

DATE OF DEFERRAL	2 November 2020
PANEL MEMBERS	Garry Fielding (Chair), Sandra Hutton, Stephen Davies, Allan Renike
APOLOGIES	Andrew Hutton
DECLARATIONS OF INTEREST	Russell Turner declared a non-pecuniary conflict of interest having voted on this application in his capacity as Councillor.

Public meeting held by teleconference on 2 November 2020, opened at 4.35pm and closed at 5.26pm.

MATTER DEFERRED

PPWES-40 – Orange – DA234/208/(1) at 129-133 Sale Street Orange for the demolition of local heritage listed item (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at Item 6, the material listed as Item 7 and the material presented at meetings and briefing and the matters observed at site inspection listed at item 8 in Schedule 1.

This is a Crown Development Application for remediation of asbestos contamination and demolition of all buildings and structures forming a local heritage item. Agreement has not been reached on the imposition of draft Conditions 2 and 3 proposed by Orange City Council (the Council). The effect of draft Conditions 2 and 3 is a partial consent only and would not authorise: (a) the demolition of one group of structures on Site, being those identified as part of the application as high heritage significance (local) item and referred to as the 1937 buildings of Caldwell House; nor (b) the remediation of asbestos contamination within those structures (given the application does not contemplate remediation of Caldwell House with retention in mind). The matter has been referred to the Western Regional Planning Panel under Section 4.33(2) of the *Environmental Planning and Assessment Act*.

The Panel adjourned following submitter and applicant presentations to deliberate on the matter and formulate a resolution.

The Panel could not be satisfied to either refer the matter to the Minister or delete draft Conditions 2 and 3 without the consideration of further economic analysis that that would assist the Panel placing the potential asbestos remediation costs and risks relating to Caldwell House into perspective.

Accordingly, the Panel resolved to defer the determination of the matter and require the preparation and provision of independent expert property economics advice that analyses and provides conclusions on the economic viability of the site's redevelopment under the following alternative options:

1. Retention and remediation of the 1937 Caldwell House and potential adaptive reuse options utilising the conservation incentive provisions of LEP 2011;
2. Remediation and full demolition of Caldwell House as proposed by the Crown and potential redevelopment options permissible with consent in the R1 General Residential zone applying to the site.

Where necessary, the expert advice is to assume the remediation costs as provided in the Bradfield Barker Cost Estimate commissioned by Council, dated 15 January 2020.

The Panel requests that the Council and Health Infrastructure jointly fund the requested expert advice, and appoint a suitably qualified expert within two (2) weeks of this decision, confirming the appointment with advice to the Panel Secretariat. The Panel requests that the requested expert advice be submitted to the Panel, through the Council, within four (4) weeks of this decision. Upon receipt of the expert advice, or should the advice not be provided within four (4) weeks of this decision, the Panel will determine its position on the matter electronically.

The decision to defer the matter was unanimous.

REASONS FOR DEFERRAL

The Panel recognises that the heritage value of the 1937 Caldwell House is not in contention and the applicant has indicated that, if it was possible and recommended by its experts (which it isn't), it would prefer to see Caldwell House retained, remediated and adaptively reused.

The Panel noted that whilst there are varying opinions on the method, cost and timing of remediation (with full demolition or with part retention of Caldwell House), the applicant's primary position is not about the cost of remediation options, but rather that it is not possible to remediate the site for future use of the building.

The Panel recognises that the applicant and its experts and contractors have significant reservations on the heightened risk to human health that arise if Caldwell House was retained and remediated for adaptive reuse, due largely to the extent and nature of the asbestos contamination within the buildings. In particular, the heightened risk is due to residual assumed friable asbestos likely to remain in inaccessible areas of the building even after best practice remediation efforts, presenting long term risk and management issues.

The Panel notes that the applicant and Council have differing expert opinions before them on the ability of the building to be remediated to reduce risk to as low as reasonably practicable (including with residual areas managed in the long term). It is understandable that the applicant, as part of NSW Health, places significant and substantial weight to an outcome, via demolition, that provides elimination of risk as a health-based solution.

The Panel accepts the applicant's position that demolition reduces the long-term risk to zero. However, the Panel has reservations in accepting that elimination of risk should be the only option for a masonry (brick) structure that has other inherent values.

In deliberating this complex matter the Panel has no desire to see a decision made that, on economic grounds, could result in no investment by the applicant in providing a long-term solution for the site and its remediation and reuse. In order to place the differing expert opinions on the remediation and long-term management options into perspective, the Panel considers it would benefit from being presented with expert property economics advice comparing the applicant's demolition proposal with Council's preferred remediated building option.

The Panel is of the view that the requested expert advice will assist in its further consideration in light of Council's recommendation and issues raised by the submitters and the Crown's objection to retention of the 1937 Caldwell House due to its inability to remediate the building and eliminate risk.

PANEL MEMBERS

Garry Fielding (Chair)



Sandra Hutton



Stephen Davies



Allan Renike



SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-40 – Orange – DA234-208(1)
2	PROPOSED DEVELOPMENT	Demolition of a Heritage Item (all buildings, structures and vegetation to be removed) and Category 1 Remediation (asbestos removal).
3	STREET ADDRESS	129 – 131 Sale Street Orange
4	APPLICANT/OWNER	Health Administration Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown development referred under section 4.33 of the EP&A Act
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) Orange Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Orange Development Control Plan 2004 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 7 October 2020 Council assessment memo: 16 October 2020 Applicant submission: 30 October 2020 Written submissions during public exhibition: 10 Unique submissions received by way of objection: 10 Verbal submissions at the public meeting 2 November 2020: <ul style="list-style-type: none"> Community members: Euan Greer, James Nicholson On behalf of the applicant – Rachel Mitchell, Ian Gardner
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 2 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Stephen Davies, Allan Renike <u>Council assessment staff</u>: Andrew Crump, Mark Adamson Final briefing to discuss council's recommendation: 2 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Stephen Davies, Allan Renike <u>Council assessment staff</u>: Andrew Crump, Mark Adamson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report