be prepared to guide future adaptive reuse along with the ongoing maintenance and management of Caldwell House.

(7) Archaeological Sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) *notify the Heritage Council of its intention to grant consent, and*
- (b) *take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

The site is not a known archaeological site. Notwithstanding this, as the development will involve extensive ground disturbance with the demolition of the red brick (more recent) nurses quarters, there is a high likelihood of encountering an aboriginal object or archaeological relic. As such, Council's standard precautionary condition is attached that specifies a process to follow in the event an object or relic is discovered.

(8) Aboriginal Places of Heritage Significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) *consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) *notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

The subject land is not an Aboriginal Place of Heritage Significance. An AHIMS search confirms that the site has no Aboriginal sites or places recorded against it.

(9) Demolition of Nominated State Heritage Items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

The subject land is not a Nominated State Heritage Item.

(10) Conservation Incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The conservation incentives clause could be relied upon for adaptive re-use of Caldwell House whilst ever Caldwell House remained on the land. A land-use could be contemplated that is impermissible in the R1 General Residential zone, such as a commercial office building.

The ability to rely upon the incentives clause would be lost if Caldwell House was demolished.

Part 6 - Urban Release Area

Not relevant to the application. The subject site is not located in an Urban Release Area.

Part 7 - Additional Local Provisions**7.3 - Stormwater Management**

This clause applies to all industrial, commercial and residential zones and requires that Council be satisfied that the proposal:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water*

- (b) includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water; and*
- (c) avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Relevant conditions are attached in relation to the disconnection of services to the buildings approved to be demolished. A soil and erosion control plan will be required to be installed whilst any approved demolition works are undertaken.

7.6 - Groundwater Vulnerability

This clause seeks to protect hydrological functions of groundwater systems and protect resources from both depletion and contamination. Orange has a high water table and large areas of the LGA, including the subject site, are identified with "Groundwater Vulnerability" on the Groundwater Vulnerability Map. This requires that Council consider:

- (a) whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
- (b) the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

Furthermore, consent may not be granted unless Council 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,*
- (c) if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. Measures will need to be implemented to ensure that dust and sediment do not escape the site. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion.

Clause 7.11 - Essential Services

Clause 7.11 applies and states:

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 proposed 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) *storm water drainage or onsite conservation,*
- (e) *suitable road access.*

In consideration of this clause, all utility services are available to the land. Disconnection to the red brick (more recent) nurses quarters will need to occur as part of the demolition.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy 55 - Remediation of Land

Application has been made for a Category 1 remediation and as such SEPP 55 – Remediation of Land is applicable to the assessment of the application. The applicant has sought to treat the application as a Category 1 remediation due to the extent of asbestos material within the buildings.

The application is accompanied by the following documents related to the remediation of the land:

- Hazardous Materials Survey.
- Asbestos Removal Options.
- Asbestos Removal Control Plan.
- Preliminary Contamination Investigation.
- Asbestos Audit.

The asbestos will need to be removed from the site and transported to an appropriate facility. The transport of asbestos-containing material falls within the jurisdiction of the EPA. The Asbestos Removal Control Plan provides a detailed explanation and protocols for the removal of asbestos. The other accompanying documentation (Hazardous Materials Survey and Asbestos Audits) inform the Asbestos Removal Control Plan.

Relevant conditions are attached regarding the need for the asbestos removal to be in accordance with the Asbestos Removal Control Plan. Separate specific conditions are attached that obligate the beneficiary of the consent to implement appropriate air monitoring during the clean-up and demolition of the buildings permitted to be demolished. These conditions only relate to the buildings permitted to be demolished. There are also conditions attached obligating the beneficiary of the consent to furnish Council with all necessary clearance certificates for the works.

The Preliminary Contamination Investigation analysed samples taken from the site and tested them for heavy metals and organochlorine pesticides. The sampling returned slightly elevated levels of copper, zinc and lead, but all were below the residential land-use thresholds (noting that commercial uses have a lower threshold). Accordingly, there is no contamination within the site (save for the asbestos within the buildings) that would prevent the land being used for residential or commercial land-uses.

State Environmental Planning Policy (infrastructure)

State Environmental Planning Policy (infrastructure) is applicable to the application given the proximity of overhead power lines to the subject site in Dalton Street, specifically Clause 45 of the SEPP. This clause requires that Council, where applicable (such as in this case), consult with the electricity supply authority - in this case Essential Energy.

Council staff consulted with Essential Energy during the assessment process. Essential Energy did not raise any objections to the development but did provide Council with their standard requirements for developments within the vicinity of overhead powerlines. These have been included in the draft notice of approval.

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)

From 31 January to 13 April 2018 the Department of Planning and Environment publically exhibited an Explanation of Intended Effect (EIE) and Draft Planning Guidelines for the proposed Remediation of Land SEPP, which will repeal and replace State Environmental Planning Policy 55 – Remediation of Land (SEPP 55). Of particular note, the Draft Planning Guidelines state:

“In undertaking an initial evaluation, a planning authority should consider whether there is any known or potential contamination on nearby or neighbouring properties, or in nearby groundwater, and whether that contamination needs to be considered in the assessment and decision making process.”

“If the planning authority knows that contamination of nearby land is present but has not yet been investigated, it may require further information from the applicant to demonstrate that the contamination on nearby land will not adversely affect the subject land having regard to the proposed use.” (Proposed Remediation of Lands SEPP - Draft Planning Guidelines, Page 10).

Council staff are not aware of any contamination on adjoining sites.

DESIGNATED DEVELOPMENT

The applicant suggest that onsite crushing of the material may occur or it may be transported off-site. In any event, if the material is processed onsite it would be considered ancillary to the demolition and not a stand-alone use of the land, and as such would not be deemed designated development.

INTEGRATED DEVELOPMENT

The applicant has not indicated that the application requires any further approvals from other Government Agencies.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)

Development Control Plan 2004

Development Control Plan 2004 (“the DCP”) applies to the subject land (Part 0 – LEP, *Part 3 – General Considerations*, *Part 4 – Special Environmental Considerations* and *Chapter 13 – Heritage*). An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below.

Pursuant to Planning Outcome 0.2-1 Interim Planning Outcomes - Conversion of Zones:

- *Throughout this Plan, any reference to a zone in Orange LEP 2000 is to be taken to be a reference to the corresponding zone(s) in the zone conversion table.*

The corresponding zone to zone 2a (Orange LEP 2000) is zone R1 General Residential (Orange LEP 2011). As such, *Orange DCP 2004 – 7 – Development in Residential Areas* would ordinarily be the principle part applicable. However, given the application relates to purely demolition, part 7 is not relevant and the other relevant parts are addressed below.

Part 3 – General Considerations

Part 3 provides planning outcomes of a general nature. Those of relevance to this assessment relate to cumulative impacts and waste generation. These are both addressed below under the heading “Likely Impacts”. The other matters within Part 3 not listed here are not relevant to the assessment.

Part 4 – Special Environmental Considerations

Part 4 deal with inter alia, contaminated land. This matter is considered above under the SEPP 55 considerations. The other matters within Part 4 not listed here are not relevant to the assessment.

Part 13 – Heritage

Part 13 deals with heritage considerations and specially deals with demolition of a heritage item; and requires that applications for demolition are well founded and sufficiently justified. Part 13 also requires that for application involving demolition, applicants *must include details of the proposed development requiring the demolition of the heritage-significant building or site*.

In regards to the above, Council staff are of the view that the applicant has not sufficiently demonstrated that the demolition is justified or well founded. Hence the rationale behind the recommendations contained within this report. In relation to the DCP requirement for the applicant to provide details of the development that necessitates the demolition, this is addressed above in the applicant’s response to Council’s Heritage Advisor’s commentary on the application. The absence of such information is considered as further reasons for the unsoundness of the applicant’s justification.

INFILL GUIDELINES

Despite the land being identified as a heritage item, given there are no building works involved, the Infill Guidelines are not applicable in the assessment of this application.

PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)

Demolition of a Building (clause 92)

The proposal involves the demolition of all buildings and structures on the land. A condition is attached requiring the demolition to be carried out in accordance with *Australian Standard AS2601 - 1991: The Demolition of Structures*.

Fire Safety Considerations (clause 93)

The proposal does not involve a change of building use for an existing building.

Buildings to be Upgraded (clause 94)

The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

BASIX Commitments (clause 97A)

Not applicable.

THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)**Context and Setting**

The subject land is one of the last remnants of the former hospital site. It contains the heritage significant Caldwell House. The proposal to demolish Caldwell House is contrary to the context and setting given the land's heritage status, and as such should not be supported.

Heritage Impacts

As described above, the development as proposed would result in the loss of an important heritage item. Council staff, through the use of experts in various fields relevant to the proposal, have concluded that there is insufficient grounds to warrant the demolition of the listed heritage item.

As described above, relevant conditions are attached that preclude works of any nature to occur to the Caldwell House building as part of this application.

Noise and Vibration ImpactsNoise Impacts

A *Noise and Vibration Assessment* has been prepared by Wilkinson Murray Pty Ltd (refer Annexure L). The assessment identified the nearest sensitive receivers as the following dwellings:

- R1 67 Dalton Street Residence
- R2 137 Sale Street Residence
- R3 63 Dalton Street Residence
- R4 61 Dalton Street Residence
- R5 59 Dalton Street Residence
- R6 78 Dalton Street Residence
- R7 97 Prince Street Residence
- R8 99 Prince Street Residence
- M1 65 Dalton Street Women's Health Orange
- M2 135 Sale Street Recovery Rehabilitation Services
- M3 95 Prince Street Cerebral Palsy Alliance
- M4 127 Sale Street Health Consulting
- M5 125 Sale Street Health Consulting (vacant)
- C1 123 Prince Street Hogan's Pharmacy
- TAFE March Street Orange College of TAFE

The sensitive receivers are indicated below in the aerial plan extract (Source – Applicants submission) from the *Noise and Vibration Assessment*.



The construction Noise assessment submitted in support of the subject development adopted the following noise management levels (NMLs):

Surrounding Residential Receivers

- Monday to Friday 50dBA
- Saturday 50dBA
- Highly noise affected 75dBA

Surrounding Non-Residential Receivers

- Consulting Suites 65dBA
- TAFE 65dBA

The assessment considered the noise generated at each scenario of the demolition process (based on the demolition stages outlined in the *Demolition Methodology* by Cook & Roe). The assessment predicted noise levels at the most potentially sensitive receivers. The predicted LAeq 15min noise levels associated with the proposed works exceed the NML at all of the most potentially affected receivers during at least one of the works scenarios. During demolition of multi storey buildings (being those authorised by the consent to be demolished) (the most noise intensive scenario) the predicted LAeq 15min noise levels at residential receivers R6, R7 and R8 exceed the highly affected level of 75 dBA by up to 33dBA at the most effected receiver (99 Prince Street). The applicants submit that these exceedances are primarily due to the use of an excavator with a hammer attachment and also onsite concrete crushing.

It is noted that the development, being demotion of a building is not a permanent activity on the site and as such the impacts are experienced over a relatively short period.

Notwithstanding this, to ensure the impacts remain within acceptable levels, relevant conditions are attached to require a management plan to mitigate the potential noise impacts. This is discussed below under the summary of Noise and Vibration Impacts heading below.

It should be noted that the recommendation of this report to not allow demolition of Caldwell House which effectively reduces the extent of demolition and, as a consequence, will reduce the environmental impacts in the locality.

Finally, it is noted that the demolition of the former base hospital (which occurred opposite the subject land) relied on a comparable demolition methodology, using comparable demolition equipment. This particular development had similar exceedances of the noise management levels; which were addressed via a similar requirement for a management plan. Council staff are recommending a consistent approach with this application.

Vibration impacts

According to the Wilkinson Murray report, the assessment of vibration requires consideration of two components:

- Human exposure to vibration.
- The potential for building damage by vibration.

The applicant indicates depending upon the size of the hydraulic hammer, there is a likelihood that the safe working distances for both cosmetic damage and human response cannot be maintained. On this basis consideration should be given to completing the works with a smaller machine so that safe working distances can be met. If the works cannot be conducted with a smaller machine, the works should not proceed without accompanying vibration monitoring to ensure compliance with the vibration standards. Additionally, dilapidation surveys should be considered to establish the condition of nearby structures prior to vibration intensive activities being carried out.

Summary of Noise and Vibration Impacts.

It is recommended in order to address impacts associated with noise and vibration that a Demolition Noise and Vibration Management Plan (DNVMP) be developed prior to works commencing. The DNVMP should address all reasonable and feasible measures to mitigate noise and vibration levels at nearby receivers. During demolition works best practice management strategies must be implemented to minimise any potential noise impact. These would include but are not limited to restricting hours of operation (7am to 6pm Monday to Friday and 8am to 1pm Saturdays. No work will occur on Sundays and Public Holidays), scheduling noisy works where practicable to the least sensitive time of day for the closest receivers, scheduling construction to minimise multiple use of the noisiest equipment or plant items where practicable, strategic positioning of plant items and work areas to reduce the noise emission to noise sensitive receptors, ensuring construction machinery is well maintained, awareness training for contractors in environmental noise issues and community consultation with local residents/businesses to assist in the alleviation of community concerns.

The attached Notice of Determination includes recommended conditions to address Noise and Vibration impacts.

Traffic Impacts

Traffic impacts associated with the development will be limited to trucks delivering machinery and trucks removing material from site, along with passenger vehicles related to people working onsite. The subject land benefits from its proximity to a section of Sale Street (between Dalton and Prince Streets) which has traffic calming devices at the northern and southern ends of the block to reduce traffic speed; as well as on-street parking down the centre of Sale Street which would be able to accommodate workers' vehicles. Both Sale and Dalton Streets are capable of dealing with the additional traffic movements, particularly heavy vehicles carting waste material from the site.

The development is not expected to generate any unreasonable traffic impacts during the proposed development, particularly given the short term nature of the development.

Air Quality

There is a high likelihood that air quality could be impacted by the demolition of the former nurses quarters, particularly given the presence of asbestos and asbestos-containing material. As such, a condition is attached that requires air quality monitoring by independent and suitably qualified person/s during the entire development, from site establishment through to final clearance.

Environmental Impacts

The site does not contain any native vegetation. There are a number of mature introduced deciduous trees that are proposed to be removed, along with a number of small shrubs. The subject trees are not likely to provide habitat to any threatened species and, as such the removal of the subject vegetation is not likely to give rise to any unsatisfactory environmental impacts.

Waste Generation

The development will obviously generate waste. A condition is attached that requires a waste management plan to be submitted. The transport of waste falls within the jurisdiction of the EPA. The waste contractor is obligated to take the waste to appropriate facilities for disposal or re-processing.

Cumulative Impacts

Cumulative impacts of a development can arise under four typical scenarios, namely:

- time crowded effects where individual impacts occur so close in time that the initial impact is not dispersed before the proceeding occurs
- space crowded where impacts are felt because they occur so close in space they have a tendency to overlap
- nibbling effects occur where small, often minor impacts, act together to erode the environmental condition of a locality and
- synergistic effects, where a mix of heterogeneous impacts interact such that the combined impacts are greater than the sum of the separate effects.

There is strong likelihood that one or more of the above scenarios may arise, owing to the demolition methodology and the machinery intended to be used. However, the extent of such scenarios are ameliorated as far as practicable through the recommended conditions of consent.

THE SUITABILITY OF THE SITE s4.15(1)(c)

The site is unsuitable for the proposed development. The retention of the heritage item on the site is strongly recommended for the reasons outlined above.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)

The proposed development is defined as "advertised development" under the provisions of SEPP 55 and the Environmental Planning & Assessment Regulations. The application was advertised for the prescribed period of 30 days on two separate occasions. Due to the extent of additional information submitted by the applicant, it was determined that the new information materially changed the application from what was originally submitted, so the application was publicly exhibited following a second advertisement in the local newspaper. Given the two exhibition periods, the submissions are grouped depending on which submission period they were received in.

Initial Exhibition Period**Submission 1 – Steve Adams – 145 Sale Street**

The submission is in support of the application and suggests that the building has become a public disgrace. The submission also commends Council on their initiative to purchase and demolish the former base hospital.

Council staff comment

Whilst the building has been left to decay and has been mismanaged, this is not sufficient grounds to warrant its demolition.

Submission 2 – Orange Historical Society

The submission strongly objects to the application. The submission provides a detailed history of the evolution of the site and its relationship with the former hospital site. The submission also makes the points that the building is required to be cleaned prior to demolition and that the extent of disturbance to the building would be far less if the building was properly managed and kept secure.

Council staff comment

Council staff are in full agreement with the points raised in the submission, as articulated in the foregoing assessment.

Submission 3 – Kara Jennison – 78 Dalton Street

The submission is from the owner of the property that shares a common boundary with the subject land, namely part of the western boundary. The submission raises three main concerns: dividing fencing, noise and vibration, and the demolition of Caldwell House.

Dividing Fence – The submitter shares a boundary with the subject land. On the boundary is a structure that is proposed to be removed. The structure has a solid wall running along or close to the boundary. Removing the structure would effectively remove part of the wall that acts as the dividing fence.

The submitter has requested that the fence be removed by manual means as opposed to machinery, and that a suitable replacement fence of similar materials and height be constructed prior to the structure being removed. The requests are reasonable, however, given the proximity of the structure on the boundary it may not be possible to construct a replacement fence until after the structure is removed.

Conditions are attached that require the wall on the common boundary between the subject land and 78 Dalton Street to be removed by manual labour as far as practicable. A further condition is attached that requires a replacement fence of similar materials and of a similar height to be installed on the common boundary within 28 days of the structure being removed.

Noise and Vibration – The submitter requests that dilapidation reports be prepared for all immediately surround structures. The submitter also requests that given the noise exceedances, Council impose a condition that requires the demolition contractor to consult with adjoining neighbours prior to periods of noise occurring.

Council staff comment

Council staff have recommended that a condition be imposed that requires dilapidation reports to be prepared for adjoining properties where those owners are happy for the persons preparing the report to enter their land.

In relation to noise impacts, Council staff have recommended that a condition be imposed that requires a Demolition Noise and Vibration Management Plan be prepared prior to works commencing on the land. As part of the Demolition Noise and Vibration Management Plan, the demolition contractor will be required to consult with adjoining owners to advise when the higher noise level activities will occur as part of the demolition. Additionally, the Demolition Noise and Vibration Management Plan will stipulate the protocols for a complaints register. In addition to this, the recommendations out of the acoustic report will be recommended as conditions of consent.

Caldwell House – The submitter raises concerns in relation to the demolition of the heritage listed Caldwell House.

Council staff comment

Council staff agree with the comments made within the submission, hence the reason why the report recommends that no works occur to Caldwell House.

Submission 4 – Euan Greer – 21 Lawson Crescent

The author of the submission strongly opposes the application and raises numerous valid points in support of the retention of Caldwell House.

Council staff comment

Council staff agree with the comments made and points raised in the submission, and as such Council staff are not supporting the demolition of Caldwell House.

Submission 5 – Adaptive Architects (James Nicholson)

The author of the submission is strongly opposed to the demolition of Caldwell House. The author provides a very detailed and highly technical critical analysis of the application and raises many similar points that have been raised by Council staff, such as the fact that the building is required to have all asbestos removed prior to any demolition works occurring on the land. The author also provides a detailed list of how the removal of asbestos could occur in line with heritage conservation principles.

The author of the submission also interrogates the costings provided within the application as originally submitted and rebuts numerous other claims within the application; such as the claim that the building would need to be classed as a type A construction for non-residential uses, or that the undersized rooms preclude adaptive re-use.

The submission is also accompanied by a very detailed concept plan that provides an example of how the building could be redeveloped as Hotel or Motel Accommodation.

Council staff comment

The submission is very detailed and provides a high level technical critique of the application as originally submitted. Council staff concur with much of what has been raised in the submission, and thus Council staff do not support the demolition of Caldwell House.

Subsequent Exhibition Period**Submission 1 – Steve and Kay Adams (same author as submission 1 received during the initial exhibition period)**

The authors of the submission are in support of the application and suggest that the applicant's proposition is the only viable option.

Council staff comment

Council staff disagree with the author and the applicant. Council staff have engaged experts who have concluded that Caldwell House can be successfully remediated and safely occupied.

Submission 2 – Anne Salter

The author of the submission strongly opposes the demolition of Caldwell House, raises the point that the building requires the asbestos to be removed prior to demolition, and also raises concerns in relation to the environmental cost of allowing the demolition of Caldwell House.

Council staff comment

Council staff agree with the comments raised in the submission. Council staff are not supporting the demolition of Caldwell House for the reasons raised in the forgoing assessment.

Submission 3 – Euan Greer (same author as submission 4 received during the initial exhibition period)

The author of the submission highlights in considerable detail inconsistencies and errors within the amended material, particularly relating to the submitted amended costings. The author also questions the veracity of the assessed extent of asbestos, stating that the level of contamination is based on supposition rather than clear knowledge of contamination levels. Additionally, the author questions the recommendations made in the HIS and the reliance on the other expert reports to arrive at the conclusion presented within the HIS. The author of the submission also provides examples of similar buildings that have been successfully adaptively re-used and provides commentary around the possible options.

Council staff comment

In relation to the costings, Council staff generally agreed that there was missing information, hence why Council engaged Bradford Barker to complete a peer review of the costings and also provide Council with a realistic figure for the retention of Caldwell House. Council staff agree with the comments made in relation to the exact extent of asbestos or asbestos-containing material. Comments have been made in the report in relation to this issue.

The commentary around the heritage issues of the proposal are acknowledged, much of which Council staff agree with; and as such Council staff are not in support of the demolition of Caldwell House.

Submission 4 – Adaptive Architects (same author as submission 5 received during the initial exhibition period)

The author of the submission expresses their strong opposition to the application, specifically the demolition of Caldwell House. The author of the submission presents a detailed critical analysis of the material relied upon to arrive at the conclusion that the building ought to be demolished, and suggests that in arriving at this position the various experts, particularly the author of the HIS, has relied on flawed logic. The submission provides a detailed interrogation of the costings presented and questions the impartiality of the various contractors that have provided quotes.

The submission rebukes the claims made within the additional material that draws a correlation between the asbestos contamination within this application and the “Mr Fluffy” scenario in the ACT.

The author provides a very detailed analysis of how the building could be practically cleaned and encapsulated, whilst ensuring heritage conservation principles are observed and significant heritage fabric is retained. It is important to point out that the author of the submission comes with the authority of being a registered architect and also being listed on the NSW Office of Environment and Heritage – heritage consultant register.

The author also provides rebutting remarks in relation to the claims made around issuance of clearance certificates, insurance implications, and the alleged stigma attached to the building as a result of “continually raising the stakes of the asbestos risk”.

Council staff comment

The submission is extremely detailed and provides a very high level critical review of the technical aspects of the proposal. Council staff are essentially in general agreement with much of what is presented in the submission. The submission echoes a critical concern that Council staff hold, that being the HIS does not present a detailed analysis of how the building could realistically be cleaned and made fit for purpose using techniques that align with the Burra Charter. The HIS simply accepts the methodology presented by the other experts and does not challenge or offer alternative ways of cleaning and encapsulating the asbestos within Caldwell House to align with accepted heritage conservation principles.

It is for this reason that Council staff have recommended the imposition of a condition that precludes any works to Caldwell House. When the time comes to clean Caldwell House it will need to be predicted on conservation principles.

Submission 5 Gloria Murray – 81 Prince Street (received outside of the exhibition period)

The submission questions who Health Infrastructure is, queries the built form of the future building and highlights the possible impacts.

Council staff comment

As detailed above, Health Infrastructure sits within the Health Administration Corporation which is a Crown body with the NSW Health Ministry.

In response to the building form and likely impacts, this is not possible to say as the application only seeks consent to demolish the buildings - there is no intent within the application to construct a building.

PUBLIC INTEREST s4.15(1)(e)

The proposed development is considered to be of moderate to high interest to the wider public due to the level of heritage significance of the subject building, particularly the social significance attributed to the building, as well as the fact that this is a public building.

Given what the proposal is seeking, it is considered that the proposed development is not in the public interest, and therefore the demolition of Caldwell House should not be supported.

SUMMARY

A Section 4.15 assessment of the development application indicates that the certain parts of the proposed development are not acceptable. The report and recommendations as outlined above do not support the demolition of the heritage listed building being "Caldwell House". The recommendation by Council staff is to allow the later nurse's quarters and other non-significant buildings on the land to be demolished; however, the draft consent does not authorise the demolition of Caldwell House itself.

The applicant has presented a number of reasons to support their intent to demolish the buildings on the land which have been scrutinised in detail by Council's consultants and planning staff. A detailed assessment of such has been provided within the report.

Attached is a draft Notice of Determination outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.


The rationale presented by the applicant for the demolition of this significant heritage item is considered to be unfounded for the reasons given above.

COMMENTS

The requirements of the Environmental Health and Building Surveyor and the Engineering Development Section are included in the attached Notice of Approval.

ATTACHMENTS

- 1 Notice of Approval, D20/37499 [↓](#)
- 2 Plans, D20/37404 [↓](#)
- 3 Submissions, D20/37464 [↓](#)

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 234/2018(1)</p> <p>NA20/ Container PR27695</p>
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DRAFT NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the *Environmental Planning and Assessment Act 1979*
Section 4.18

Development Application

Applicant Name:	Health Infrastructure on behalf of Health Administration Corporation
Applicant Address:	C/- Peter Basha Planning and Development PO Box 1827 ORANGE NSW 2800
Owner's Name:	Health Administration Corporation
Land to Be Developed:	Lot 2 DP 1230592 - 129-133 Sale Street, Orange
Proposed Development:	Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal)

Building Code of Australia building classification:

Class to be determined by Certifier

Determination made under Section 4.16

Made On:	To be advised
Determination:	CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:

Consent to Operate From: Consent to Lapse On:

To be advised
To be advised

Terms of Approval

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
- (2) To maintain neighbourhood amenity and character.
- (3) To ensure compliance with relevant statutory requirements.
- (4) To provide adequate public health and safety measures.
- (5) To ensure the utility services are suitably managed during demolition of authorised buildings.
- (6) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (7) To minimise the impact of development on the environment.

Conditions

- (1) The development must be carried out in accordance with:
 - (a) **Plans by Peter Basha Planning and Development – Reference 17067DA – Dated 28.06.2018 sheets 1 – 4 (inc. aerials) (8 sheets)**

- (b) statements of environmental effects or other similar associated documents that form part of the approval

as amended in accordance with any conditions of this consent.

GENERAL CONDITIONS

- (2) This consent **DOES NOT AUTHORISE ANY WORKS** to occur to the portion of Caldwell House as shown in figure 1 below, shown in red and labelled "B". For the avoidance of doubt, this condition prevents the removal of asbestos, asbestos containing material or any other fabric from Caldwell House, being that portion of the building as shown in figure 1 below, shown in red and labelled "B". Separate approval is required for the clean-up/remediation of this part of this site.



Figure 1 - significant buildings shown red and labelled "B"

- (3) The portion of Caldwell House as shown in figure 1 above shown in red and labelled "B" is not to be demolished.

PRESCRIBED CONDITIONS

- (4) A sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

PRIOR TO WORKS COMMENCING

- (5) A Demolition Noise and Vibration Management Plan (DNVMP) shall be prepared for the authorised demolition works. The DNVMP shall include the following "Management Measures" (as detailed in the Demolition Noise and Vibration Assessment by Wilkinson Murray Report no. 18085 Version B dated July 2018):
- Demolition activities which are noise or vibration intensive shall only occur during normal construction hours i.e. between 7.00am – 6.00pm Monday to Friday, and 8.00am – 1.00pm Saturday, with no work on Sundays or public holidays.
 - Where practicable any particularly noisy works shall be staged with consideration to the least sensitive time of day for the closest receivers, providing respite periods as necessary.

- Scheduling demolition activities to minimise multiple use of the noisiest equipment or plant items where practicable.
- Strategic positioning of plant items and work areas to reduce the noise emission to noise sensitive receptors, where possible.
- Ensuring demolition machinery engine covers are closed, equipment is well maintained and silencers/mufflers are used, including routine maintenance for major items of demolition equipment that are significant demolition noise contributors.
- Provision of awareness training for contractors in environmental noise issues, as described above.
- Community consultation with local residents/businesses shall be undertaken to assist in the alleviation of community concerns. This shall occur prior to works commencing and again prior to each intensive noise generating event where noise management levels are likely to be exceeded.
- Maintaining a suitable complaints register. Should noise complaints be received, they must be immediately investigated and where appropriate, noise monitoring shall be undertaken at the locations concerned to determine compliance with the determined demolition noise limits. Reasonable and feasible measures would need to be implemented to reduce any noise impacts.

The DNVMP shall be submitted to Council's Director of Development Services for approval prior to works commencing on the site.

- (6) Air quality monitoring shall be undertaken in accordance with the Asbestos Removal Control Plan (ARCP) Air Monitoring Program submitted with the application and include (as a minimum) the following measures:

- Daily air monitoring (control monitoring) shall be undertaken on the site during removal works.
- The monitoring shall be undertaken in accordance with the Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Dust, 2nd Edition [NOHSC:3003(2005)].
- Air monitoring shall be undertaken by an independent asbestos assessor at fixed locations along boundaries representative of the work areas as determined by the independent asbestos assessor.
- The frequency of control monitoring shall be daily for the duration of the asbestos removal work. Exposure (personal) monitoring will not be undertaken.
- Clearance air monitoring shall be undertaken after removal works have been completed in the removal areas, decontamination area and loading bay.
- Effectiveness and action of the monitoring results shall be undertaken in accordance with the Criteria for Asbestos Fibres Action Levels (SafeWork Australia 2011) (refer below insert for more detail).

Table 1. Criteria for asbestos fibres action levels (Safe Work Australia 2011)

Action level (airborne asbestos fibres/mL)	Control	Action
Less than 0.01	No new control measures are necessary	Continue with control measures
Between 0.01 and 0.02	1. Review 2. Investigate 3. Implement	Review control measures Investigate the cause Implement controls to eliminate or minimise exposure and prevent further release
More than 0.02	1. Stop removal work 2. Notify regulator 3. Investigate the cause 4. implement controls to eliminate or minimise exposure and prevent further release 5. Do not recommence removal work until further air monitoring is conducted	Stop removal work Notify the relevant regulator by phone followed by fax or written statement that work has ceased and the results of the air monitoring Conduct a thorough visual inspection of the enclosure (if used) and associated equipment in consultation with all workers involved with the removal work. Extend the isolated/barricaded area around the removal area/enclosure as far as reasonable practicable (until fibre levels are at or below 0.01 fibres/mL), wet wipe and vacuum the surrounding area, seal any identified leaks (e.g. with expandable foam or tape) and smoke test the enclosure until it is satisfactorily sealed. Do not recommence until fibre levels are at or below 0.01 fibres/mL.

- (7) Soil erosion control measures shall be implemented on the site prior to demolition works commencing.
- (8) Prior to the demolition works commencing, the applicant is to obtain an approval under Section 68 of the *Local Government Act* for the temporary closure of any footpath or roadway. A pedestrian/vehicle management plan is to accompany the application. Details are to be provided of the protective hoardings, fences and lighting that are to be used during demolition, excavation and building works in accordance with the requirements of the *Occupational Health & Safety Act 2000*, Australian Standard AS3798-1996 (Guidelines on Earthworks for Commercial and Residential Developments) and the WorkCover Authority.

Note: On corner properties particular attention is to be given to the provision of adequate sight distances.

- (9) Prior to demolition works commencing, the applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. All wastes from the demolition phase of this project are to be deposited at a licensed or approved waste disposal site.
- (10) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (11) Due to the extensive nature of the demolition works and their proximity to the public footpath, the applicant is to provide public liability and public risk insurance cover for a minimum of \$10,000,000, endorsed to cover Council for its respective rights and interests. Evidence of valid insurance cover must be submitted to Council prior to works commencing on-site.
- (12) A dilapidation report(s) shall be prepared by a suitably qualified engineer and shall be submitted to Council prior to works commencing on-site. The report(s) shall address the current condition of all buildings that exist on land that is immediately adjoining the development site. A dilapidation report shall also be prepared for the existing building that is to remain on the subject land as part of this development.

This condition shall not apply in the event that access is refused by those property owners.

DURING DEMOLITION / SITEWORKS

- (13) The removal of all asbestos and asbestos containing material as authorised by this consent shall be carried out in accordance with the Asbestos Removal Control Plan – report no. R7040arcp2 prepared by EnviroWest dated 17 May 2018 and in accordance with Clause 452 of the Work Health and Safety Regulation 2017.
- (14) All necessary asbestos clearance certificates shall be furnished to Council within 7 days of being issued.
- (15) All demolition work on the site is to be carried out in accordance with the Demolition Noise and Vibration Assessment report (Reference 18085 Version B) dated July 2018 prepared by Wilkinson Murray.
- (16) The wall that is proposed to be removed (forms part of existing carport) on the western boundary that is the common boundary of no. 78 Dalton Street shall be removed by manual labour as far as practicable.
- (17) A replacement fence on the western boundary shared by no. 78 Dalton Street shall be constructed in similar materials and to a height commensurate with the wall that was removed. The construction of the fence shall commence within 28 Days from the date that the existing wall is removed and be completed within four weeks from the date of works commencing on the new wall.

- (18) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (19) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos (above expected levels as detailed in the submitted documentation), structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing.
- (20) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (21) Building demolition is to be carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the requirements of Safe Work NSW.
- (22) Asbestos containing building materials must be removed in accordance with the provisions of the *Work Health and Safety Act 2011* and any guidelines or Codes of Practice published by Safe Work NSW, and disposed of at a licenced landfill in accordance with the requirements of the NSW EPA.
- (23) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (24) The existing sewer connections to the buildings authorised to be demolished are to be capped off at the sewer main by Council at Developer's cost.
- (25) The existing water services to the buildings authorised to be demolished are to be sealed off at their respective Council mains by Council at the developer's cost.
- (26) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise.

REQUIREMENTS OF ESSENTIAL ENERGY

- (1) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- (2) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- (3) Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- (4) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

- (5) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

Other Approvals

- (1) *Local Government Act 1993* approvals granted under Section 68.
Nil
- (2) General terms of other approvals integrated as part of this consent.
Nil

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

Disability Discrimination Act 1992:

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Signed:

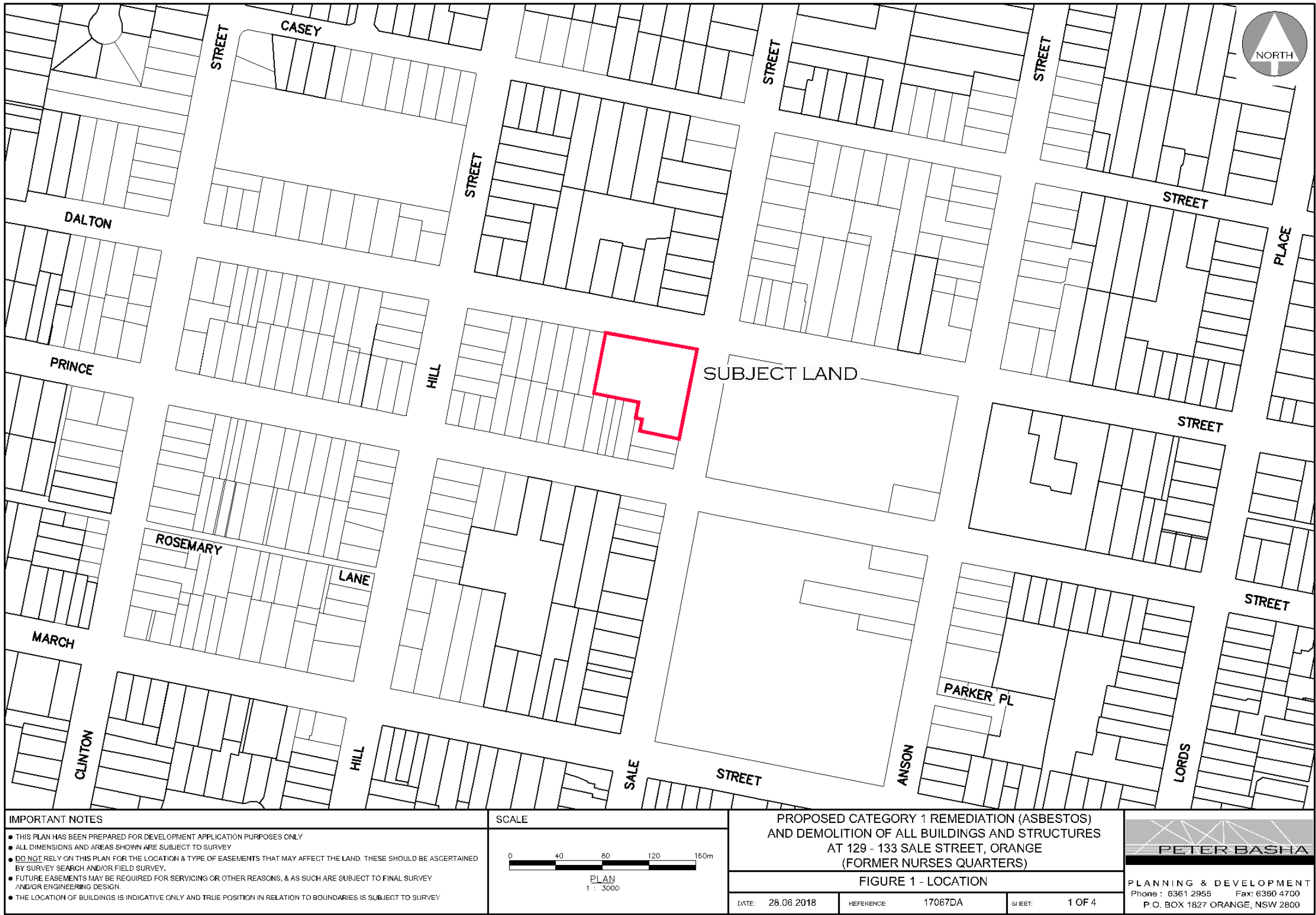
On behalf of the consent authority **ORANGE CITY COUNCIL**

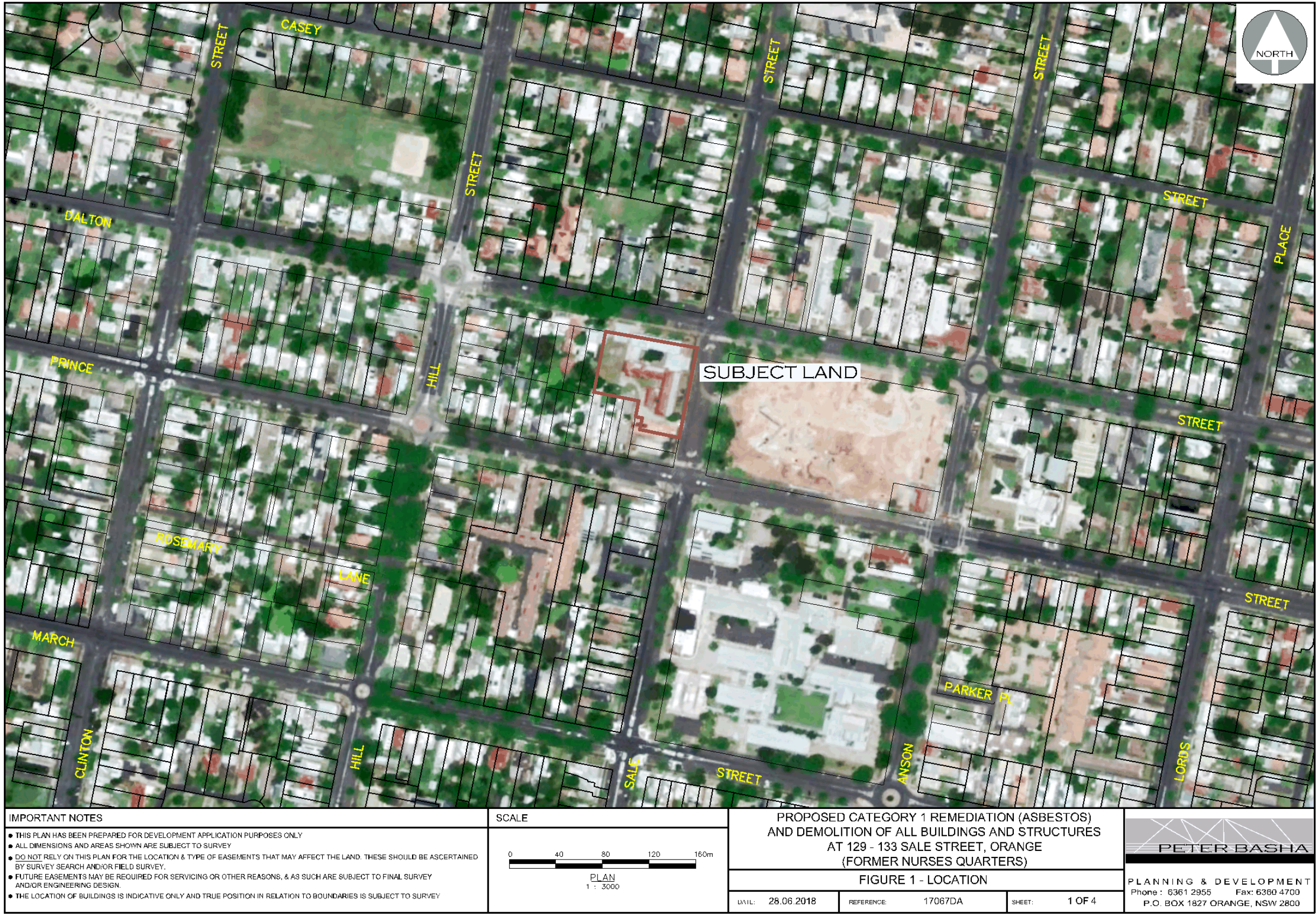
Signature:**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

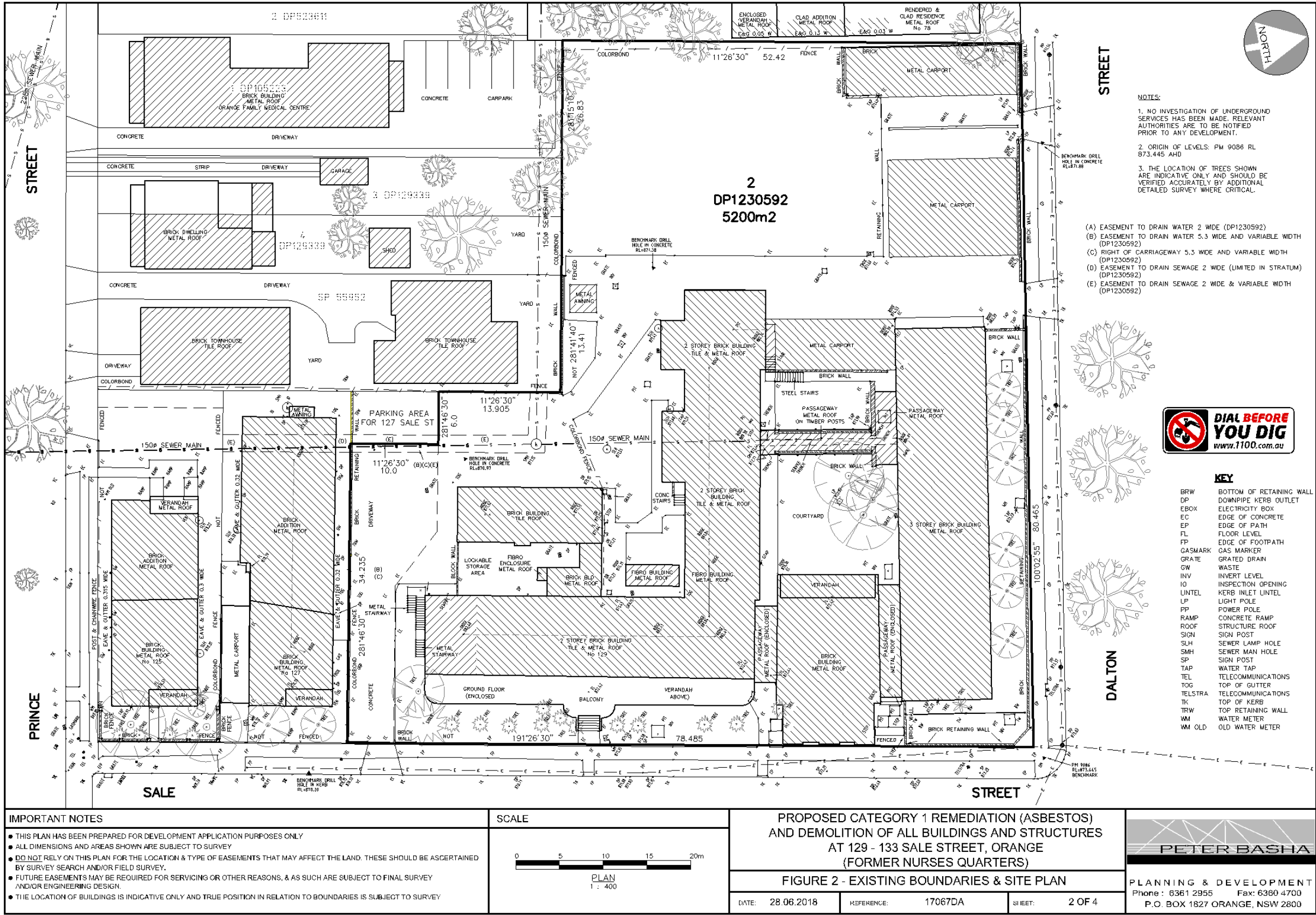
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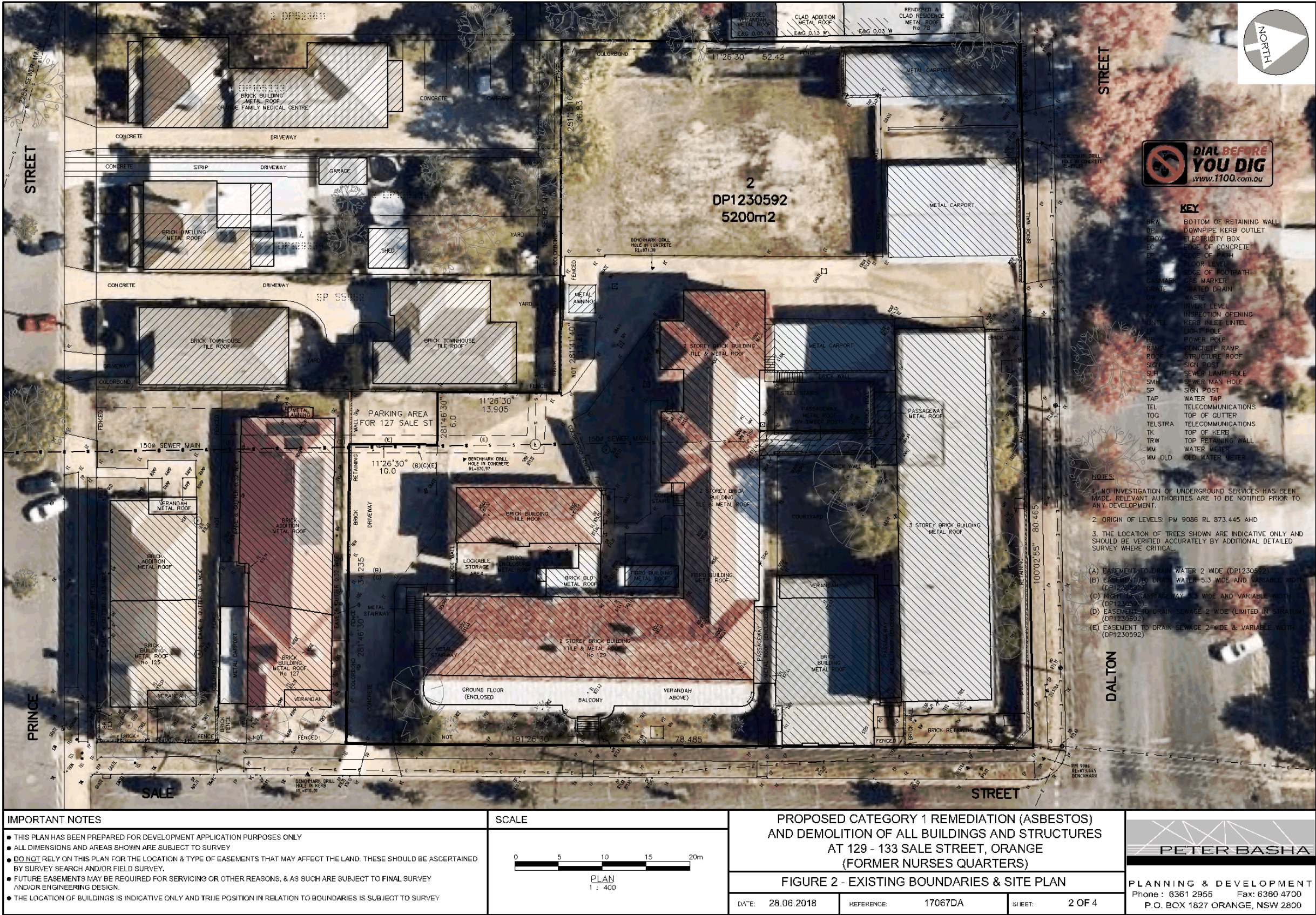
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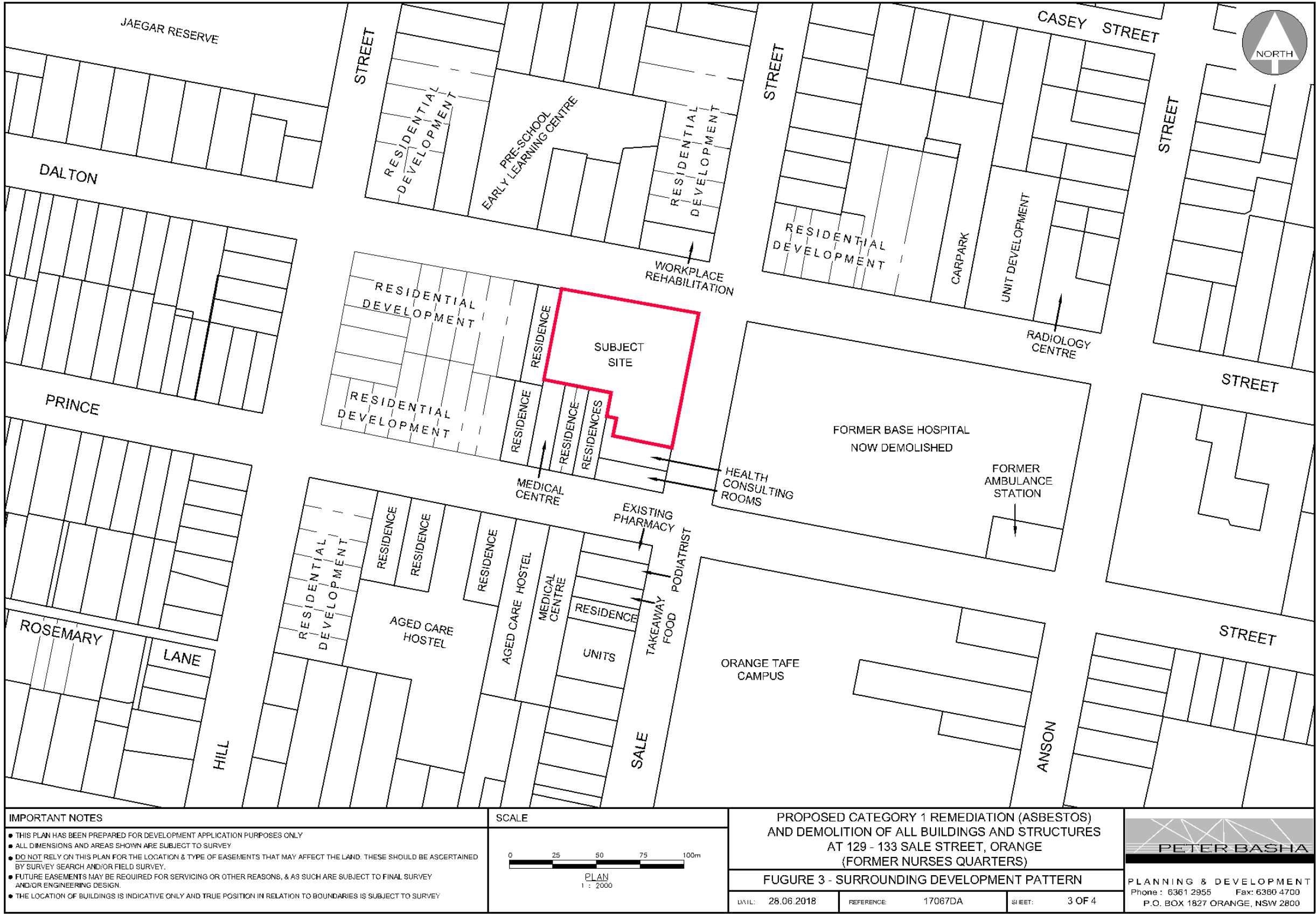




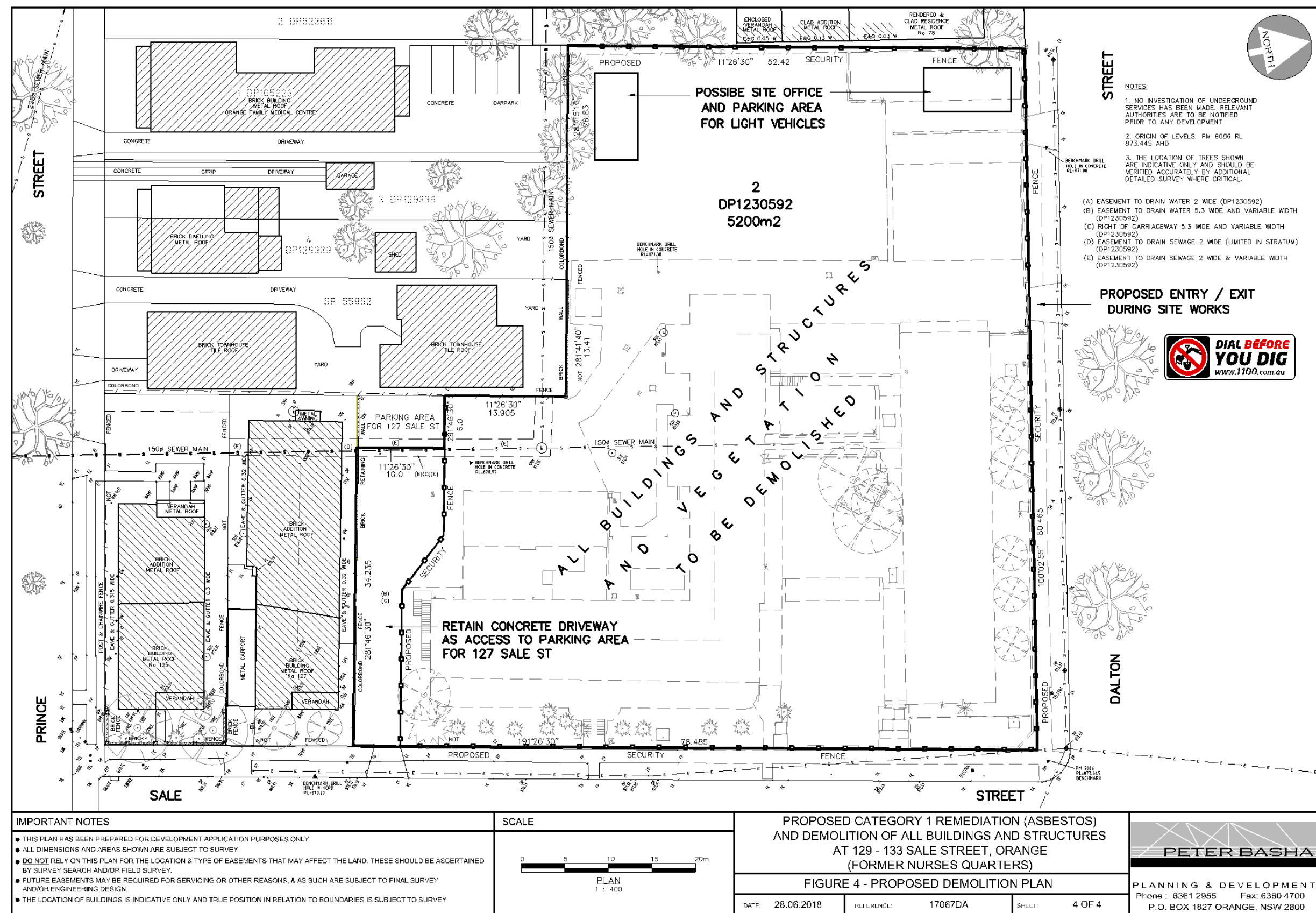












Submissions Received During 1st Exhibition



20 August 2018

The General Manager
Orange City Council
PO Box 35
135 Byng Street
ORANGE NSW 2800

Attn: Mr Garry Styles

Re: DA 234/2018(1) PR27695 129-133 Sale Street - Objection

Demolition of Caldwell House and former Nurses' Quarters

Dear Sir,

I would like to object to the demolition of the 1937 Nurses' Accommodation Building known as Caldwell House.

The reasons given for the demolition are all based on an economic argument. I have been through the submitted reports and it is clear that the economic argument is based on critically flawed assumptions, and there is **no economic case** for the demolition of the building. In fact the reports indicate an issue of public safety associated with its demolition if the statements in the reports are to be taken at face value.

Under these circumstances Council cannot consent to the demolition of the building.

Flawed Rationale 1 – The costs of Asbestos removal are prohibitive:

- This is the biggest flaw in the reports and underpins the main reason why the HIS accepts demolition as the best option.
- The Engineering Report, the Asbestos Report, and the Environmental Report all make it clear that the removal of asbestos across the site will need to be carried out and completed independently of and preceding any demolition. This means that the **process of removing asbestos is the same** in both the demolition and the retention of Caldwell House. The process involves vacuuming, wet wiping, washing, clearance air monitoring, and then all affected areas are sprayed down with a diluted acrylic paint to bond any remaining fibres and prevent them becoming airborne.
- The reports also make it clear that the roof space will need to be sprayed down with dilute acrylic paint to bond the asbestos to the timber rafters. This must happen in both the demolition and retention options.
- There is no reason why the roof tiles cannot be sprayed down internally at the same time (as it is a sealed space). Strangely there is no consideration that a roof resurfacing option to spray down the outside face of the roof tiles can do the exact same thing

Adaptive Architects Pty Ltd

Nominated architect: James Nicholson - Reg No 1205

and bond any loose fibres on the roof. Instead a very expensive and unnecessary option of removing roof tiles, cleaning and replacing them is offered.

- Likewise there is no consideration that the subfloor only needs to be encapsulated with a light cement slurry, or any other of a number of options for spraying a containment in this area. Instead the reports offer an engineered concrete slab that requires unnecessary expense and intervention into the building.
- As a result the QS report has a number of unnecessary costs associated with the retention of the building. It makes a separate figure for spraying down the rafters in the retention (\$62K) but fails to allow for the same in the demolition process. It allows for the unnecessary removal and replacement of tiles (\$103K), and the concrete slab under the building (\$140K).
- Most importantly the QS report allows \$304K for the removal of asbestos in the demolition option but allows \$666K for the asbestos removal in the retention option. From the other reports it is clear that this process **will be the same** in both cases. There is an extra \$362K added to the retention option that is not explained. This is a very significant part of the difference between the two options, which are separated by \$500K in the QS report.

Summary of QS costs for both options			
Works	Retain Calwell House	Demolish Calwell House	Comment
Asbestos Removal	\$620K (+\$337K)	\$283K	Difference unexplained for the same work
Escalation	\$46K (+\$25K)	\$21K	Pro-rata and so weighted by above
Demolition	\$112K (-\$295K)	\$407K	Extent of demolition may be overstated
Encapsulation rafters	\$62K	-(?)	Reports make clear this is required for both options
Remove and relay tiles	\$103K	-	Spraying inside and outside removes this requirement – may be required for demolition
Concrete seal subfloor	\$140K	-	Unnecessary, many other encapsulation options that are cheaper – needs offset against cost to remove soil in demo option
Contingency	\$217K (+\$73K)	\$142K	Pro-rata again, artificially inflating retain option.
Project Manager	\$200K (+\$50K)	\$150K	Assumes a much longer project with a number of unnecessary works
Total	\$1.5M (+\$500K)	\$1.0M	The true balance may be in favour of the retention option as there is a questionable \$790K in these figures

In fact, given that the unnecessary works total \$305K, and that there is an unexplained addition of \$362K for the same process of removing asbestos, and that there is an additional \$50K for a project manager on what should be an equivalent project, and there is a \$73K contingency as a percentage of the above, there is a very good chance that **modifying the scope to truly reflect the work necessary will result in the retention of the building being cheaper than the demolition**. The total saving will not be all the \$790K as there are some works to come out of that, but it is a good chance it is a greater saving than the \$500K difference.

Flawed Rationale 2 – Type A Construction

- The BCA report for the site has made its assessment based on the current configuration. That is, a three storey building attached to the two storey Caldwell House, and that the two buildings form one fire compartment. Under these circumstances it concludes that the whole of the building is Type A construction, the highest requirement under the BCA. This conclusion is based on the wrong assumption.
- The HIS makes it clear that the three storey nurses' wing is not significant and may be demolished. This leaves the two storey Caldwell House, which if used as a Class 5 structure would be Type B Construction, and for a Class 3 use could be a Type C Construction with the right egress options in place. Both Type B and Type C have no requirements for floors or roofs, nullifying much of the concern expressed in the Structural Assessment report. That report makes it clear that the building has an adequate structure for a residential use. Even a general office / consulting rooms use with prohibitions on certain loadings would be suitable.
- The Aged Care use previously proposed for the site, which is a Class 9c use is not appropriate because it would require a Type B Construction and would also have minimum room sizes, minimum opening sizes and minimum corridor sizes for the movement of stretchers. HI should not have pursued this option.
- **It is clear that the heritage building is not required to have a Type A construction type and thus all conclusions based on this assumption are wrong. The BCA report needs to be redone, focussing on Caldwell House as a stand-alone structure of two storeys.**

Flawed Rationale 3 – Undersized rooms prohibit reuse:

- The Engineering Report calls up the minimum requirements for the NSW Land & Housing Corporation in the LAHC Design Standards. This document is only designed to be used with LAHC developments and is **not relevant** to a site developed by private interests. The document itself states that it is meant for **"guidance rather than a prescriptive requirement"**, and yet the Engineering Report makes out that it is some sort of rule that the site needs to follow. **The BCA does not have a minimum room size for any use.** The Victorian amendment to the BCA has a minimum room size for a bedroom of 7.5m², which the building meets easily.
- The Engineering Report then states that due to the small room sizes that many of the internal walls will need to be removed to reuse the building. This is plainly not the case. We have attached a sketch of a use as a hotel/motel that demonstrates that the building can be reconfigured into a bedroom / sitting room / ensuite arrangement with minimal removal of walls and minimal structure. The retained nibs may even avoid the need for any beams as the Structural Report indicates that the slabs have been designed as one-way spans.
- **It is clear that the room sizes are adequate for many uses such as a Class 3 hotel/motel, a Class 6 Health Consulting rooms, or Class 5 Offices. The building is not suitable for a Class 2 or Class 9 use for various reasons.**

Flawed Rationale 4 – The Asbestos means we have to demolish the building:

- The newspapers keep repeated the very wrong information that the cost to remove asbestos from the building is over \$2M. It needs to be stressed that the cost is under \$300K.
- The Asbestos Report identifies the areas where the asbestos is dangerous and gives recommendations on how it can be cleaned up and made safe. The only area that it says cannot be remediated is the asbestos fibres that have fallen into the cavities of the walls. Given the other approaches to making the building safe, there should be a way of encapsulating these fibres in the cavities.
- However, if the report is true in stating that this cannot be done, and that this is in fact a serious amount of asbestos, then that raises a very serious issue for the demolition. The demolition cannot go ahead if there is unencapsulated asbestos still in the building during demolition. Asbestos inside a cavity wall cannot affect any occupants who use the building, but if that building were demolished then it would free those fibres into the local environment and pose a serious public risk to all of the neighbours. **Council cannot permit the demolition of a building if it poses a public risk.** The cavity asbestos will need to be encapsulated before demolition, and thus can pose no risk to occupants if the building is reused.
- **It is clear that the asbestos is more likely to prevent demolition than it is to require it.**

Flawed Rationale 5 – The building is not fit to be reused

These Nurses' Homes can be reused. There are successful examples at

- - Cootamundra (B&B);
- - Wagga (UNSW Rural School);
- - Murwillumbah (Uni centre for Rural Health); and
- - Leeton (Community Health Centre).

Clearly the building can be reused with a creative design solution.

Conclusion:

The Heritage Impact Statement makes it clear that Caldwell House is an important structure that should be retained. It says that *"nurses' quarters are generally a rare type of building"*, and *"many nurses' quarters within the State have been demolished or are currently earmarked for demolition"*. The building is identified as having aesthetic, historic, rarity and social significance. This is the only remaining Base Hospital building and in our HIS we identified it as the best 1930s example on the site. There should be no question of its demolition.

Unfortunately the HIS has accepted the flawed assumptions of the other reports at face value and agreed that there is an economic argument to demolish the building. The other reports need to be rewritten removing these flawed assumptions and making a true case for the option of removing Caldwell House or retaining it. The other options are not necessary.

The building is heritage listed. It undermines the heritage protections and the whole heritage system when the Government doesn't want to keep its heritage buildings. This is a law, not something you do if you choose to; and the Government need to follow their own laws. It is a poor example to other heritage site owners and we need to be carrying out best practice with our heritage sites.

Council must refuse this application as the information in the application is based on flawed assumptions and is thus misleading about the true cost of works. As the argument is primarily an economic one, this undermines their entire case for demolition. Until the reports have the correct information based on correct assumptions for the site it cannot be considered.

Yours Sincerely,

JAMES NICHOLSON

Director

Attached – plan of building showing example of hotel layout

Old Nurses' Home Building FIRST FLOOR - EXAMPLE - HOTEL/MOTEL

Ground floor - 12 rooms & dining/entertaining area

First floor - 14 rooms

Orange room rates - range \$120-\$240/night

Take average rate - \$180/night

Total 26 rooms = \$4,680/night

Annual = \$1.7M - say 50% vacancy = \$850,000 p.a.

Hotels apparently get an average 65% revenue from rooms, 25% from food and drink sales, and 10% from other sources - will only consider rooms at this point even though there is a 80-100 seat dining room in the project because we need to keep variables low

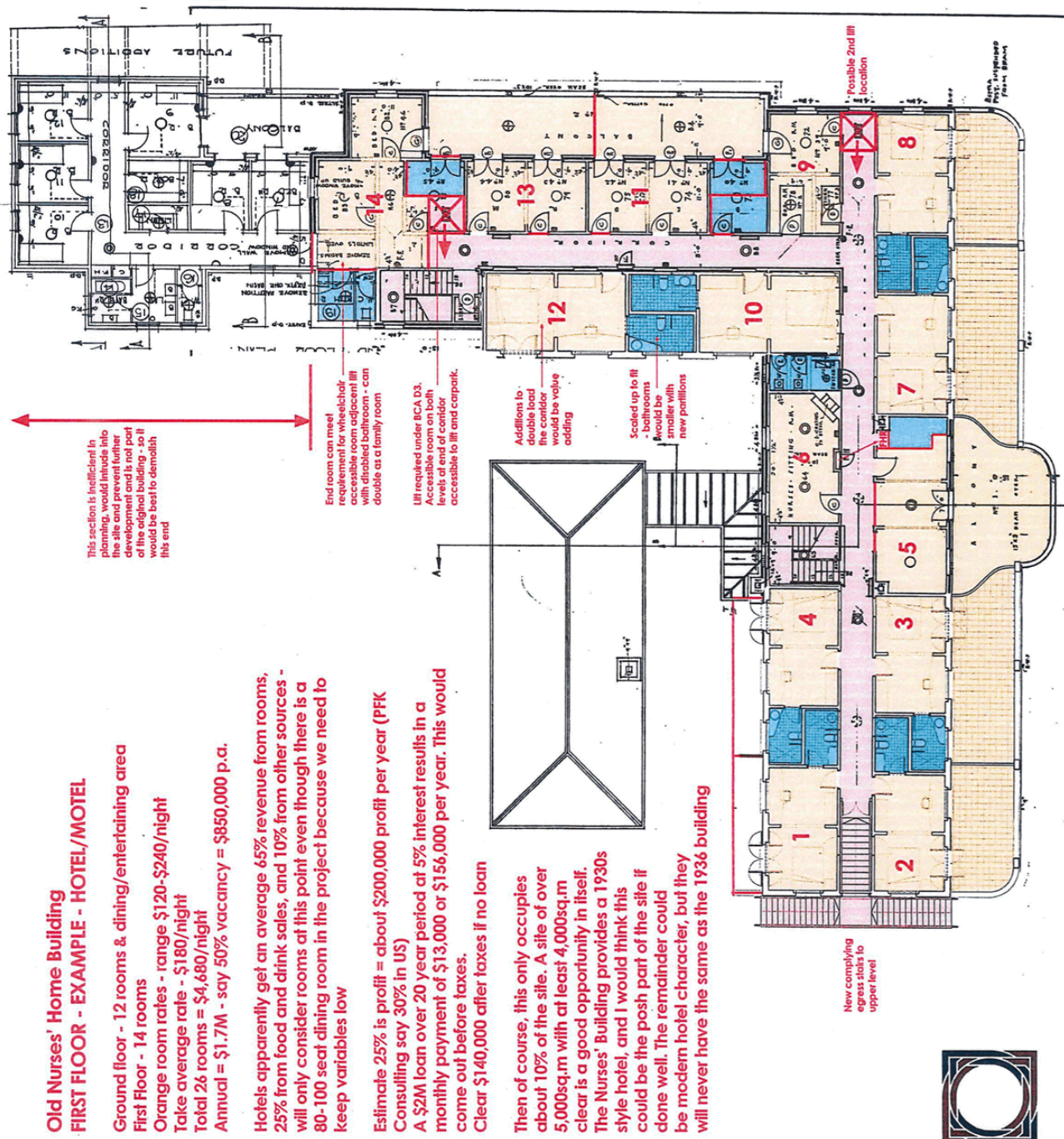
Estimate 25% is profit = about \$200,000 profit per year (PFK Consulting say 30% in US)

A \$2M loan over 20 year period at 5% interest results in a monthly payment of \$13,000 or \$156,000 per year. This would come out before taxes.

Clear \$140,000 after taxes if no loan

Then of course, this only occupies about 10% of the site. A site of over 5,000sq.m with at least 4,000sq.m clear is a good opportunity in itself.

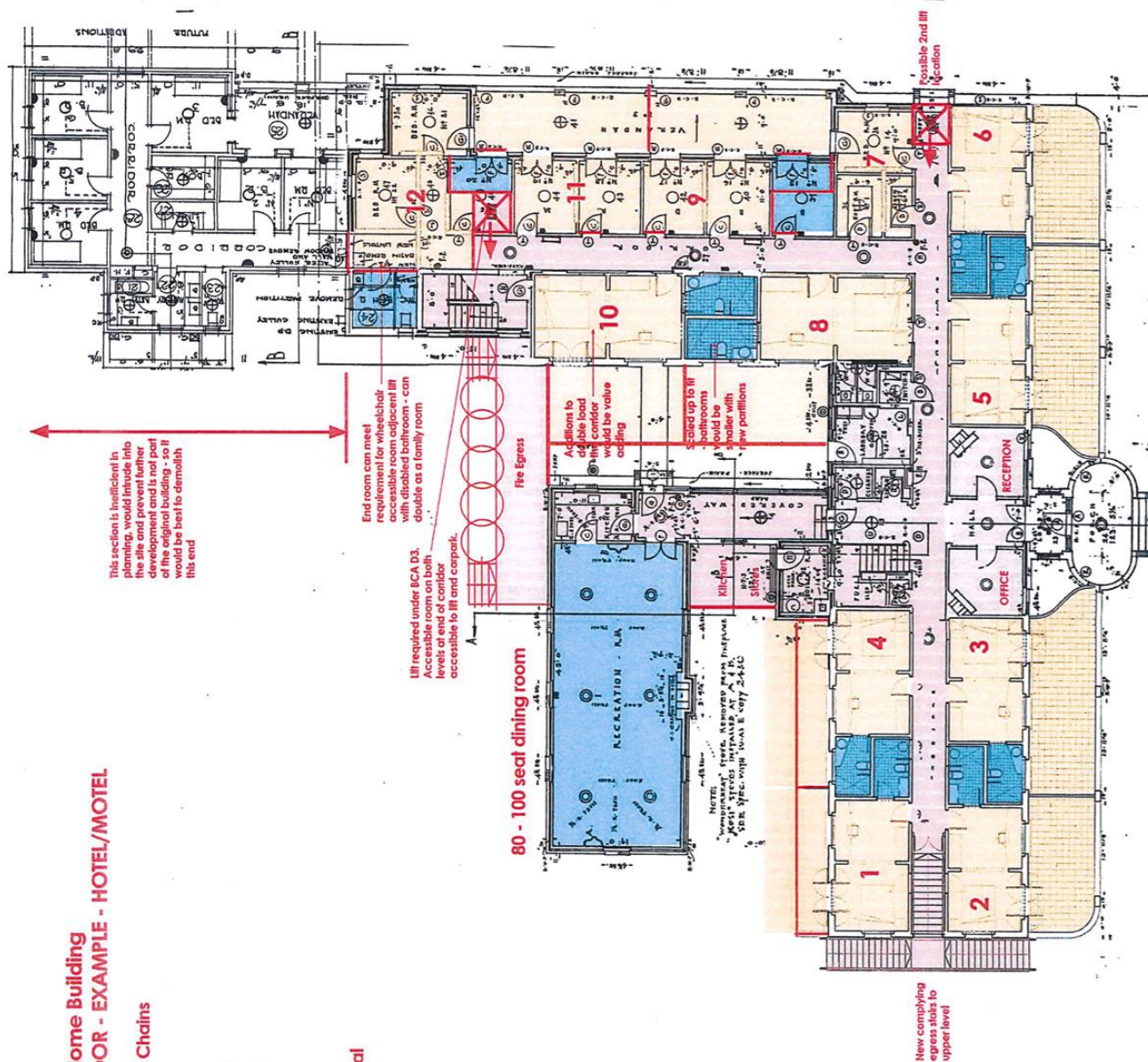
The Nurses' Building provides a 1930s style hotel, and I would think this could be the posh part of the site if done well. The remainder could be modern hotel character, but they will never have the same as the 1936 building



Old Nurses' Home Building **GROUND FLOOR - EXAMPLE - HOTEL/MOTEL**

Australian Hotel Chains

- Accor
- Best Western
- Crowne Plaza
- Four Seasons
- Hilton
- Holiday Inn
- Hyatt
- Ibis
- InterContinental
- Marriott
- Mercure
- Medina
- Metro
- Mirvac
- Novotel
- Peppers
- Quest *
- Radisson
- Rydges
- Sheraton
- Travelodge
- Westin



Kara Jennison

19th August 2018

To Whom It May Concern:

I am writing to you with regards to DA 234/2018(1) – PR27695 regarding 129-133 Sale Street. While I am overall in favour of development of the site I have some specific concerns regarding the current application.

I have no experience in these matters but am very concerned about the impact of the current application on my home at 78 Dalton St. This property is not just my home, but also represents a significant investment, my life savings to use the colloquial, and I believe the current proposal is a risk to my quiet enjoyment of the property.

I ask that the council review these requests and apply some conditions on the application in order to safe guard my home as well as protecting the heritage and aesthetics of our town.

- **Dividing Fence**

The DA involves the demolition of all structures on the site; this includes the common dividing fence between the site and my home. This fence consists of a high brick wall for approximately half the length of the property and a solid metal fence for the remainder of the length of the property.

My home is situated extremely close (less than a meter) from this wall, which forms the back of one of the car port structures on the DA site. While the wall is not entirely built on the legal boundary line, the wall and fence are the functional boundary between the premises.

I have two concerns regarding the wall and the fence. The first is that the proposed demolition method involves a large piece of earth moving equipment (25-tonne) pulling the wall down. Given the proximity to my house, it will be impossible to accomplish this demolition without encroaching on my property and poses a significant risk of direct or in-direct damage to my home during this process.

The second issue is that the DA has no provision for a replacement structure to separate the premises. The proposed demolition methodology involves the car port structure and associated wall and fence being demolished at the stage 3 of the proposed 6 stage process, and prior to the demolition of the multi story structures.

The removal of the wall/fence leaves my property further exposed for the duration of the works to the visual, dust, noise and other impacts of the works, and exposed ongoing.

There are also companion animals at my house, which without a solid separating structure are at risk of escape from the premises and additional stress from the works. The temporary fencing panels proposed to contain the site are not appropriate for the containment of companion animals.

I would like the council to address these issues by reviewing the demolition methodology proposed with a view to lower risk method being employed for the removal of the wall and fence, ideally manual removal.

Further, I request the council to also apply a condition that prior to stage 4 of the works proceeding an equivalent and appropriate structure be constructed to separate the site from my home.

As the current site owner is planning to sell the property with the DA attached, I have no opportunity to discuss the division of the premises pursuant to the dividing fence act prior to works commencing, as the other party is unknown, hence my request for Council to intervene in what is normally a civil agreement between neighbors.

- **Vibrations and Noise**

The development proposes to use 38-47-tonne excavators and hydraulic hammers in the demolition of the multi-storey structures. The report by Peter Basha indicates that this methodology has *"a likelihood that safe working distances for both cosmetic damage and human response cannot be maintained"* The report recommends that dilapidation surveys be considered prior to the vibration intensive activities commencing.

I would like to request council to make dilapidation surveys of all immediately surrounding structures mandatory prior to the works commencing, including my home. This will ensure a base line is established so any degradation to property can be accurately reported and repaired by the developers if required.

The report also outlines that acceptable noise levels will be exceeded, in some cases by a large margin. My house is one of those indicated to be impacted by excessive noise. I am happy to work with the developer regarding noise levels etc.

However I would like a condition of the development to be that neighbors, including myself, are consulted prior to periods of noise.

This will allow alternative arrangements to be made where required, such as for companion animals and elderly residents for whom excessive noise may be more stressful, and for whom noise mitigation may be more difficult.

- **Caldwell House**

The DA includes demolition of all structures on the site, including the heritage item 'Caldwell House'.

Caldwell house is of acknowledged historic and social significance to the people of Orange and to the wider community. The building is also of great aesthetic value as an example of art deco architecture.

Health infrastructure has been derelict in the care of the building, allowing it to reach its current dilapidated state. The DA represents an effort to bypass a duty of care to an historic item based purely on economic grounds, without any effort to contribute something of value back to the community.

I believe it would be a great shame to allow a building of this value and aesthetic to be demolished, however, if it becomes necessary to demolish Caldwell house, then we should be ensuring that the development that replaces it offers genuine benefits to our community.

Under the Orange Development *Control Plan 2004 – 13 Heritage* a DA should “*..demonstrate that the new development will enhance the character of the City, an application to demolish must include the details of the proposed development requiring the demolition of the heritage-significant building or site*”

I can not see that this requirement has been adequately addressed under the current DA. There are no plans to develop the site – simply demolish and on-sell. This no way contributes to the character of our city; it is simply convenient for Health Infrastructure and could leave us with a vacant site that is never developed into something of value and/or beauty to our community.

I suggest that the council rejects the request to demolish Caldwell house until the application to demolish is accompanied by a development application to replace the building.

This application can then be assessed by the council and the community as a whole. Does the replacement justify the destruction of part of our heritage?

Thank you for taking the time to review my submission. Should you require any further information please don't hesitate to contact me. I look forward to hearing from you regarding the outcomes of this submission.

Kind Regards,
Kara Jennison

E. B. Greer,

23 August, 2018

Mr. G. Styles,
General Manager,
Orange City Council,
Civic Centre,
Byng St.,
ORANGE , NSW, 2800

Dear Sir,

Re: DA 234/2018(1) PR27695 129-133 Sale St.

**Demolition of Caldwell House and former Nurses' Quarters
Amended Submission**

I have been made aware that a statement made in my objection letter of 18th August is incorrect. I said that Caldwell House is within the Central Orange Conservation Area. In fact, it is just beyond the northern boundary of the area. Due to vision problems at the time I misread the area map.

Attached is an amended submission correcting the error. At the same time, I have taken the opportunity to expand on some other points as new information has come to hand.

I apologise for the mistake and hope that the amended submission will not create any inconvenience.

Yours faithfully,

Euan Greer.

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E. B. Greer,

23 August, 2018

Mr. G. Styles,
General Manager,
Orange City Council,
Civic Centre,
Byng St.,
ORANGE, NSW, 2800

Dear Sir,

Re: DA 234/2018(1) PR27695 129-133 Sale St.**Demolition of Caldwell House and former Nurses' Quarters
Amended Submission**

The history and heritage significance of Caldwell House has been described in the Heritage Impact Statement (HIS) included with the DA. It is pleasing to note the writers of the HIS have made extensive use of the book "In Sickness and in Health: How medicine helped shape Orange's history (2011)." by Orange author, Elisabeth Edwards.

In 1977 the NSW State Heritage Act was introduced to conserve the environmental heritage of NSW. Environmental heritage is defined as places, buildings, works, relics, moveable objects and precincts that have State or local heritage significance. The Act allows a variety of orders and permits to protect items of environmental heritage.

My objections to the application for demolition of Caldwell House are:

1. It is a heritage listed building, FIRST AND FOREMOST. It is listed on the Orange Local Environment Plan (LEP) 2011 and is also very close to the Central Orange Heritage Conservation Area. The entry steps are within 75 metres of the northern boundary of the Area. Clearly, Caldwell House has a major impingement on the Conservation Area, a contribution that would be lost if it is demolished
2. It is a heritage listed building! What is the point of having a Heritage Register if not to protect the items on it?
3. Caldwell House is readily suited to adaptive re-use amply demonstrated by the owner, Health Infrastructure (HI), having found a willing purchaser wishing to convert the building for an aged care facility. Other nurses' homes in NSW have been successfully re-used. Examples are Wagga Wagga – UNSW rural school; Cootamundra – bed and breakfast; Leeton – community health centre; Tweed District Hospital – university centre for rural health

4. The issue of asbestos contamination as justification for demolition is a distraction. It is irrelevant. Local heritage architect, James Nicholson, has pointed out in the media that the asbestos would require removal anyway in any re-use of the building. Knowing the age of the building, a developer would be aware of the presence of asbestos and factored the expense of remediation into the project costings.
5. My reading of the DA is the willing purchaser declined to complete the transaction due to the added cost of correcting the damage and extra contamination caused by the thieves and vandals. Asbestos removal would already have been taken into account.
6. The damage appears to be the sole result of HI's failure to ensure an adequate level of security to prevent illegal access. This failure and consequent withdrawal of the buyer CANNOT AND MUST NOT be used to justify demolition of the heritage listed building.
7. Health Infrastructure cites the existence of Nurses' Homes of similar vintage in other regional locations as a justification for demolishing Caldwell House. This, too, is an irrelevance. These Nurses' Quarters are NOT in Orange and contribute nothing to our local heritage.
8. Further, they may be of similar vintage but the images presented show they bear little resemblance to Caldwell House. No indication is given in the DA that they have any level of heritage protection, at the very least inclusion on any local LEP. Likewise, there is nothing to prevent HI from similarly seeking demolition of these buildings in the future. One can anticipate HI would mount the same asbestos argument as in this DA.
9. Caldwell House was built in 1937. It was used for many years as a Nurses' Quarters and then as health administrative offices when no longer needed as accommodation. The building is permeated with 80 years of health care for Orange residents; it is important in the lives of many of Orange's present population. Pages 54 to 60 quote various sections from the Heritage Impact Statement and then attempt to nullify them with what come across to me as disingenuous comments (see also figure 59 'Significance of Buildings' on p.59).
10. The Ambulance Station (on the corner of Anson and Prince Streets) and Caldwell House/Nurses Home are the only visible links to the old Base Hospital. The locations of both are the only clear indication of the large size of the hospital and its importance since 1867 in the health care of the people of Orange.
11. On one thing, the DA and I agree. The 1966 additions to the Nurses' Quarters have no heritage significance and can justifiably be demolished. They are typical functional buildings of the period, of no architectural merit. "Their removal will enhance the setting of nearby heritage items [sic Caldwell House] by removing a building that is anomalous in a streetscape of individual dwellings (p.60)". It is sobering to consider that should they survive for another 50 years the living generations would probably consider them of high heritage value.
12. The DA states (p.53) the Orange Development Control Plan (DCP) 2004 requires that an application to demolish must include details of the proposed development requiring demolition of the heritage building. It appears THIS REQUIREMENT HAS NOT BEEN MET in the DA.

13. It is not clear from the DA whether HI intends to demolish the buildings itself (p.3) and offer a vacant site for sale or is just seeking approval to demolish so that the site can be offered for sale allowing the purchaser the option to demolish or re-use (p.1).
14. Costs for various demolition options are presented in the DA (p.6). Asbestos removal and complete demolition is given as \$1.9m; asbestos removal, destruction of the 1966 buildings and retaining Caldwell House as \$2.45m. Other options were between \$2.4 - 2.8m and all options exceeded the sale price of the land. Given the last, an extra \$0.55m to retain Caldwell House is a small price to pay. Whichever course is followed, the State taxpayer is going to lose out. And all, it seems, because HI failed to ensure adequate security of the site. The site and buildings should have been put up for sale as soon as they were vacated, instead of being left to be vandalised and deteriorate. The situation can be seen as demolition by neglect.
15. The DA raises questions of compliance by Caldwell House with present building codes, e.g. National Construction Code, minimum room sizes. These are irrelevant as any new building would have to meet the same codes. On the question of room size the current minimum is $3 \times 3\text{m} = 9\text{m}^2$. Existing rooms in Caldwell House are $2.74 \times 3.35\text{m} = 9.18\text{m}^2$ i.e. exceed the current. My impression from viewing the building is that Caldwell House is solidly built and would be a ready candidate for upgrading to meet modern standards. That certainly has been the case with other nurses' homes in the State (see point 3 above).

Comment

After considering this Development Application I conclude the best outcome will be for Health Infrastructure to adopt option 2 as presented on p.6. Removing the asbestos from the site, demolishing the 1966 Nurses' Quarters and associated buildings and making safe and retaining Caldwell House represents the smallest economic cost to the taxpayer and the best heritage outcome. HI had a committed buyer for Caldwell House with plans to adaptively re-use the building and presumably prepared for the cost of meeting modern building codes. With the 1966 buildings gone, a revitalised Caldwell House would be a prominent reminder in the streetscape of the previous important use of the entire Base Hospital precinct.

Caldwell House occupies only a small portion of the site, leaving the remainder available for other re-development opportunities and for the developer to earn additional profit.

Could not HI re-open negotiations with the previous buyer on the basis of option 2, that the site would be available in a condition similar to that previously and with the advantage that the 1966 buildings would be gone?

Summary

APPROVAL to demolish should be REFUSED and Health Infrastructure required to restore Caldwell House to a condition in which it is attractive to purchase for adaptive re-use.

Yours faithfully,

Euan Greer

Orange & District Historical Society Inc

Heritage Cottage, 148 March Street, Orange



Founded in 1949

Mr G Styles
General Manager
Orange City Council
Civic Centre
Byng Street
Orange NSW 2800

6 August 2018

Dear Sir,

I write regarding Health Infrastructure's proposed demolition of the former Nurses' Home in Sale Street, Orange, along with the adjacent former nurses' training school and nurses' accommodation building, known as Caldwell House.

This Development Application has the reference:

DA 234/2018(1) - 129-133 SALE STREET, ORANGE (CALDWELL HOUSE AND FORMER NURSES' QUARTERS)

Members of our society strongly object to the proposal for two main reasons – the heritage value of the buildings and the flawed argument that the cost of removing asbestos from the buildings would be prohibitive.

The Nurses' Home was opened on 12 October 1937 by the NSW Governor Lord Wakehurst. It represented a milestone in the history of Orange Base Hospital in that for the first time nurses were given decent accommodation after years of enduring substandard living quarters. The new two-storey brick building comprised a bedroom and sitting room for the sister in charge on the ground floor plus a spacious reception room measuring 45 feet by 19 feet. On the first floor there was a large sitting room and 50 bedrooms. As president of the Base Hospital Board Mick Martin said when the foundation stone was laid, it was 'only right that those who devote their lives to the care of the sick and suffering should be enabled to carry out their work under the most modern conditions and live in an atmosphere of health and comfort'.

This building accommodated hundreds of nurses over many years at a time when it was compulsory for nurses to live on site. It not only provided suitable accommodation but was a focal point for nurses where they could socialise in their spare time, such as it was.

The adjacent building, Caldwell House, was opened in 1966 as a regional training school for nurses as well as additional accommodation for 49 nurses. The school was named the Dr A E Colvin Nurses' Training School, after the man who had done so much for medicine in Orange and throughout western NSW. The building was named Caldwell House after Jack Caldwell, who had served as director and chairman of the Orange Base Hospital Board for a number of years. Both he and his wife had given great support to the hospital.

In more recent years, when nurses were no longer required to live on site, the nurses' quarters were used for a number of ancillary medical services, including rooms for the Orange Heart Support Group, which provided support for people who had undergone heart surgery or who suffered from various heart conditions.

Those two buildings, therefore, were until the demolition of the Base Hospital site, an integral part of health care in Orange and an important component of the city and region's medical history (see my book 'In Sickness and in Health', 2011).

I would further point out that the removal of asbestos in the buildings would have to take place regardless of whether the buildings were renovated or demolished, so Health Infrastructure's assertion that the removal would be prohibitively expensive, and therefore that demolition was the only alternative, is invalid.

I would add that the theft of copper piping and the resulting disturbance of asbestos may not have happened if Health Infrastructure had provided adequate security measures for the buildings since their closure.

We have a fine new Orange Health Service on Forest Road, but let us not forget the rich history of the remaining buildings in the former Base Hospital precinct.

Yours sincerely,

Elisabeth Edwards
President.

Andrew Crump

Sent: Friday, 3 August 2018 2:26 PM
To: Council Incoming
Subject: Orange City Council website contact form

**Orange City Council website Contact Form**

Your Name	Steve Adams
Address	Street Address: 145 Sale Street Town / City: Orange State: NSW Post Code: 2800 Country: Australia

Preferred Contact for a reply or further query from council ?	E-mail
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Your message	Re. DA234/2018(1) - PR27695
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I wish to lodge my full support for this development application. I live nearby the old nurses homes and hospital and the local residents have had to watch as vandals have turned these buildings into a public disgrace.

Whilst some may be saddened by the loss of memories that they associate with the buildings, these sentiments should not outweigh what is in the better interests of the local community and its residents.

I would also like to express my thanks to Council for purchasing the old hospital and taking the initiative to cleaned it up and make the future DPI use possible. It is a very satisfactory result.

Thank you
Steve Adams

You can [edit this submission](#) and [view all your submissions](#) easily.

Submissions Received During 2nd Exhibition



30 October 2019

The General Manager
Orange City Council
PO Box 35
135 Byng Street
ORANGE NSW 2800

Attn: Mr David Waddell

**Re: DA 234/2018(1) PR27695 129-133 Sale Street - Objection
Demolition of Caldwell House and former Nurses' Quarters**

Dear Sir,

I would like to object to the demolition of the 1937 Nurses' Accommodation Building known as Caldwell House on the grounds that no valid case has been made for demolition of this heritage item. The asbestos related concerns can be addressed and the building retained and reused.

I have attached my previous correspondence from August 2018 that demonstrated that the original DA reports and documents were based on flawed and misleading assumptions that lead to flawed and inappropriate recommendations and made no economic or other case for the demolition of this heritage item.

We note the DA has been revised and resubmitted with additional information, but the same outcome recommended. The revised application has added the following information:

- Further assessment from two asbestos removalist companies with asbestos assessors, with associated costings
- A review by a Consultant Occupational Physician
- A review of the Heritage Impact Statement

The revised application makes the claim that there is no option but full demolition of the heritage item. We have made a list of summary points at the end of this letter including the public risk to Council if this application is approved.

Revised Application

The revised application now claims that the original application greatly underestimated the level of asbestos contamination and the complexity of asbestos removal. This is very opportune given the original application fully addressed this issue with a *Hazardous Material Report*, an *Asbestos Report*, a report on *Asbestos Removal Options* and a *Demolition Methodology*. The revised application's position appears to either indicate a very poor level

Adaptive Architects Pty Ltd

of professionalism in the first application, or an exaggeration of the problem once the initial application failed. However, we must address the new reports at face value.

INDEPENDENCE: The original application demonstrated a significant predisposition in each report to favour the objective of the applicant, which was clearly in support of demolition. This was evident in the numerous flawed assumptions in the basis of the reports that lead to unnecessary costs and problems associated with retaining the heritage item while minimising the problems and costs of demolition.

There is no need to question the integrity of the consultants, as each consultant followed the assumptions of the applicant to their logically flawed outcome. Their work was correct but based on the wrong initial briefing. Our previous letter of objection identifies these flawed assumptions and the flawed outcomes they lead to in detail. The most obvious example was that the BCA report wrongly assumed that the three-storey building needed to be retained, which meant that every subsequent part of their analysis was irrelevant and recommended works that are not required.

The revised application now refers to the new asbestos removalists as *independent* assessors. These contractors have been briefed by the applicant, are working to the scope and methodology of the applicant, and we don't know if they have been paid by the applicant to produce their advice. At the very least they depend on the applicant's support for the chance to undertake the project. They are also demolition experts, not heritage contractors. They have no experience of heritage work and the specialist needs for retention of old buildings. A demolition expert will advise on how best to demolish. Their advice is in keeping with the applicant's proposal and they have not sought to independently solve the problems of retaining the building. They cannot be referred to as independent. The advice given as part of the revised application appears to be alarmist when considered against the original application advice.

The only way we can have independent advice on the possibility of asbestos remediation of the heritage item is if an assessor was engaged by Council or another independent party. They would need to be directed by Council to realistically assess the retention of the heritage item and to address the issues of concern using a methodology that investigates ways to be low impact and non-destructive. This should be overseen by Council's heritage advisor as the contractor will not have sufficient experience in this field. We have outlined such a methodology below and in our first letter of objection. Council may be able to obtain a quote without any cost, or there may be a charge for the contractor's time. **Without a truly independent assessment of the costs there can be no valid assessment of this application.**

Like all physicians, Dr Gardner has a high level of integrity due to his Hippocratic Oath, and we would not question his advice in terms of the health risks posed by asbestos contamination. However, his advice on this building is based on the information that he has been provided about the risks posed in the building. He does not have specialist skills in the safe removal of asbestos or the ability of the building to be made safe. He also does not have any heritage experience in the ways of finding ways to retain heritage fabric.

Dr Gardner's advice is stated to be based on the applicant's reports. He inspected the exterior and interior of the building, but only viewed photographs of the wall cavity where he claims to have seen chunks of asbestos from the roof lagging. While his conclusions on

the risk posed by asbestos are unquestionable, his conclusions on the ability of this building to be remediated are fully dependent on the quality of the information he has received. Dr Gardner's conclusion that it will be impossible to effectively clear or encapsulate all the asbestos fibres from the wall cavity assumes that it must be either removed or sprayed. He does not consider that the cavity can also be fully filled (noted below), which would effectively encapsulate the fibres and make the cavities safe.

The *heritage impact assessment's* analysis of the issues remains valid and should be followed. The conclusions of the HIS are based on the flawed conclusions of the other reports that retention is uneconomic, and without this influence the report would recommend retention and reuse of the building.

MR FLUFFY: Dr Gardner and the asbestos contractors draw a comparison with the Mr Fluffy asbestos remediations in the ACT to demonstrate that this building cannot be remediated and reused. There are three reasons why this comparison is not helpful.

1. This building's asbestos is in the form of localised pipe lagging, which is a solid material that has broken down. It has been disturbed, but it is not a ceiling wide loose fill material such as that used in the Mr Fluffy cases. The Mr Fluffy cases are a much more serious and extensive case of contamination.
2. The Mr Fluffy cases relate to residential buildings built in Canberra in the 1960s and 1970s, which were brick veneer buildings with timber framing. These buildings had a much more open structure that allows a greater level of contamination spread. Caldwell House is a 1930s double brick building with concrete slabs, with far greater sealing and a much more difficult pathway for contamination to spread.
3. When you investigate the Mr Fluffy cases in detail it becomes clear that the buildings were demolished for political reasons while the debate about remediation was still in progress. The history of this can be read at Adam Spence's blog¹ at <https://bit.ly/32Vk3Fh>. We recommend that every Councillor read this short history and make their own conclusions about whether the recommendations that were made during this process can or cannot be transferred to this situation and this building.

Asbestos Contamination

The central, and only, argument put in the revised application is that the level of asbestos contamination is much greater and more dispersed than previously reported. Yet, the asbestos seems to still be in the same areas as defined in the original application. The main contamination is in pipe lagging in the *roof space* and *ceiling*. There is concern that some of this asbestos has made its way into the *wall cavities*. There is also pipe lagging in the *basement* area.

Apparently asbestos contamination has entered the occupant areas of the building. The contractors claim that the solid asbestos lying on the floor has been crushed underfoot due to poor management by the building owners and must now be considered as equivalent to loose-fill asbestos despite being covered by plastic. There remains a very significant

¹ <https://adamspence.blog/2014/08/07/cause-and-effect-the-legacy-of-mr-fluffy/>

difference between the two and this assessment is contestable. It has a very large influence on the contractor's advice and needs to be reviewed independently.

The internal spaces will require remediation whether the building is demolished or retained. The only difference in the two processes is that if retained the building's internal surfaces will need to be reused. This means carpet replacement, floor finishes replaced, and wall and ceilings painted. The reports keep requiring that ceilings are removed but encapsulation only requires that they are painted with a suitable paint. When I worked on the North Head Quarantine Station the painter masked the entire room and sprayed the walls and ceilings in one go, which would be a perfect way to also encapsulate any fibres.

The report also seems to assume the walls are porous plasterboard like in the Mr Fluffy cases. These walls are all rendered brick and are in no way considered porous.

The reports also include things like renewing cables and the like. This is the standard for refitting a heritage building and should not be compared to the demolition costs. Most of the work to the interior should be considered under the refit of the building, because any new building would also need these same processes in new finishes and services.

Methodology that considers heritage

If the asbestos can then be contained or removed from the inaccessible areas the building can be made safe.

ROOF SPACES: We address this in our previous objection letter. The applicant shows very little imagination in how to address this issue. The process of removal and making safe involve the following processes:

- Remove any solid friable asbestos following safe work practices
- Industrial vacuum the roof space – there are recommendations on safe work practices that come out of the Mr Fluffy experience that can be used here
- Encapsulate any remaining fibres by spraying the interior of the roof space with a PVA paint solution or as recommended under safe work practices. This includes the top of the ceilings, the rafters and any exposed elements, and the underside of the roof cladding – spraying large areas with paint is now the preferred method of painting large spaces and is completely normal within the industry. Suitable equipment to do this is standard within the industry.
- Encapsulate any fibres from the top surface of the roof cladding by spray painting the exterior of the roof with a material that will comply with safe work practices and reinvigorate the roof for the long term. Once again there are many roof painting specialists that already operate and work with tiled roofs.
- Air monitoring and testing to give all clear

The reports continually make out that this is prohibitive and impossible, but it appears to be thoroughly straightforward. Instead of encapsulation the various reports always opt for the removal of the tiling, linings and the rafters, which of course make the project unviable.

WALL CAVITIES: Equally the reports seem to regard this as an impossible problem to address. The cavities are inaccessible and thus cannot be remediated. This poses more of a problem for demolition than reuse of the building, but we will address that below.

The reports draw out the problem of asbestos fibres in the wall cavities, which would only be a small amount due to the nature of the asbestos pipe lagging in the roof space. However, there is no safe level of asbestos and thus the reports note that these fibres may make their way into the occupied areas through breezes and various openings around windows, doors and penetrations. Indeed, it would be impossible to vacuum out the cavities and ensure that there was no further risk to occupants.

SOLUTION: However, with a bit of creativity and an understanding of the role of cavities, we can suggest a cost-effective solution. The only role of a cavity is to provide a separation of the external wet skin of brickwork from the internal dry skin of brickwork. These are connected by ties and have flashing junctions at openings.

Any asbestos fibres that have fallen down the cavity and collected on surfaces can be encapsulated by filling the cavity with a cementitious slurry product. Of course, this would normally bridge the cavity and introduce water problems, but we now have materials that can easily make this cementitious slurry completely waterproof, which would retain the integrity of the water barrier from the outside to the inside. The 1930s brickwork and mortar are not so soft as to need protection from damp, so this would effectively encapsulate any asbestos in the cavity. This process can be done without damaging the cavity or the wall, and a sufficiently wet slurry will make its way to fill the entire cavity. It only needs to be done on the upper floor where there are verandahs as the slabs prevent asbestos falling to the ground floor. Openings in the inner skin may be needed to fill areas that would not otherwise fill naturally, or it may be possible to drill through the inner skin and fill the cavity using hoses.

This may be misrepresented as an extreme or very expensive option, but a much more significant example of this was done on the new bell-tower at the Bathurst Anglican Cathedral for structural reasons.

BASEMENT: We have already addressed the issues of asbestos in the basement. Another inaccessible area, the process of making this area safe should include:

- Remove any solid friable asbestos following safe work practices
- Industrial vacuum the basement – there are recommendations on safe work practices that come out of the Mr Fluffy experience that can be used here
- Hand removal (or power suction) of topsoil for disposal down to firmer ground where required.
- Encapsulate any remaining fibres by spray-crete over ground levels and PVA solution over basement walls and under floors. This would only be necessary in areas required to be serviced as other areas can be sealed and access prohibited.
- Encapsulate any fibres from the exterior of the basement either through spraying or sealing the exterior of the subfloor walls.
- Air monitoring and testing to give all clear

The reports previously allowed for engineered slabs to the basement where these are clearly unnecessary.

The above are the areas where the risk of asbestos has been identified. These areas are easily dealt with. Therefore, we are questioning the independent advice of the asbestos removal contractors. This once again may be due to the commissioning advice they have received from the applicant. If Council commissioned independent contractors with the direction on how to retain the building for reuse, they may well get very different advice.

REUSE: Based on the advice of contractors the applicant makes a great deal out of the need for an *Asbestos Management Plan* (AMP) and claims that the building may be uninsurable.

AMP: If the building has been made safe and the air monitoring has given a clear bill of health then the building can be occupied safely. All potential users of the site will be made aware of the status of the building and that it is safe for occupation. Having an AMP is not a death sentence for the building. There are currently hundreds of health care buildings run by Health Infrastructure that are presently occupied with an AMP. I have been in occupied hospital buildings with ceiling spaces that have asbestos warning signs on them. There was a recent story in the paper about the number of schools that run with an active AMP. An AMP is a sensible precaution of a building owner. They do not stop the building being reused in any way.

CLEARANCE CERTIFICATE: The building would need a clearance certificate to be occupied. The contractor's advice assumes this would be impossible to be achieved. It is clear their advice does not account for the ability to remove or encapsulate all fibres as described above. They assume cavities would need to be cleared and roof framing would need to be removed.

If the building has air monitoring that shows the building to be safe, then it will be able to obtain a clearance certificate. There is no reason why this would not be possible.

FUTURE MAINTENANCE AND CHANGES: The applicant claims that all future works to the building will be subject to quite ludicrous requirements. The AMP will identify where the risks are, and most of those risks can be mitigated as described above. Putting a nail in a wall should not have any greater risk than in any other building. People working in the roof space, basement area or making openings in the upper floor external walls would be made aware of the risks and take appropriate precautions.

INSURANCE: The applicant then makes the claim that future maintenance would be *potentially* uninsurable. This is a claim without evidence and runs contrary to common sense. If the remediation is followed and the asbestos risks mitigated, then there is no reason why any works on the building would be uninsurable.

STIGMA: Unfortunately, the applicant is working against their best interests by continually raising the stakes of the asbestos risk. They have made this a very public issue and continually misrepresent the actual costs related to the asbestos within larger project figures to make their case for demolition seem more compelling in the newspapers. This makes the public and any potential occupiers very anxious about the building. This counterproductive policy should not influence Council's decision on whether to demolish or retain the heritage item. It does make it more difficult for the owners to sell the site, but this is a rod they have made for their own backs by deciding against adaptive reuse of the building.

We have made this point previously but will reiterate it. The site is massive, and the heritage building occupies only 10% of the site area. If they cannot sell this site, then they are not trying hard enough.

Costs:

Clearly our last objection letter was too effective in drawing out the contradictions and false assumptions in the costing of the works. This time all costings have become *commercial-in-confidence*. This removes the ability for me or anyone else to apply public accountability to this project. This role now falls to Council staff and the Councillors to do the hard work and investigate the veracity of the costs that have been claimed.

We will note that in our last letter we found that once the flawed assumptions were removed it was cheaper to retain the building than demolish it. The prices appear to have continued to include most of the flawed assumptions from last time.

Demolition:

In Council's assessment, one important principle must be maintained. The asbestos must be removed and made safe before demolition, and that to a higher standard than if the building were to be retained with the asbestos encapsulated, because demolition will break up the walls and spread the asbestos. This is anecdotally why the White Bay Power Station in Sydney was not demolished. The walls were made from concrete with asbestos fibres throughout. There was no safe way to demolish the building without a very serious asbestos contamination throughout the surrounding areas.

Adam Spence's blog makes this very important point about the potential cost savings of demolition over reuse of buildings in the Mr Fluffy cases. This is a quote from the Commonwealth Asbestos Branch.

*Seeking an alternative, the Department considered the idea of demolishing affected homes, purely to save on removal costs. However, the Asbestos Branch opposed this option, arguing that **safe demolition would require homes be cleaned first, negating any savings.***

What is not quoted by the applicant is the very extensive requirements introduced by the ACT government to protect the environment during the Mr Fluffy demolitions, which is explained in the blog entry. I expect they do not intend to follow these recommendations in their own demolition proposal.

The *Demolition Work - Code of Practice* by Safe Work Australia says the very same thing. All asbestos likely to be disturbed by the demolition must be identified and removed before demolition².

If the applicant's claim that the asbestos is much more extensive and difficult to remove is correct, then there is a much **greater risk to the public** from the demolition of the building. Unencapsulated asbestos during demolition can spread to the local area and cause health problems to the neighbours. As noted, there is no safe exposure level to asbestos.

The applicant must be able to demonstrate that all asbestos can be contained during the demolition. This means it must all be encapsulated. We would not expect to see this

² <https://www.safeworkaustralia.gov.au/system/files/documents/1705/mcop-demolition-work-v4.pdf>

building being demolished by large construction equipment with dust flying everywhere and a few hoses providing a spray cover. The fact that the revised application **does not include a revised demolition methodology** that addresses the perceived increase risk, or that details the method of addressing the cavities, is in my view evidence that the applicant does not really believe the risk has increased.

If unencapsulated asbestos was permitted to undergo demolition the **Council would be at risk** of claims by the neighbours that they subjected them to unacceptable risks, or for compensation for health problems down the line. If the asbestos can be encapsulated for demolition, then it can also be encapsulated for retention of the heritage item.

Conclusion

As we previously argued, this is a heritage building and it should be protected from demolition. The HIS identifies that the number of nurses' quarters being retained in NSW is dropping quickly and the type is becoming rare. The site has important historic and aesthetic values that should be retained. It is the last building of the hospital site. It is eminently adaptable to other uses if the right approach is taken, and we have previously issued plans demonstrating how this can be done.

The applicant has from the outset taken the view that the heritage item should be demolished. They have produced reports that misrepresent the issues based on flawed assumptions. They have argued for an economic case but have not made it without flawed reasoning. This revised application continues in this vein. I cannot make any case against their numbers on this occasion because they are now privileged information. It is up to Council to assess this application and push back against the easy answer to demolish heritage buildings.

Council would not allow a developer to make this case without better evidence. It should also not allow the State Government to make this case, as they are meant to be the guardians of heritage under our system. If the heritage system is to mean anything it must resist these applications that seek to demolish heritage buildings without merit.

Yours Sincerely,

JAMES NICHOLSON

Director

Summary of points

- Asbestos was fully addressed last time. I find it incongruous that there is such a discrepancy in assessment after the application failed.
- The previous reports showed flawed assumptions and conclusions identified in my previous letter
- Contractors that are briefed by the applicant and follow the applicant's flawed methodology cannot be considered to be independent
- A physician is not a specialist in whether the building can be made safe
- We show evidence that the Mr Fluffy case is not comparable to this site
- The internal spaces have been made safe according to the reports
- The inaccessible areas have viable ways to be made safe that have not been considered
- Many sites operate successfully with an AMP
- There is no reason why the building cannot get a clearance certificate
- Maintenance can be carried out and the building can be insured
- We cannot assess the costs as they have been hidden from the public
- Demolition requires the asbestos is made safe, and if such the building can be reused
- Demolition poses a greater risk to public safety if the asbestos cannot be encapsulated
- Council would be at risk of claims from the public if demolition is approved without encapsulation

1

E. B. Greer,

28 October, 2019

Mr. D. Waddell,
Chief Executive Officer,
Orange City Council,
Civic Centre,
Byng St.,
ORANGE , NSW, 2800

Dear Mr. Waddell,

Re: DA 234/2018(1) PR27695 129-133 Sale St.**Demolition of Caldwell House and former Nurses' Quarters****SUMMARY**

1. There appears to be a major concern with the costings from one of the quoting contractors. This could have a crucial impact for the decision made on the Development Application.
2. The level of asbestos contamination is central to the proponent's arguments for demolition, yet much of the argument appears based on supposition rather than clear knowledge of contamination levels.
3. Heritage issues are discussed in detail. Caldwell House is a listed building assessed as of 'high significance' in the Heritage Impact Statement yet full demolition is recommended. Aspects of the HIS used to support that decision are questioned.
4. Heritage reasons for the retention of elements of Caldwell House are presented and examples of successful outcomes with other listed buildings in Orange are given.
5. Two options for retaining elements of Caldwell House are discussed throughout. Retention of the eastern façade on Sale Street is the less preferred and minimal option. Nothing less is considered an acceptable outcome.

An initial version of this report was submitted to Council on 30 October, 2019

I write in response to the letter from Mr. Paul Johnston of 24 September advising of the readvertising of the above Development Application (DA) from Health Infrastructure NSW originally advertised on 19 July, 2018. I thank him for the opportunity to comment on the latest revision of the DA.

SOLD!! No.

From the start it is worth noting that Health Infrastructure had a willing buyer for Caldwell House and who planned to use it for accommodation. The buyer pulled out of the sale when the level of damage caused by the looters became known. At that stage, with supposed little prospect of a sale, Health Infrastructure began its moves for demolition. It is sobering to consider the level of costs incurred in preparing the versions of the DA and how it could have been better spent on behalf of NSW taxpayers. Had Health Infrastructure instituted proper security at the site from the beginning, the copper pipe would not have been stolen by looters thus creating the widespread asbestos contamination.

It can be said that the current situation is of Health Infrastructure's own making.

Covering letter

My response after reading the covering letter from Mr. Peter Basha on behalf of Health Infrastructure NSW was of a restatement, with much greater emphasis, of the material presented previously. Several quotations came to mind: "same old, same old"¹, they "doth protest too much methinks"² and "we'll all be rooned said Hanrahan"³.

However, these are not grounds for opposition to a DA. Turning from the emotional subjective to the rational objective my reasons for continued opposition to the DA follow.

Preliminary remarks

In his letter, Mr. Basha notes that Council is not concerned about the demolition of the 1966 Nurses' Quarters on the corner of Sale and Dalton Streets or other later structures on the site.

From the material presented in this supplementary report to the original DA its evident intent is to support the applicant's contention that complete demolition is the only economically and physically feasible option for Caldwell House and other buildings on the site. That is their understandable prerogative. Caldwell House is thus the focus of the applicant's submission. Accordingly, my comments address only the Caldwell House issue.

Central to the revision of the DA are the questions of the level of asbestos contamination in Caldwell House and the dangers they pose to human health. It is consideration of these factors by the applicant's advisers that have led to the demolition conclusion.

It is very clear that Caldwell House is badly contaminated with asbestos resulting from the theft of asbestos-lagged copper pipe. However, I strongly feel that the material overstates the case. Nor does it clearly consider or present the options for:-

- a. after rendering safe, removing the roof and gutting the eastern section of Caldwell House as seen in figure 1, p.8 of the Envirowest report or
- b. retaining just the eastern façade (i.e. front wall) and verandah (restored, as far as possible, to original condition including a reproduction roof if retaining the remediated original roof is more costly) of Caldwell House

¹ Colloquial

² William Shakespeare, 'Hamlet'

³ 'Said Hanrahan', Patrick Joseph Hartigan aka John O'Brien, ca. July 1919

Asbestos contamination; Reports by Envirowest Consulting (7/5/2019) and others

Given the centrality of the asbestos contamination question to the entire thrust of Health Infrastructure's push for complete demolition and remediation of the site it is critical that the data be examined carefully. The reports and conclusions of the independent experts and of the Heritage Impact Statement are based on these data.

1. According to the report (p.4), asbestos audits were conducted between 12.5.2016 and 3.8.2017. That is 2½ years ago. What changes have there been over that period? The building is not weather tight. Have friable asbestos levels decreased through dispersal into the surrounding environment? Have they increased internally via greater dispersal by air movement?
2. Under what atmospheric conditions were the samples taken? If it was windy then levels would be expected to be elevated given that Caldwell House is no longer weathertight. Conversely, if it was still or humid levels would likely be reduced. It is essential to interpretation of the results that the conditions are taken into account.
3. In Table 3 (p.6), asbestos was found in 45 locations of which 37 were classed as very low or low, 3 moderate, 2 high and 3 very high risk to human health. Of the last eight, six were associated with the asbestos pipe lagging itself. In the numerous illustrations it appears that the vast majority of asbestos sources would be, or have been in normal circumstances, corrected during routine maintenance.
4. Much attention is given in the various reports and assessments to the level of asbestos contamination in largely and completely inaccessible areas of Caldwell House. A particular concern has been contamination within the cavity brick spaces of the building. Apart from three photos on p.37 of the Envirowest report, no measures of contamination of that space appear to have been made. On p.40 of the Envirowest report it is categorically stated that "Inaccessible areas of the site were not inspected including wall cavities ...". And yet, concern with such contamination is taken as a major justification for the recommendation that demolition of all buildings on the site is the only possible option.
5. Concern at asbestos migration into inaccessible spaces such as brick cavities is based on the forensic deconstruction of a single 'Mr. Fluffy' house in Canberra. No details on the form of construction of that house are given. 'Mr. Fluffy' was a highly friable loose-fill form of asbestos. I accept that the broken asbestos lagging from the stolen copper piping within Caldwell House has released friable asbestos fibres. How do their numbers compare to those of the 'Mr. Fluffy' house? I have not seen figures on the levels in the two buildings and how they compare to standards (see also below). Without question there is gross asbestos contamination by the lagging throughout Caldwell House but it seems to be largely in clumps and thus apparently subject to the relatively simple remediation processes described in other reports.
6. Dr. I. R. Gardner has prepared an health risk report on the asbestos contamination of Caldwell House based in the main on the Envirowest report. In it he notes the photos showing the loose lagging in the wall cavity and, in conjunction with the 'Mr. Fluffy' experience, concludes "it **will be impossible** to effectively clear or encapsulate all the asbestos fibres from the wall cavity (even at any cost). Thus, it will be unable to be certified as 'clean'." Council should seek more information on why the methods of encapsulation used cannot be effective within a cavity brick wall. This request is in relation to the retention only of the Sale Street façade and verandah and the cost of treating same such that it can be certified as 'clean'.

7. There are very many public and private buildings of the same period as Caldwell House with building products containing asbestos. No concerns are being expressed about their continued occupation. It must be asked, what limitations are placed on alterations to these buildings, alterations such as drilling into brick work to hang a picture, knocking through a cavity wall to install a new power point? The inability to undertake such tasks without great expense and inconvenience in a remediated Caldwell House is taken as a justification for total demolition (see also below).

Remediation and demolition options (DEMEX/SERS, IP/AirSafe, Seib P/L)

DEMEX and IP are specialist asbestos removalists, SERS and AirSafe are asbestos assessors and Seib P/L are quantity surveyors and cost consultants. As a sidenote, DEMEX provide a concise description of asbestos control.

Three options for the site were considered for Caldwell House (Basha, p.2):-

- a. Asbestos remediation and complete demolition
- b. Asbestos remediation and retention only of the Sale St building including verandah
- c. Asbestos remediation and retention only of front façade including verandah

Option a is Health Infrastructure's preferred option while Council requested further information on b and c as its preferred options.

The information below is taken from material in the papers placed on public display.

Option	Original price \$m	New price \$m	% increase old to new
a. demolition	1.005	3.003	199
b. retain Sale St	1.840	no quote	-
c. façade+verandah	1.453	4.924	239
% increase a to c	45	64	

The new prices are taken from Seib (cost summary) in rearranged order to the DA and are **total** costs including all associated building costs and are those provided by one company only and it refused to quote on option b. The other refused to quote on options b and c.

It is clear that the new prices are approximately double those given in the original DA 12 months ago. What is not clear is whether the original prices included all associated costs. If not, then the apparent price differences from old to new are over-stated. This over-statement may be further exacerbated by the matters raised in **DEMEX Costings** below.

It is important to note that Seib (cost summary) gives the total cost of demolishing both the 1937 and 1966 nurses' quarters as \$3.945m and \$3.910m. These are approximately only \$1m less than the cost of new option c, retention of the front façade and verandah.

I consider \$1m a cheap price for the retention of a significant part of the heritage and social history of Orange. What I have difficulty understanding is why remediation of the façade is so expensive when much of the remediation will already have been incurred in preparing the rest of the building for safe demolition. Further clarification of the pricing is required. I also

cannot understand why the front façade, as such a small and discrete section of the building, presents such difficulty in fully encapsulating all remaining asbestos to render it certifiable as cleared.

I will return to this question under Heritage Impact.

DEMEX costings

It is crucial to this section to understand that there are two nurses' quarters on 129-133 Sale Street. The first, the subject of this DA, is Caldwell House but also known as the Nurses' Quarters, built in 1937, fronting Sale Street and facing the site of the Old Base Hospital. The other was built in 1966 to provide extra accommodation and is on the south west corner of Sale and Dalton Streets and presents to Dalton Street. It was known as the Nurses' Quarters and is to be demolished and is not a concern of this DA.

Careful reading of the DEMEX documents has revealed a major concern with the costings used in the table above. This seems as though it has arisen because of confusion arising from the two buildings being known as 'Nurses' Quarters'.

DEMEX was asked to quote on the three options described on p.3. Reference to p.8 of DEMEX' quotation shows that their option 2 is option a. above. HOWEVER, it is the cost of remediating BOTH nurses' quarters, not just Caldwell House. Option 2 is also option a. but covers the demolition of Caldwell House AND INCLUDES the remediation of the Nurses' Quarters fronting Dalton Street. DEMEX option 1 may equate to option b. or c. in retaining the façade of Caldwell House BUT STILL INCLUDES the remediation of the 1966 building. **All three options do not meet the specifications of the quotes requested and results in the costings submitted being greater than that of the work actually required.**

To further complicate matters it appears the scope of work costed by option 1 (i.e. my option c) is greater than required. Reading of the first three paragraphs on p.7 of the DEMEX papers suggests that 'façade' has been taken to mean all four external walls of the Sale Street building plus the roof and "to remove all internal structures to create a shell for future internal construction and redevelopment of the building." This description is further supported by the wording of paragraph 3. This scope of work is more like my option b. but the cost is still inflated by the inclusion of the remediation of the 1966 building.

IN CONCLUSION IT IS VITAL THAT THE CORRECTNESS OF THE DEMEX COSTINGS ARE CLARIFIED AS THEIR USE HAS A CRUCIAL IMPACT ON THE FINAL DECISION OF WHICH COURSE (OPTION) TO ADOPT AND IN BALANCING THE INTERESTS OF HERITAGE AND ECONOMY.

Heritage issues

Caldwell House is listed on the Orange 2011 LEP as a heritage item. It is within the vicinity of other listed items (adjoining, in Prince Street and in Dalton Street) and is just beyond the current northern boundary of the Central Orange Heritage Conservation Area (COHCA). The proposal in Council's 2012 Heritage Study to extend the COHCA to the north was accepted. The proposed extension is currently being reviewed by a Community Consultation Group to determine if even further extensions are warranted. When adopted, Caldwell House

will well and truly fall within the COHCA, further cementing its heritage significance as a building and as a part of the streetscape.

The Heritage Impact Statement (HIS) prepared by Weir Phillips Heritage is extensive and informative and concludes (p.1) “Caldwell House has historic and social significance as a good example of an Interwar Period Art Deco Style former nurses’ quarters. From 1937 it was the place of residence of a number of female nurses who served a significant role in caring for the wellbeing of the local and wider community.”

And yet the HIS goes on to recommend (p.1) “That the demolition of the buildings on site be approved for demolition so that full asbestos remediation can take place.”

I believe that this recommendation does not fully address some of the heritage issues nor take full account of the ways of overcoming the asbestos issues. I will consider various points in the HIS to demonstrate possibilities of avoiding the need for the full demolition of Caldwell House.

Assessment of heritage significance of Caldwell House

The HIS (pp.42-47) considers nine different criteria/sub criteria in establishing a significance rating. Of these, one rates Caldwell House as highly significant, six as significant and two as not significant. The ninth, criterion f. is incorrect in that the other extant examples of Nurses’ quarters of the same period have been adapted to other uses and are now likely no more intact than Caldwell House.

Overall, the 1937 building in its entirety has been rated as **highly significant** by the HIS (p.48). The heritage importance attached to Caldwell House is further emphasised by the recommendations to be followed in the unwelcome event the building is demolished.

In this regard it is important to note that the “external integrity of the earlier (i.e. 1937) building is substantially intact” (p.39). Six external changes to the Sale Street façade are listed; it seems to me that some of these are capable of easy restoration.

As well, Caldwell House “maintains a strong street presence among the context of smaller scaled Federation period dwellings with its balanced, symmetrical form that previously addressed the Orange Base Hospital across Sale Street.” (p.44). In addition, the building “has historic and ongoing significance for former resident nurses and with community groups ... who actively assisted with its establishment and operation.” (p.44).

Comparative analysis

On pp.39-42, the HIS compares the Interwar Period Art Deco Style of the 1937 Caldwell House with other buildings of that period in Orange and of nurses’ quarters in NSW. The HIS concludes that the four Orange buildings illustrated are better examples of the style. I suggest that, as a public/institutional building, none are of the scale of Caldwell House which stands alone, though the Canobolas Hotel is much larger. The building in the public health arena is not of the scale or size of Caldwell House nor does it have the historical ties to the old Orange Base Hospital.

Only eight nurses' quarters of the style and period are listed on the State Heritage Database (p.39). Five examples are illustrated (pp.41-42) and to me, only one, at Goulburn, bears any resemblance in style to Caldwell House, and that is to be demolished for hospital expansion and redevelopment. The other four appear to be of the same era but do not seem to have art deco features to the extent of Caldwell House. Caldwell House is thus not unique in all aspects of style. It is unique in its social history, in the story behind its establishment, community funding and growth over 74 years. Interestingly, the four have all been converted to other uses and presumably had to contend with the presence of asbestos during adaptation.

Comment:-

The HIS states (p.47) "The original 1937 nurses' quarters ... relates to and complements the streetscape of Federation period buildings." and yet later it is said that demolishing the quarters would be more in keeping with the low rise nature of the neighbourhood. To my mind, that is part of its significance – it is out of place for a particular purpose.

Caldwell House is now the only direct medical link to the old Base Hospital site – it was the home of untold numbers of nurses who cared for patients from Orange and the wider region. The Ambulance Station still exists but was nowhere near as intimately involved with patient welfare. To demolish everything of Caldwell House removes the last direct indication the site was used for health purposes for 144 years from 1867 to 2011.

HIS recommendations

In reaching its conclusions, apart from its own assessments of heritage significance, the HIS considered reports on structural integrity, compliance with building codes and the Envirowest asbestos document. A concern of the HIS was the need to bring the building into compliance with those of Building Codes Australia (BCA). These can be discounted as they are advisory only. In effect, the decision to recommend approval for **demolition of the entire site** (as desired by Health Infrastructure) was informed by the question of asbestos contamination.

Needless to say, I cannot agree with that recommendation. I do not believe that all options for remediation of a gutted Sale Street building or, at the very least, the Sale Street façade and verandah have been fully assessed. This is particularly relevant in light of the question about the DEMEX costings.

Obliteration or Preservation?

Health Infrastructure wants to obliterate part of Orange's History and heritage. That is not their decision to make. It is our decision! It is our history, our heritage. I do recognise the constraints placed upon Caldwell House by the asbestos contamination, contamination that was due to Health Infrastructure's dereliction in not ensuring proper security of the site from the instant of closure.

For the reasons outlined previously it is essential that a solid, physical indication of the former use of the precinct as a major regional health facility is retained. The Ambulance Station on the north west corner of Prince and Anson Streets remains but it is only an ancillary adjunct to the site. Caldwell House has a direct health care link.

We have over the years lost so much of the early history of the old hospital precinct and indeed of Orange's history. The very first hospital of 1867 existed for many years. In 1885 it was extended with twin turrets which served as nurses' bedrooms and bathrooms. In 1933 with the opening of new wards partly funded by the community Orange Base Hospital came into being. The original hospital was very similar in style to that in Bathurst which survived various developments of that hospital, including the latest in the early 2000s. Bathurst decided they did not want to lose a significant part of their heritage and history and now have a building which still functions as part of the hospital but is also a highly valuable heritage tourism asset.

Two ways of preserving a direct link by Caldwell House to the demolished health precinct have been considered in the DA by Health Infrastructure. Given the constraints of the site my preferred option is retention of the shell of Caldwell House. The other is the retention and restoration of the Sale Street façade, including the curved corner returns.

Preservation in Orange

Two recent projects in Orange reveal the success which can be achieved by retaining rather than demolishing buildings for the heritage and history of Orange.

The first was the adaptive reuse of the Carrington Hotel. It is said to be the oldest double storey brick building in Orange ca. mid 1860s and had been used as a public house since ca. 1872. It was quite run down but retained many original features. There were fears it would be demolished. Instead it was adaptively reused as commercial office space, now occupied by LiveBetter. Major changes were made internally but it is still possible to 'read' its earlier life as a pub. This has been accentuated by the reinstatement of the verandah which existed for many years. The Carrington is widely esteemed for its appearance and continuing contribution to the heritage of Orange.

The second is an example of the significant contribution to the streetscape and historical understanding which can be achieved by preservation of the façade of a building. 'Facadism' is often maligned but when it comes to a choice between a modern structure in a heritage streetscape and retaining a heritage façade which complements the streetscape, I'll take the façade every time. Certainly, it is very much a second best, bottom line approach. Over the last few months we have seen what can be achieved when Council adopts a non-negotiable limit on a DA approval as has happened with the Dalton Bros./Myer store. Parts of the building date from ca. 1860 with the latest part being 1895.

The structural problems encountered with the old store building made demolition of the entire structure the cheapest option. Council negotiated with the applicant and it was agreed that internal demolition and subsequent new construction would be approved **if** the façade was retained and restored. This came at considerable cost to the developer (which I suspect was much greater than the \$1m indicated above for the Sale Street façade) but in return they had complete freedom with internal layout and Orange achieved the preservation of its very early commercial history and the streetscape. The project is nearing completion and I believe will be a major contributor to the streetscape and promote its further rejuvenation.

Letter from James Nicholson, 20 August, 2018

Mr. Nicholson in his letter of objection presented a number of highly pertinent points against demolition. Having carefully read the revised voluminous supporting material for the DA, I have seen nothing to remove the relevance of Mr Nicholson's comments. They certainly need to be revisited and taken into consideration when assessing the revised DA.

My letter of objection, 23 August, 2018

Similarly, I ask that my previous arguments against demolition outlined in my letter also be taken into account rather than repeat them here. They have not been changed by the additional material presented in the revised DA.

Final comments

I have remarked earlier on the conditions under which the asbestos studies for this DA were conducted. It would also be relevant to have more information about the methodology of the forensic deconstruction of the 'Mr. Fluffy' house. For instance, what measures were taken to prevent spread of friable fibres from deconstructed areas of the house to undisturbed areas. In other words, is there certainty that later areas did not test positive because they were contaminated by the very act of prior deconstruction? The question is important because the findings from the 'Mr. Fluffy' episode are so widely used as justification for many decisions on asbestos contamination.

Asbestos is dangerous. No question. 'Mr. Fluffy' was gross contamination with a completely friable source. From what we now know about 'Mr. Fluffy' such wide spread contamination was to be expected. But how well does that relate to Caldwell House where the contamination is much more recent from a much less friable source (pipe lagging) and thus presumably less opportunity to spread. I would have thought that a better comparison would have been experiences with buildings of a similar era and also containing asbestos when they were repurposed. What levels of contamination were found in them and how was it remediated?

The various reports contain statements that various areas "are almost certainly contaminated". But these areas have not been tested (Envirowest, p.40). 'Almost certainly' is not scientifically acceptable as proof. Given the costs involved it is not likely to be acceptable economically either. Is it not imperative to know if the external wall cavities and roof timbers are contaminated? These after all are the major elements in plans for retention of all, or the façade, of Caldwell House.

CONCLUSION

I have remarked 2-3 times that my preferred option is for the retention of the eastern block of Caldwell House fronting Sale Street. If that is not possible, as appears likely due to the asbestos, then the outer walls (without roof) of the building, ready for new internal construction. My least preferred option is the retention only of the Sale Street façade and verandah including the recurved ends.

I find it hard to understand why the encapsulation of friable asbestos (if indeed any is found on investigation) in the façade and verandah is seen as so difficult. Presumably the façade is

cavity brick. Has thought been given to pumping expanding foam into the cavity? This would bind any asbestos and fill air gaps around doors, windows and ventilation holes precluding further movement of asbestos. Removal of doors, windows and vents would facilitate application of the foam and allow escape of any excess.

A more involved alternative (given suitable stabilising support of which the verandah would be part) is to remove the internal layer of bricks. The exposed internal face of the exterior bricks could then be decontaminated and/or encapsulated.

The verandah balustrades and columns appear to be solid brick and would only need surface remediation. Its roof is flat and is perhaps isolated from the main roof cavity thus escaping contamination.

Given the high level of heritage and social significance ascribed to Caldwell House in the Heritage Impact Statement, it is essential that some physical form of the building be retained on site. At the very least that must be the eastern façade and verandah.

Regardless of the physical form adopted, a full set of detailed plans of Caldwell House along with the revised Heritage Impact Statement to this DA must be deposited with Orange City Library. Before any work is commenced a full photographic record, internally and externally, is compiled by a professional photographer. It too will be held in the Library. In addition, all of the recommendations from the HIS set out in section 5.3.4 (p.51) be adopted.

Euan Greer
1 November, 2019

30 October 2019

Mr David Waddell
Chief Executive Officer
Orange City Council
135 Byng Street
ORANGE, NSW, 2800

Dear Mr Waddell,

DA 234/2018 (1) - 129-133 Sale Street, Orange (Caldwell House and Former Nurses' Quarters)

I completely **OBJECT** to the demolition of any part of the building known now as 'Caldwell House' which is contained within the 1935 Architectural Plans as 'Orange Base Hospital, New Nurses Quarters' which was opened on October 12 1937 by the NSW Governor Lord Wakehurst and had its foundation stone laid by Health Minister Herbert Fitzsimons in February that year.

Having internal removable fitting of asbestos located within the substantially constructed brick building is not a reason to demolish a significant Heritage Art Deco building and it is very arguable that complete demolition is likely to create a much higher health risk than removing the asbestos from the intact building. The Consultant uses the description 'extensive state of asbestos' I suggest this is incorrect as extensive would be a building in almost its entirety being constructed of asbestos. 'Caldwell House' is constructed of brick external and internal walls with a tile roof and only some internal fittings of asbestos.

I would suggest that Council would be failing to uphold its own Strategic Guidelines by allowing the demolition of this identified Historic and Socially Significant Heritage item. Commercial or financial viability should not be considered by Council when deciding the future of this building. I also object to the commissioning of Consultants from outside the area with absolutely no local connection, it is hard to believe, a Heritage Advisor advising to demolish such valuable Architectural Heritage.

This building has much potential to be repurposed for many different uses, eg a boutique lodge with shared bathroom facilities, similar to those located in Sydney which is lacking in Orange or an aged care home. There is every opportunity for this building to be restored beautifully with its splendid architecture and an updated fit out to become a building Orange will be proud of, accompanied by a complimenting garden and carpark.

Orange City Council is becoming more focused on environmental sustainability and a very large component of this is to reduce pollution. The demolition of buildings creates high amounts of pollution. The retention of a building in its intact form creates negligible pollution in comparison. OCC should transition to cease permitting the demolition of buildings.

Council holds the responsibility to preserve Identified Heritage items and those buildings which have Heritage value, regardless of any push to make a site available for new development. Therefore in the interests of the local Orange Community and that of the State, I expect Council to decide in favour of **RETAINING** the Significant Heritage Asset known as 'Caldwell House' in its entirety as constructed in 1937 and that it make funds available to professionally remove the asbestos fittings and seal surfaces as required to allow the next phase of repurposing to begin.

Yours faithfully

Anne Salter

Andrew Crump

Sent: Wednesday, 16 October 2019 1:50 PM
To: Council Incoming
Subject: DA 234/2018(1) - Lot 2 DP1230592 - 129-133 Sale Street Orange

Dear Sir / Madam

We live near the buildings proposed in this DA to be demolished.

From our perspective the state of dilapidation of these buildings needs to be rectified as soon as possible. It is currently an blight on the street scape a temptation for vandals and a safety issue for the community.

The development application clearly identifies that demolition is the only realistic option available to rectify this situation.

We therefore wish to commend the application to the council for prompt approval.

Your faithfully
Steve and Kay Adams

Orange City Council

135 Byng St

ORANGE. 2800

RE: DA 234/2018(1) – PR27695

Thank you for the above Notice. Circumstances prevented me from responding earlier.

I do like it when buildings are constructed for the benefit of Ratepayers.

However, I do not like it when Developers come in and persuade the Local Council to disregard the wishes of the Ratepayers; your largest source of Income.

What does "Health Infrastructure on behalf of Health Administration Corporation", mean? How high is the building going to be, for example. Will it block out the skyline and put shadows around the places near it and reduce the sunlight over this cold city? Does anyone on Council consider this?

When the Local Council allows State Government Office Buildings to be built in our area wouldn't they lose any control over the type of building the State Government chose to erect?

I would like an answer to my questions, thanking you.

Gloria Murray

