

Demolition of the Former Nurses Quarters including Caldwell House

PPSWES-40
February 2021

Assessment Report



Executive Summary

The purpose of this report is to provide an assessment of a Crown development application which is referred to the Minister for Planning and Public Spaces ('the Minister') pursuant to Section 4.33(1)(b) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). The proposal involves the demolition of buildings which comprised the former Nurses Quarter's and accommodation adjoining the former Orange Base Hospital, including Caldwell House, within the Orange urban area.

The Council and the Western Regional Planning Panel ('the Panel') have recommended approval of the proposal, however, do not support the demolition of Caldwell House, a local heritage item. In this regard, the Panel has referred the matter to the Minister as the applicant, Health Infrastructure ('HI'), does not agree to the imposition of draft conditions 2 and 3 of the Council's draft conditions. These conditions do not allow for the demolition or remediation of Caldwell House, which is significantly contaminated with friable asbestos.

Having thoroughly reviewed the consultant reports in relation to asbestos and contamination and the quantity surveyor and quotation reports, it is considered that the full demolition of all of the buildings on the site, including Caldwell House, is supported and recommend consent being granted for the proposal as outlined in the development application.

1. Introduction

1.1 Background to the site

The subject site is located opposite the former site of Orange Base Hospital and comprises a number of buildings which were formerly used as accommodation for the nurses working at the Hospital.

Since the provision of nurse's accommodation ceased on the site in the late 1970s, the buildings on the site have been used as a community health clinic and were later used as offices for the Central West Health District. Following the opening of the new Orange Hospital in March 2011, several of the buildings on the site were left unused. Damage occurred to the buildings in 2015 when vandals broke into the building and illegally removed copper pipe work and cables which contained pipe lagging. The copper pipes were lined with asbestos which resulted in pipe lagging with asbestos containing material ('ACM'), being dispersed throughout the buildings on the site.

Make safe works were undertaken in March 2017 and April 2018 to prevent the asbestos from contaminating other areas of the building and outside the building (Asbestos removal control plan, May 2018). The various asbestos reports provided with the application and considered in this report, indicate that this ACM has been identified throughout the building in cement sheeting, panels, cisterns, pipe lagging, fire doors and vinyl flooring with the condition of this ACM ranging from good to poor. As outlined in the asbestos reports, all areas of the buildings are considered to be contaminated with friable asbestos lagging residue including the ground and first floors, walls and ceiling.

The consultant reports compare this type of asbestos contamination to the loose-fill asbestos which was evident in houses in the ACT and NSW in the late 1990s which resulted from the sprayed asbestos insulation, known as Mr Fluffy. In that case, the houses were supposedly cleaned and cleared of asbestos yet were found years later to still harbour asbestos fibres in the living areas of those dwellings, leading to a significant buyback program of those houses in the ACT.

1.2 Background to the development application

The development application was lodged on 3 July 2018 Health Infrastructure ('HI') with Orange City Council ('the Council') for category 1 remediation works (asbestos removal), the demolition of all buildings on the site including Caldwell House and the removal of vegetation. Caldwell House is a local heritage item under the *Orange Local Environmental Plan 2011* ('the LEP').

The application is a Crown DA pursuant to Division 4.6 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') having been lodged by HI. The application was lodged with, and assessed by, the Council as it does not satisfy the criteria for *regionally significant development* (CIV < \$5 million) pursuant to Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*.

The application has been notified on two (2) occasions and additional information was provided by the applicant on 19 August 2019 and 30 September 2020.

The application was accompanied by various consultant reports which interrogated issues related to heritage, asbestos contamination and remediation, noise and vibration and quantity surveyors' reports and quotations. Various independent reports and advice have subsequently

been provided since the lodgement of the application debating issues regarding the demolition or re-use of Caldwell House. The demolition of other buildings on the site is not in dispute and their demolition is supported by Council.

A report was prepared by the Council Officer and referred to the Council's Planning and Development Committee meeting of 7 July 2020, recommending approval however, it included conditions which prevented the demolition of Caldwell House.

The draft conditions in dispute include the following:

(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.

The applicant did not agree with the proposed draft conditions as the complete demolition of all of the buildings on the site including Caldwell House is sought in the application. Accordingly, the application was subsequently referred to the Panel following a request from HI in September 2020 pursuant to Section 4.33(1)(b) and (2A) of the EP&A Act.

1.3 Referral to the Western Regional Planning Panel

The application was referred to the Panel and was considered at a meeting held on 2 November 2020, with the Panel noting that the effect of Council's draft conditions was a partial consent only and did not authorise the demolition of one of the buildings on the site nor the remediation of the asbestos which had been identified as being widespread throughout the buildings.

The Panel decided to defer the matter to allow further information to be prepared by a jointly-funded property economics consultant to provide advice on comparing the applicant's demolition proposal with the Council's preferred remediated building option.

The Panel deferred the matter as it was not satisfied to either refer the matter to the Minister or delete condition 2 and 3 without the consideration of this further economic analysis that would assist the Panel placing the potential asbestos remediation costs and risks relating to Caldwell House into perspective.

A brief chronology of the DA is outlined in **Table 1**.

Table 1: Chronology of the DA

Date	Event	Comments
3 July 2018	DA lodged (DA 234/2018(1))	DA lodged with Council by HI with an original CIV of \$1.8 million, revised to \$3.9 million (revised application).
20 July – 20 August 2018	Exhibition of the application	5 submissions received (3 objections, 2 in support)
25 September 2018	RFI from Council	A revised Heritage Impact Statement (HIS) was requested that provided a more detailed analysis of options and provided heritage significance mapping. Council expert advice was provided along with the submissions received. Council required further substantiation for the proposed demolition based on economic and environmental grounds as the only available option to address the asbestos contamination issue in the building.
19 August 2019	Additional information received from the applicant	<p>The applicant provided the following:</p> <ul style="list-style-type: none"> • Revised HIS prepared by Weir Phillips Heritage dated November 2018; • Revised Asbestos Audit prepared by Envirowest Consulting dated 7 May 2019; • Revised Cost Summaries prepared by G.J Seib Pty Ltd (including quotes from DEMEX and SERS) dated 19 March 2019; and • Occupational Physician Report prepared by Dr. Ian Gardner dated 26 July 2019; <p>The applicant indicated that the extent of asbestos contamination was underestimated in the original application and the cost of all options presented originally would be significantly more expensive than first suggested (approximately double).</p>
30 September 2019	Re-exhibition of the application	5 submissions received (4 objections, 1 in support)
7 July 2020	Assessment report prepared by Council to Committee	Report recommending approval referred to Council's Planning and Development Committee meeting (of 7 July 2020), subject to numerous conditions including no work or demolition of Caldwell House (Draft conditions 2 & 3)
	Letter from HI objecting to draft conditions	<p>HI objected to Conditions 2 and 3 of the draft Notice of Determination as their expert's opinion is that due to the type of asbestos contamination in Caldwell House that it is not possible to remediate the site for future use of the building.</p> <p>HI provided an additional cost estimate prepared by Bradfield Barker dated 15 January 2020.</p>
22 September 2020	HI request DA is referred to WRPP	HI objected to draft Conditions 2 and 3 pursuant to s4.33(1)(b) of the EP&A Act.

2 October 2020	Council report to Panel	Council report referred to the WRPP pursuant to S4.33(2) of the EP&A Act and recommends approval subject to conditions which include retention of, and no works to, Caldwell House (the 1937 buildings, a local heritage item).
30 October 2020	Letter from applicant to Panel	HI provided the Panel with a further report on the extent of contamination prepared by Nation Partners dated 29 October 2020.
2 November 2020	Panel meeting held (public determination meeting)	<p>The Panel adjourned following presentations from the applicant and submitters to deliberate on the matter and formulate a resolution. The Panel deferred the matter and required the preparation of an independent expert property economics advice that analyses and provides conclusions on the economic viability of the site's redevelopment under the following alternative options:</p> <ol style="list-style-type: none"> 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. <p>The Panel stated that, where necessary, the expert advice is to assume the remediation costs as provided in the Bradfield Barker consent estimate commissioned by Council dated 15 January 2020.</p> <p>The expert advice was to be jointly funded by the Council and the applicant and was to be lodged with the Panel within four (4) weeks of the deferral.</p> <p>The deferral was largely due to the Panel having reservations in accepting that elimination of risk (through demolition) should be the only option for a masonry (brick) structure that has other inherent values.</p>
2 February 2021	Economic Viability Analysis provided to the Panel	The Economic Viability Analysis required by the deferral was provided to the Panel.
16 February 2021	The Panel determines the matter (electronically).	The Panel determined to refer the matter to the Minister as per the requirements under Section 4.33 of the EP&A Act as the Panel recommends partial approval pursuant to Section 4.16 of the EP&A Act.

2. The Site

The subject site is legally described as Lot 2 in DP 1230592 and is known as No 129 – 133 Sale Street Orange ('the site') and is located approximately 750 metres to the north of the town centre of Orange, comprising Summer and Anson Street (**Figure 1**). The site is located on the south-western corner of the Sale Street and Dalton Street intersection, opposite the former site of Orange Base Hospital (**Figure 2**) and in close proximity to Orange TAFE.

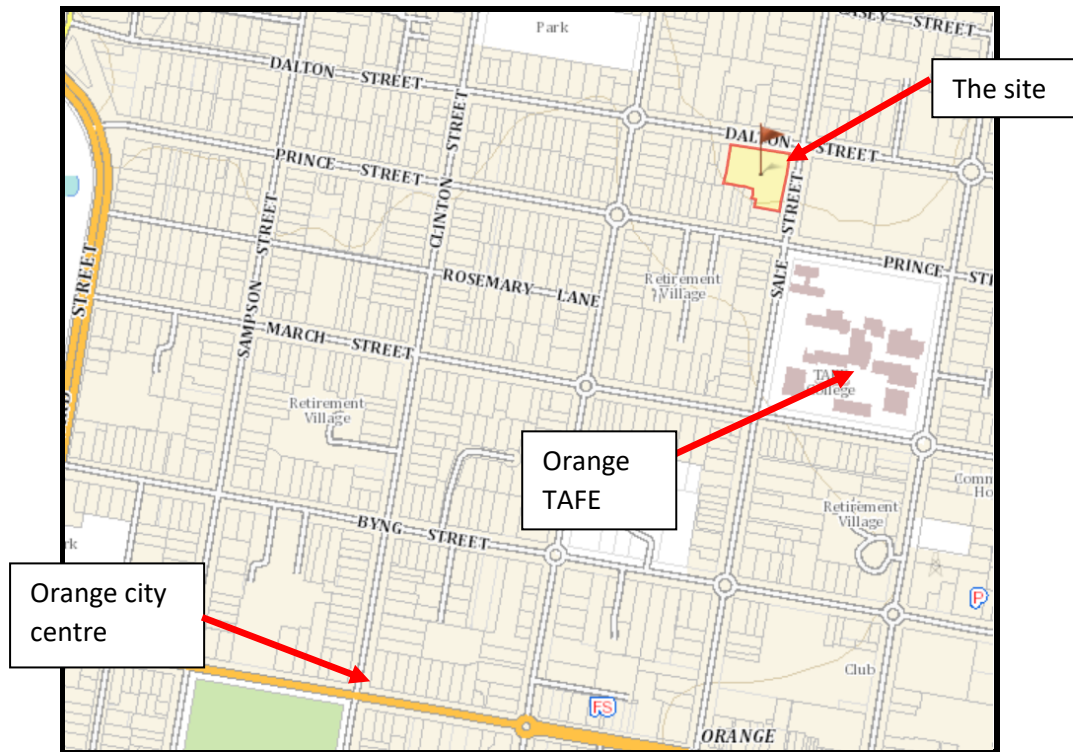


Figure 1: Location of Site (Source: SIX Maps)



Figure 2: Site Location (Source: SIX Maps)

The site is an irregular, L-shaped lot with street frontages to Sale Street of 78 metres (eastern boundary) and to Dalton Street of 80 metres (northern boundary). The total area of the site is 5,200 square metres. There are limited natural features on the site, which consists largely of buildings, hardstand areas and carports with some trees and shrubs scattered throughout the eastern portion of the site.

The site is essentially flat with minimal slope across the site. A small section of the southern boundary is affected by easements for access and services for the adjoining property to the south (No 127 Sale Street).

The site contains the former Nurses quarters, which were used for the accommodation of nursing staff working at the former Orange Base Hospital and formed the western fringe of the larger hospital Precinct which has basically been demolished. The Hospital is now located on Forest Road, on the southern edge of the town.

The buildings on the site comprise the following:-

- Caldwell House (addressing Sale Street), comprising a two storey brick building with a metal roof in the inter-war art deco style, constructed in 1937. This original part of the building comprised 50 single rooms, laundry, bathrooms and toilets on each level. An addition was constructed to this building in 1944 (east west wing). A separate single storey building (annex) exists to the rear which was used as a dining/recreation room and kitchen. An extension to the western wing was undertaken in 1944 which added 14 maternity rooms and new laundries over both levels (**Figure 3**);
- Three (3) storey brick building with a metal roof (addressing Dalton Street), known as the Nurses Accommodation, built in 1964. This building is linked to Caldwell House by another building and a covered walkway (**Figure 4**); and
- Detached carports in the western portion of the site.



Figure 3: Caldwell House - from Sale Street looking west (Source: Google Maps)



Figure 4: Nurses Accommodation - from Dalton Street looking east (Source: Google Maps)

An aerial photo of the site is illustrated in **Figure 5**, showing the layout of the buildings on the site. Ongoing renovations have occurred in the buildings since occupation, including the enclosure of balconies and relining of some rooms. While the nurse's accommodation was used as offices as part of the Orange Community Health Centre, the buildings have largely been vacant since the Hospital relocated in 2011.



Figure 5: Aerial photograph of the site (Source: SEE, Peter Basha Planning & Development)

The site is located generally within a low density residential area with the majority of buildings being single storey detached original cottages. There are a number of different uses of these buildings comprising health consulting rooms and other residential uses.

Adjoining to the south are single storey detached Federation dwellings (No 125 and 127 Sale Street) which are both local items of environmental heritage under Schedule 5 of the Orange LEP 2011. This adjoining building is currently being used as health consulting rooms (**Figure 6**).

The site to the east on the opposite side of Sale Street is the former site of the Orange Base Hospital which is currently being utilised by NSW Department of Primary Industries. Orange TAFE is located to the south of this former hospital site.



Figure 6: Adjoining heritage items to the south (Source: Google Maps)

3. The Proposal

The proposal comprises the following:

- Category 1 remediation works to remove asbestos contamination which has been dispersed throughout both buildings on the site;
- Removal of contaminated soil under the building (until all contaminated soil has been removed);
- Demolition of all the buildings and structures on the site; and
- Removal of all vegetation on the site.

The clean-up and demolition process is proposed to involve the removal of the hazardous material from the site (removal of asbestos), removal of vegetation and buildings, the crushing of clean masonry materials on the site and the levelling, stabilising and re-seeding of the site following the demolition.

The proposed demolition plan is illustrated in **Figure 7** with the Demolition Methodology provided with the application sets out the stages of the proposed demolition.

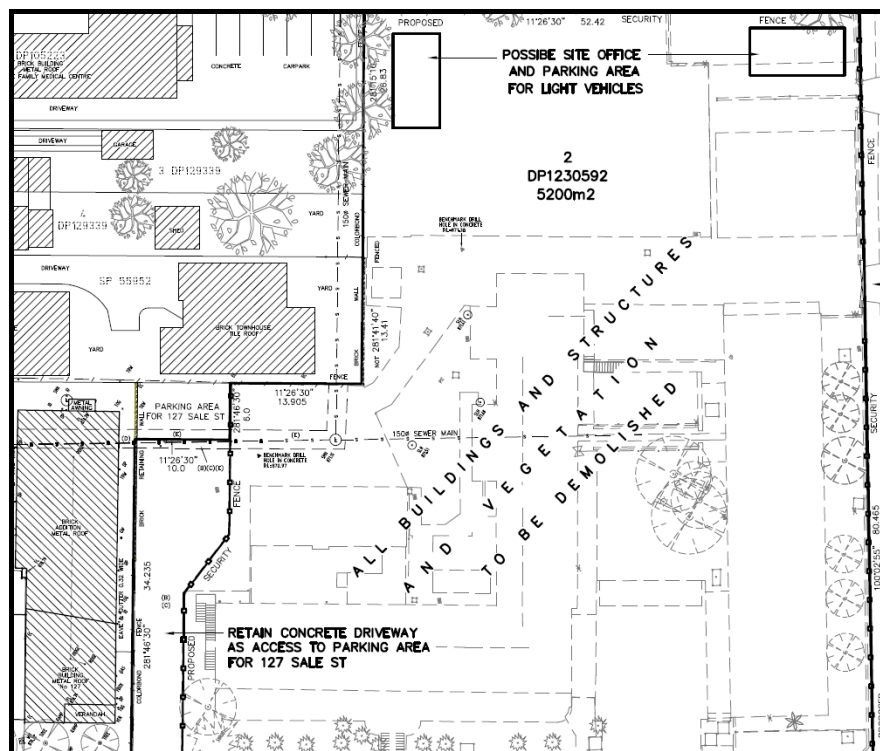


Figure 7: Proposed Demolition Plan (Source: Peter Basha Planning & Development)

The applicant's justification for the proposal is that the level of contamination is of such significance that it warrants demolition of the building. The applicant indicates that the level of contamination has led to the failure of previous sales of the site to be completed.

The application is accompanied by numerous consultant reports and independent assessments related to the asbestos contamination and remediation of the land as well as

numerous quantity surveyor reports and quotations. Subsequent to the lodgement of the application, there have been further reports lodged throughout the assessment of the proposal as outlined below.

Reports lodged with the application (July 2018)

- Preliminary Contamination Investigation (Envirowest Consulting dated 27 May 2016)
- Hazardous Material Survey (Envirowest Consulting Pty Ltd dated August 2017)
- Asbestos Removal Control Plan (Envirowest Consulting Pty Ltd, 17 May 2018)
- Asbestos Removal Options (Envirowest Consulting Pty Ltd, 26 June 2018)
- Demolition methodology (Cook Roe Structural Engineers, 2 July 2018)

Revised and additional information lodged in August 2019

- Dr Gardiners Report (26 July 2019)
- Asbestos Audit (Envirowest Consulting P/L; May 2019)
- G J Seib Revised Cost Report (19 March 2019)
- DEMEX Cost Report (December 2018)
- Interactive Projects Cost Report (February 2019)
- Airsafe (February 2019)

Information prepared on behalf of Council (2020)

- Demolition cost Estimate and Peer Review (Bradfield Baker, 15 January 2020)
- Contamination Technical Advice (GHD, 18 October 2018)
- Economic Viability Assessment (macroplan, December 2020)

These reports are further considered in this report, however, there is general agreement that the buildings are significantly contaminated with friable asbestos, some of which could not be tested or sufficiently inspected as it is located within inaccessible areas of the building (wall cavities, roof space etc).

4. Statutory Context

Pursuant to Section 4.15(1)(a)(i) of the EP&A Act, the provisions of any environmental planning instrument must be considered. The relevant environmental planning instruments (EPIs) include the following:

- *State Environmental Planning Policy No 55 – Remediation of Contaminated Land*;
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*;
- *Orange Local Environmental Plan 2011*; and
- *Orange Development Control Plan 2004*.

These EPIs are considered in detail below.

4.1 State Environmental Planning Policy No 55 – Remediation of Contaminated Land

State Environmental Planning Policy No 55 – Remediation of Contaminated Land ('SEPP 55') aims to provide for a state-wide planning approach to the remediation of contaminated land. Clause 7 of the Policy requires the consent authority to consider whether the land is contaminated, and to be satisfied that the land is or can be made suitable for its intended use. Clause 8 allows category 1 remediation work to be carried out with consent while category 2 work can be carried out without development consent.

Clause 9 provides for Category 1 remediation work, which require consent, and states:

9 Category 1 remediation work: work needing consent

For the purposes of this Policy, a category 1 remediation work is a remediation work (not being a work to which clause 14(b) applies) that is—

- (a) designated development, or*
- (b) carried out or to be carried out on land declared to be a critical habitat, or*
- (c) likely to have a significant effect on a critical habitat or a threatened species, population or ecological community, or*
- (d) development for which another State environmental planning policy or a regional environmental plan requires development consent, or*
- (e) carried out or to be carried out in an area or zone to which any classifications to the following effect apply under an environmental planning instrument—*
 - (i) coastal protection,*
 - (ii) conservation or heritage conservation,*
 - (iii) habitat area, habitat protection area, habitat or wildlife corridor,*
 - (iv) environment protection,*
 - (v) escarpment, escarpment protection or escarpment preservation,*
 - (vi) floodway,*
 - (vii) littoral rainforest,*
 - (viii) nature reserve,*
 - (ix) scenic area or scenic protection,*
 - (x) wetland, or*
- (f) carried out or to be carried out on any land in a manner that does not comply with a policy made under the contaminated land planning guidelines by the council for any local government area in which the land is situated (or if the land is within the unincorporated area, the Minister).*

The applicant lodged the application as 'category 1 remediation work' on the basis that the proposal was located within an area for 'heritage conservation' and for 'environment protection' pursuant to Clause 9(e)(ii) and (iv) respectively.

Conservation or heritage conservation (Cl 9(e)(ii) of SEPP 55)

It is considered that the proposal is not category 1 remediation work pursuant to Clause 9(e)(ii) as the site is not within an 'area' or 'zone' for conservation or heritage conservation. While the site contains an item of local heritage significance, the site is not located within a heritage conservation area (**Figure 8**) and is also not located in an 'area' otherwise designated for heritage or conservation purposes. The intention of this clause does not appear to have been to capture items of local heritage otherwise this would have been included in the criteria and within the descriptions contained in Clause 9 of SEPP 55. Accordingly, the proposal is not considered to constitute 'category 1 remediation work' under cl 9(e)(ii).

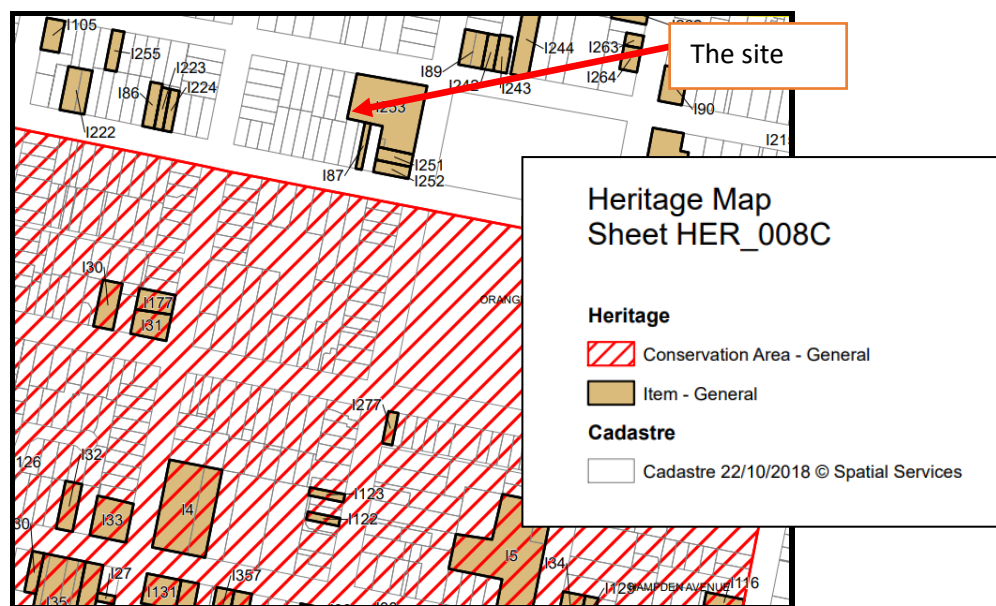


Figure 8: Heritage Map - OLEP 2011 (Source: www.legislation.nsw.gov.au)

Environment Protection (Cl 9(e)(iv) of SEPP 55)

The site is not located within a 'zone' for environment protection as it is not zoned within one of the four environment protection zones specifically for land where the primary focus is the conservation and/or management of environmental values. These zones, designed as "E" zones in the standard LEP template, provide for varying levels of environmental protection from zone E1 to E4. Such a zone does not apply to the site given the site is located within the R1 General Residential zone pursuant to the OLEP 2011.

However, the site may be considered to be within an 'area' for 'environment protection' pursuant to Cl 9(e)(iv) of SEPP 55 on the basis that the land is identified on the 'Groundwater Vulnerability Map' pursuant to Clause 7.6 of the OLEP 2011 (**Figure 9**).

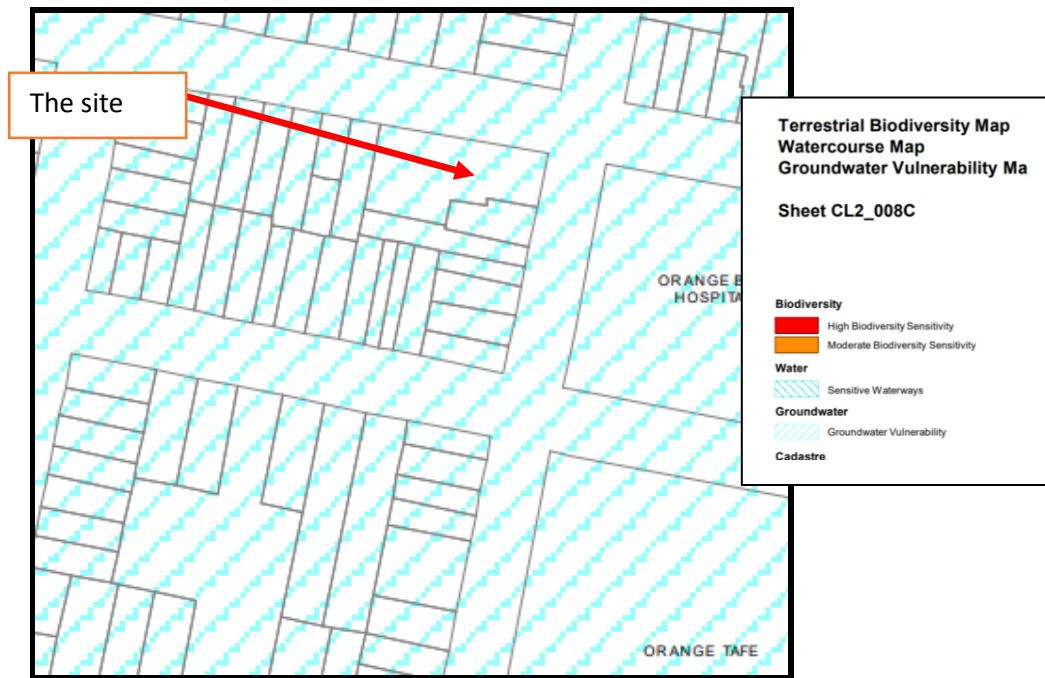


Figure 9: Orange LEP 2011 Map - Groundwater Vulnerability (Source: www.legislaiton.nsw.gov.au)

Clause 7.6 of the OLEP 2011 states the following (my emphasis added):

- (1) *The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.*
- (2) *This clause applies to land identified as “Groundwater Vulnerability” on the Groundwater Vulnerability Map.*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
 - (a) *whether or not the development (including any on-site 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.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority 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.*

This Clause provides that prior to determining a development application for land identified on the Groundwater Vulnerability Map, the consent authority must consider certain matters involving potential impacts on the environment, particularly, in this case, on groundwater and groundwater dependent ecosystems. As outlined above, the Clause requires that matters of environmental impact are to be considered and is similar in its wording and effect to other

environmental clauses in LEPs. The fact that groundwater is part of the environment adds weight to this argument that this is area for environment protection.

The language used includes phrases such as ‘*to avoid any significant adverse environmental impact*’, “*.. is likely to cause any groundwater contamination*”, “*... have any adverse effect on groundwater dependent ecosystems*” emphasize the importance of environment protection in this clause.

It is also relevant that Clause 9(e) applies to an ‘*area or zone to which any classifications to the following effect apply under an environmental planning instrument*’. This wording, *to the following effect*, refers to the effect of a classification, rather than the classification itself. That is, the area doesn’t necessarily need to be an area for ‘environment protection’ but should be an area which aims for protection of the environment.

It is also relevant to look at the broader purpose of Clause 9 which is to require consent for remediation work which may impact on the environment and/or work that presents an elevated risk to the environment during or following remediation works. It is necessary in this assessment to consider the potential impact on the groundwater of the proposed remediation works, which have the potential to present an elevated risk to groundwater.

Accordingly, it is considered that the proposal is a category 1 remediation work pursuant to Clause 9(e)(iv) of SEPP 55 as the site is in an area for environment protection (groundwater vulnerability).

Having concluded that the proposed is for category 1 remediation works, the consent authority must consider Clause 12 of SEPP 55 in relation to the refusal of category 1 remediation works, which is further discussed below.

Clause 12 - Refusal of consent to category 1 remediation work

Clause 12 requires that a consent authority should not refuse consent to category 1 remediation unless there is a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the works than there is of not undertaking the remediation works. Clause 12 states the following:

- (1) *The consent authority must not refuse development consent for a category 1 remediation work unless the authority is satisfied that there would be a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may lawfully be used.*
- (2) *Nothing in this clause prevents the consent authority from refusing consent to a development application if—*
 - (a) *by operation of an environmental planning instrument or section 79B(3) of the Act, the development application may not be determined by the granting of consent without the concurrence of a specified person, and*
 - (b) *that concurrence is not given.*

In this case, the consent authority must not refuse consent for the proposed demolition of all of the buildings on the site unless it is satisfied that there would be a more significant risk of harm to human health (or some other environmental impact) from the carrying out of the work (that is the demolition), than there would be from the use of the land concerned (in the absence of the work) (that is from not undertaking demolition) for any purpose for which it may lawfully

be used. Given the heritage status of the site, any other purpose is a relatively open category of uses given Clause 5.10(10) of the OLEP 2011.

The application is accompanied by numerous reports prepared by environmental consultants addressing the contamination arising from the asbestos within the buildings. These contamination reports outline the risks to human health in detail, which is an issue which is considered in further detail in the Key issues section of this report.

It is noted that subclause (2) of this clause does not apply as there are no concurrence requirements for this proposal under any EPI or Section 4.13 of the EP&A Act (formerly s49B).

Clause 17 - Guidelines and notices: all remediation work

Clause 17 of SEPP 55 requires that all remediation work is to be carried out in accordance with the requirements of the EP&A Act, any guidelines issued under the *Contaminated Land Management Act 1997* as well as the contaminated land planning guidelines. Clause 17(1)(c) also requires that, in the case of a category 1 remediation work, a plan of remediation, as approved by the consent authority, prepared in accordance with the contaminated land planning guidelines is required.

A plan of remediation, also known as a Remedial Action Plan (RAP), has not been provided notwithstanding it is required under SEPP 55. Furthermore, Clause 17(2) requires that a notice of completion of remediation work on any land must be provided to Council (as further itemised in Clause 18 of SEPP 55). Neither of these documents have been provided and has not been included in the Council's draft conditions.

Accordingly, the requirement for a Notice of Completion and a RAP are included in the revised recommended draft conditions of consent.

It is considered that the proposed demolition of all of the buildings on the site, including the heritage listed Caldwell House, is consistent with SEPP 55, which is further discussed in the Key issues section of this report.

4.2 State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery of infrastructure across the state by improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services and *allowing for the efficient development, redevelopment or disposal of surplus government owned land* (Clause 2(c)).

The demolition of the buildings on the site are proposed to allow divestment of the site by Health Infrastructure as the site is no longer required for community health purposes (or nurses accommodation) and represents surplus government owned land. The Orange Base Hospital has since been demolished and a new hospital established at another location. The buildings on the site are no longer required for their former community health uses.

Requiring retention and remediation of the buildings on the site will not allow for the efficient disposal of surplus government land and in this way, the demolition of all of the buildings on the site is consistent with this objective of the Infrastructure SEPP.

Clause 45 (Division 5 Electricity transmission or distribution)

Clause 45 applies to a development application for development comprising or involving (among other things) development carried out within 5 metres of an exposed overhead

electricity power line (CI 45(10(b)(iii)). The consent authority must, prior to determining a development application, give written notice to the electricity supply authority for the area inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Council notified Essential Energy, with no objections raised subject to standard conditions of consent being imposed. These conditions have been included in Council's draft notice of determination; however, changes are made to these conditions to incorporate them into the main body of the consent (they are currently drafted as notes to the consent than conditions). Accordingly, these requirements are included in the revised recommended draft conditions of consent.

Division 10 – Health Services Facilities

Division 10 of Part 3 of the Policy provides controls for *Health Services Facilities*. It is noted that the definition of a **health services facility** is contained in the Orange LEP 2011 as the following:

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.*

In this case, the existing buildings on the site were constructed originally as part of Orange Base Hospital and have most recently been used as *community health service facilities* and accordingly it is considered that the existing buildings on the site can be considered to be a **health services facility**.

Division 10 provides controls for *health services facilities* to be development permitted with consent (CI 57), development permitted without consent (CI 58), exempt development (CI 58B) and complying development (CI 58C). Following consideration of these provision, the proposal cannot be considered to be complying development given the site contains a heritage item pursuant to the LEP.

The proposed demolition of all of the buildings on the site is considered to be consistent with the Infrastructure SEPP.

4.3 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This Policy aims to protect biodiversity values of trees and other vegetation in the non-rural areas of the State and preserve amenity of non-rural areas of the State through the preservation of trees and other vegetation. This Policy applies to the site as it comprises land with the R1 General Residential Zone (pursuant to Clause 5(1)(b) of the Policy).

Clause 9 states that Part 3 applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies. In this case, the Orange DCP 2004 provides transitional arrangements for the former Clause 5.9 of the standard instrument LEP in relation to certain trees base din their species and/or size. The

proposal includes the removal of all vegetation from site with the trees proposed to be removed comprising Birch trees. These trees would satisfy the DCP criteria as the trees proposed to be removed have a trunk diameter of more than 300mm at breast height (pursuant to PO-0.4-2 – Interim Planning Outcomes – Tree Preservation of the Orange DCP 2004).

Clause 10 of the Policy allows the Council to issue a permit for the clearing of vegetation if the clearing of vegetation does not exceed the biodiversity offsets scheme threshold. The trees proposed to be removed are introduced species and do not provide habitat for threatened or endangered species and in this way, consent can be issued by Council for their removal given their limited biodiversity value. Council appears satisfied that the removal of the trees is unlikely to give rise to any unsatisfactory environmental impacts. Accordingly, the proposal is considered to be consistent with this policy.

4.4 Orange Local Environmental Plan 2011

The Orange *Local Environmental Plan 2011* ('LEP 2011') aims to make local environmental planning provisions for land in Orange. The particular aims which are relevant to this proposal include the following (Cl 1.2):

- (a) to encourage development that complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*
- (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,*
- (c) to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (d) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The provision of a range of housing choices in planned urban locations to meet population growth is a relevant aim of the plan for the proposal as future redevelopment of the site, where all of the building are to be demolished, is capable of provision of such housing. The aim of recognising and managing valued environmental heritage is also a relevant aim for the proposal which is considered further in this report. The proposal is considered to be consistent with the aims of the Plan.

The site is located in the R1:General Residential zone pursuant to Clause 2.2 of the LEP 2011 (**Figure 10**), which is a general residential zone where a wide range of residential use as well as a number of uses compatible with residential development are permissible.

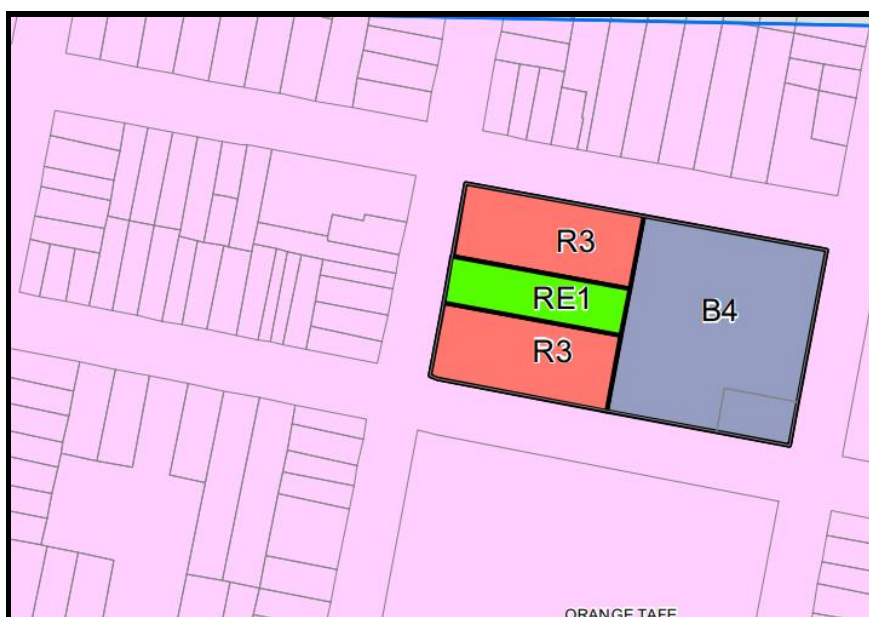


Figure 10: Zoning of the site (Source: www.legislation.nsw.gov.au)

The zone objectives include

- 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.

There are no specific objectives of the zone relevant to the proposal in terms of the demolition and the asbestos contamination at the site. The proposal is not contrary to the zone objectives as housing needs of the community are likely to be provided under a future proposal on the site as well as potentially other uses that provide facilities or services to meet the day to day needs of residents.

There are numerous controls of the OLEP 2011 which are applicant to the proposal which are considered in **Table 2**.

Table 2: Consideration of the Orange LEP 2011

Control	Requirement	Proposal	Comply
Part 2: Permitted or Prohibited Development			
Additional permitted uses for particular land (CI 2.5)	Development on particular land that is described or referred to in Schedule 1 may be carried out.	The site is not listed in Schedule 1.	N/A
Demolition requires development consent (CI 2.7)	The demolition of a building or work may be carried out only with development consent.	The proposed demolition is permissible with consent.	Yes

Part 4: Principal Development Standards			
Min subdivision lot size (CI 4.1)	Applies to subdivision of land shown on the Lot Size Map	No min lot size for the site and no subdivision proposed.	N/A
Min lot sizes (dual occupancy, multi dwelling housing & RFBs (CI 4.1B))	<ul style="list-style-type: none"> Dual occupancy – min 800sqm Multi dwelling housing – 1,250sqm 	These proposed development types are not proposed in this application.	N/A
Height of buildings (CI 4.3)	Max height of a building shown for the land on the Height of Buildings Map.	No max height of buildings for the site and no building works proposed.	N/A
Floor space ratio (CI 4.4)	Max FSR as shown for the land on the Floor Space Ratio Map.	No max FSR for the site and no building works are proposed.	N/A
Part 5: Miscellaneous Provisions			
Relevant acquisition authority (CI 5.1)	For land to be acquired.	The site is not shown on this map.	N/A
Controls relating to miscellaneous permissible uses (CI 5.4)	Certain uses are permissible	None of these uses are proposed.	N/A
Heritage conservation (CI 5.10)	The site contains a local heritage item.	A Heritage Impact Statement (HIS) has been provided and is considered in the key issues section of this report.	Refer below
Infrastructure development and use of existing buildings of the Crown (CI 5.12)	(1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under <i>State Environmental Planning Policy (Infrastructure) 2007</i> .	A Public Authority proposes demolition which is permissible pursuant to Clause 2.7. The proposal is consistent with this clause.	Yes
	(2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.	Use of the existing building is not proposed as demolition of the buildings by the Crown is proposed.	N/A
Part 7: Additional Local Provisions			
Earthworks (CI 7.1)	(2) Development consent is required for earthworks unless— a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or b) the earthworks are ancillary to	The proposal involves minor earthworks as the top layer of soil under the building would be required to be removed. This is minor and is consistent with this Clause.	Yes

	other development for which development consent has been given.		
Stormwater Management (CI 7.3)	<p>(1) The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies and on adjoining downstream properties, native bushland and receiving waters.</p> <p>(2) This clause applies to all land in residential, business and industrial zones.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>b) includes, where practical, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>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.</p>	<p>This clause applies to the site as it is within the residential zones.</p> <p>There are no building works proposed and relevant conditions will be imposed to ensure stormwater is managed appropriately on the site during demolition.</p> <p>The site is to be reasonably levelled and sown with appropriate grass seeds as stage 6 of the proposed demolition methodology. Accordingly, conditions of consent are recommended to be imposed which were not part of Council's draft conditions.</p>	Yes
Groundwater vulnerability (CI 7.6)	<p>(1) The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.</p>	The proposal is considered to be consistent with this objective given there is likely to be minimal impact on groundwater as outlined below.	Yes
	<p>(2) This clause applies to land identified as "Groundwater Vulnerability" on the Groundwater Vulnerability Map.</p>	The site is noted on this plan.	Yes
	<p>(3) Before determining a development application for development on land to which</p>	The Preliminary Contamination Report considered that the proposal would not impact on	Yes

	<p>this clause applies, the consent authority must consider—</p> <p>a) whether or not the development (including any on-site 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</p> <p>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.</p>	<p>groundwater resources as the contamination was not expected to migrate off-site or into the groundwater. Furthermore, groundwater was not expected to be impacted due to the depth of the water bearing zones and standing groundwater levels.</p>	
	<p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact,</p> <p>c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>		
Development in areas subject to aircraft noise (CI 7.10)	<p>(1) This clause applies to development that—</p> <p>a) is on land that—</p> <p>(i) is near an airport, and</p> <p>(ii) is in an ANEF contour of 20 or greater, and</p> <p>b) the consent authority considers is likely to be adversely affected by aircraft noise.</p>	<p>The Acoustic report lodged with the proposal does not consider the site is affected by aircraft noise. Orange airport is located approximately 12 Km from the site.</p>	N/A
Essential services (CI 7.11)	<p>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</p>	<p>There are adequate services on the site for the proposed demolition, with appropriate conditions for management during the proposed demolition</p>	Yes

	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 on-site conservation, e) suitable road access.	to be imposed on any consent granted.	
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4.5 Orange Development Control Plan 2004

The *Orange Development Control Plan 2004* ('the DCP') applies to the site and is relevant to the proposal. The DCP provides details and criteria for assessing development to support the statutory provisions of Orange LEP 2011. Since the proposal is for demolition, the provisions of DCP 13 – Heritage are the only relevant provisions, which are considered in **Table 3**. The heritage impacts of the proposal are considered in more detail in Section 6.2 of this report.

A provision of this DCP which is of particular relevance includes:

To demonstrate that the new development will enhance the character of the City, an application to demolish must include details of the proposed development requiring the demolition of the heritage-significant building or site.

As outlined in Table 3, the proposal is for demolition only which is permissible pursuant to Clause 2.7 of the OLEP 2011. The issues relating to contamination and heritage are further discussed in Section 6.

Table 3: Consideration of the Heritage controls of the Orange DCP

Control	Requirement	Proposal	Comply
13.3 Heritage Consideration for Development			
Impact on Heritage Significance	<ul style="list-style-type: none"> Design of new development should complement heritage character – restoration, respectful design or interpretative design. 	There is no new development proposed in this application.	N/A
	<ul style="list-style-type: none"> Council does not require restoration for locally-significant building works but assistance can be provided to property owners wishing to restore a heritage building. 	This control does not require restoration of the heritage item.	N/A
	<ul style="list-style-type: none"> Restoration may be appropriate for alterations to the most significant heritage buildings (i.e., National or State significant buildings). 	The item is not a national or state significant building as it is a local item only listed under the OLEP 2011.	Yes
Heritage Features	<ul style="list-style-type: none"> The following heritage features need to be considered when 	The item is not proposed to be restored.	N/A

	<p>undertaking respectful or interpretive design:</p> <ul style="list-style-type: none"> ▪ building scale and form; including height, width, roof form and pitch, chimneys ▪ façade features such as verandahs, window sizes and proportions, positioning of doors ▪ materials and external finishes ▪ fences ▪ gardens 		
Demolition	<ul style="list-style-type: none"> • Development consent is required before demolition works proceed on buildings or works that have heritage significance - including demolition of part of a building that has been recorded as having notable heritage features on the Inventory Sheet. • Demolition of heritage significant items is a sensitive matter. Any proposal to demolish part or the whole of a building or work that is identified as having heritage significance by virtue of being recorded on a Heritage Inventory Sheet or as having Local Level 2 or 3 significance in a Heritage Conservation Area needs to be justified. • The application must include information to justify to Council's satisfaction that all options for retaining the building have been reasonably exhausted and that the development enhances or improves the heritage setting by conforming with heritage-design principles. • Council may require that a photographic record be professionally undertaken in accordance with NSW heritage guidelines. A photographic record is not to be construed as justification to demolish a building with heritage significance. 	<p>Noted. The proposed demolition is permissible pursuant to CI 2.7 of the OLEP 2011.</p> <p>The application proposes demolition of a heritage item which has been justified with supporting consultant reports outlining the contamination of the existing building with asbestos.</p> <p>The retention of the heritage item is addressed in the applicant's submission, however, is not the preferred option due to the costs of the remediation which is required to the building.</p> <p>A photographic record can be undertaken and is capable of being included in consent conditions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<ul style="list-style-type: none"> To demonstrate that the new development will enhance the character of the City, an application to demolish must include details of the proposed development requiring the demolition of the heritage-significant building or site. Applications involving demolition affecting heritage significance will be advertised to assess the community's views on the demolition affecting a site or sites with heritage significance. For heritage significant buildings that were constructed originally as dwellings, all reasonable means should be given to retaining the heritage building and incorporating it into the development. Small weatherboard or corrugated iron-clad buildings can be improved and excised (or form part of a larger infill residential development) from a development site as a source for lower-cost housing suitable for "first homeowners". 	<p>Demolition is permissible pursuant to CI 2.7 of the OLEP 2011. Options for future redevelopment have not been provided.</p> <p>The proposal has been placed on public exhibition on two (2) occasions.</p> <p>The heritage item was not originally a dwelling.</p>	<p>On merit</p> <p>Yes</p> <p>N/A</p>
PO 13.3-1 Planning Outcomes – Heritage Development	<ol style="list-style-type: none"> Development relates to the significant features of heritage buildings on or near the site, as reflected in inventory sheets. Development conforms with recognised conservation principles. Conservation Management Plans are prepared for development having a significant effect on heritage sites 	The heritage issues are considered in detail in Section 6.2 of this report.	Yes
13.6 Incentives For Heritage Conservation	LEP 2000 permits flexible planning to encourage conservation of heritage items.	This heritage conservation incentive is now Clause 5.10(10) of the OLEP 2011 and is addressed in the LEP assessment.	N/A
PO 13.6-1 Planning Outcomes – Heritage Incentives	<ol style="list-style-type: none"> The measures for conservation of a heritage item where development incentives are applied are clearly demonstrated in the 	The re-use of the heritage item is not proposed.	N/A

	<p>development application and implemented in accordance with the approved conservation-management plan.</p> <p>2. The use of a heritage item through applying heritage incentives is consistent with the character, function and amenity of the locality.</p>		
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5. Section 4.15 Assessment

An assessment of the application has been undertaken in relation to the matters for consideration pursuant to Section 4.15(1) of EP&A Act. The relevant matters to be considered are outlined below. The proposal does not constitute designated development and is also not integrated development. As outlined in this report, the proposal is a Crown development application pursuant to Division 4.6 of the EP&A Act.

5.1 Section 4.15(1)(a) – Environmental planning instruments, proposed instruments, development control plans, planning agreements and the Regulations

This section requires consideration of the provisions of any of the following that apply to the land to which the development application relates:

- (i) Any following environmental planning
- (ii) Any proposed instrument which has been the subject of public consultation
- (iii) Any development control plan
- (iv) Any planning agreement entered into under Section 7.4
- (v) The Regulations

Environmental Planning Instruments

The relevant EPIs are considered in Section 4 of this report., with the key issues arising from this assessment considered in Section 6 of this report. The proposed demolition is consistent with these instruments.

Draft Instruments

Draft Remediation of Land SEPP

The Draft Remediation of Land SEPP aims to repeal SEPP 55 and create a new Remediation of land SEPP. The Draft SEPP was publicly exhibited in 2018 and will retain elements of SEPP 55, and add new provisions to establish a modern approach to the management of contaminated land. The overarching objective of SEPP 55 is to promote the remediation of contaminated land to reduce the risk of potential harm to human health or the environment. This objective remains relevant and will be replicated in the new SEPP.

The key operational framework of SEPP 55 will be maintained in the new SEPP, which will

- require consent authorities to consider whether the site is, or is likely to be, contaminated;
- permit a consent authority to require additional information to satisfy itself as to whether the land is contaminated;
- retain two categories of remediation work, being work that requires consent and work that can be carried out without consent.

The new provisions proposed to be added in the new SEPP include to:

- require all remediation work that is to carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- categorise remediation work based on the scale, risk and complexity of the work

- require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to council.

Importantly, the Draft SEPP retains Clause 12 with minor amendments. This amended clause provides that a consent authority must consider, when determining a development application for category 1 remediation work, whether the use of the land in an un-remediated state, for an existing lawful purpose would result in a greater risk of harm to human health or the environment than would result from the carrying out of the remediation work.

In this case, it is considered that the proposed demolition of all of these buildings is consistent with the proposed Clause 12 of the draft SEPP as outlined in Section 6.1 of this report as the removal of all asbestos cannot be guaranteed in any reuse of the building.

There are no other draft instruments with relevance to this proposal.

Development Control Plans

The relevant development control plan was considered in Section 4 of this report. The proposed demolition is consistent with this Plan.

Planning Agreements

There are no known planning agreements affecting the site.

Provisions of the Regulations

Clause 92 of the Regulations contains matters that must be taken into consideration by a consent authority in determining a development application. Pursuant to Clause 92(1)(b), in the case of a development application for the demolition of a building, the provisions of AS 2601 – 2001: *The Demolition of Structures* must be considered. In this case, demolition is proposed and therefore this Clause is relevant. The proposal is accompanied by a Demolition Methodology which states that the proposed demolition will be undertaken in accordance with AS 2601. Relevant conditions in this regard have also been recommended to be imposed on any consent. The proposal is considered to be consistent with this Clause.

5.2 Section 4.15(1)(b) - Likely Impacts of Development

The consideration of impacts on the natural and built environments includes:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed demolition is appropriate on the site as outlined in Section 4 and 6 of this report. The proposal will allow for the future redevelopment of the site, commensurate with its residential zoning.
- Access and traffic – The proposed demolition is proposed to be carried out having regard to the local road and traffic conditions. The short duration of the proposed demolition will ensure there are minimal adverse impacts on the surrounding road network. The proposed Demolition Methodology and the recommended conditions of consent will ensure the proposal is considered to be satisfactory in this regard.
- Public Domain – The proposed demolition will not adversely impact on the public domain as there are sufficient safeguards outlined in the Demolition Methodology as

well as within the recommended conditions of consent. The public areas surrounding the site, including public footpaths and access generally in the area, will be maintained by the proposal.

- Utilities – All utilities are available at the site and will be appropriately decommissioned where required on the site under the proposed Demolition Methodology and the recommended conditions of consent.
- Heritage – The site contains a heritage item (Caldwell House), however, it is not located within a Heritage Conservation Area. The potential impacts on the heritage item on the site is further considered in Section 6.1 of this report.
- Natural environment – It is considered that the proposal will not adversely impact on the natural environment. The proposal involves the demolition of several buildings, with appropriate erosion and sediment control measures to be implemented and maintained throughout the demolition process. The majority of building materials recovered from the excavation that are certified to be 'clean' of asbestos, will be recycled, reducing waste being sent to landfill.

Furthermore, any contaminated soil will be removed from the site and the area to be reasonably levelled and sown with grass seeds following the demolition to ensure there is no have no adverse off-site impacts on the natural environment. This will ensure contaminated soil and other materials are removed from the site, thereby resulting in a beneficial environmental outcome.

- Social and economic impact –The economic analysis of the proposed demolition is considered in Section 6 of this report while the social heritage significance of the proposal is also considered in more detailed in Section 6. The proposal is considered to have a positive impact on the social characteristics of the site as it is likely to reduce potential health impacts in the area and will allow for a redevelopment of the site and enhance the surrounding public domain areas.
- Site design and internal design – The proposed Demolition Methodology sets out an appropriate process for demolition on the site.
- Construction – No construction is proposed.
- Cumulative impacts – The proposal will not result in any adverse cumulative impacts as the proposal is for demolition of an asbestos contaminated building as a Crown DA.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

5.3 S.4.15(1)(c) - Suitability of the site

The proposal comprising demolition, is suitable at the site given the contamination of the building which is evident on the site. the contamination and heritage issues are considered in further detail in Section 6 of this report.

5.4 S.4.15(1)(d) - Public Submissions

In accordance with the DCP, the development application was notified to the community on two (2) occasions, the first notification was undertaken in August 2018 following the lodgement of the application while the second notification was undertaken in October 2019 following the submission of additional and amended information.

The first notification resulted in five (5) submissions received, comprising 3 objections and 2 in support, while the second notification also resulted in five (5) submissions being received, comprising four (4) objections and one (1) in support.

The issues raised in the submissions objecting to the proposed demolition included:

- *Loss of heritage value* - the existence of similar nurses' homes in other regional locations is not a justification for demolition as they are not located in Orange and there is no indication if they have heritage protection; Ambulance Station (on the corner of Anson & Prince Streets) and Caldwell House/Nurses Home are the only visible links to the old Base Hospital, being 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. There is no heritage value in the 1966 additions to the Nurses homes; Caldwell House is a listed building assessed as of 'high significance' in HIS yet full demolition is recommended. Aspects of the HIS used to support that decision are questioned.
- *Asbestos removal* – All asbestos is required to be removed prior to any demolition works occurring on the land regardless of future use and therefore cost of asbestos removal irrelevant; Do not agree that there is 'extensive asbestos' since the building is of double brick construction. Flawed argument that the cost of removing asbestos from the buildings would be prohibitive. Original DA 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 the heritage item. This requires an independent assessment of the asbestos contamination (engaged by Council or another independent party). Dr Gardner's report is based on the applicant's information and is not a heritage expert. Questions level of asbestos contamination in Caldwell House and the dangers they pose to human health. 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 as many inaccessible areas were not inspected;
- *Risk from asbestos removal* - A much greater risk to the public from the demolition of the building as 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;
- *Damage to the buildings* – this was caused resulted from failure of HI to provide an adequate level of security for the site, which is not a reason for demolition; The retention of a building in its intact form creates negligible pollution in comparison;
- *Reuse of the building* – Caldwell House is readily suited to adaptive re-use as asbestos related concerns can be addressed, and the building retained. This was demonstrated by HI, having found a willing purchaser wishing to convert the building for an aged care facility (others have been successfully re-used). 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. Supports option 2 – retaining Caldwell House and demolishing the other buildings – smallest cost and best heritage outcome.

- *Pricing and viability* – concerns over some of the pricing used in the cost reports (some include restoration of Nurses accommodation) and whether the original prices included all associated costs and potentially the price differences from old to new are overstated. Considers the \$1 million cost of retaining a significant portion of the heritage item a cheap price. Commercial or financial viability should not be considered by Council when deciding the future of this building.
- *Type A Construction* - questions that type A construction is required for non-residential uses, or that the undersized rooms preclude adaptive re-use. A concept plan for a Hotel or Motel Accommodation was provided.
- *Consultants* - objects to the commissioning of Consultants from outside the area with no local connection;
- *Future redevelopment* – it is unclear if HI will demolish the buildings or will simply on-sell with the demolition consent and concerned with height, skyline views and overshadowing of any building. There is no replacement building required by the heritage provisions of the DCP.
- *Compliance with current building codes* – This is a consideration whether the building is demolished or not.
- *Dividing wall* - Removal of the dividing wall which is on the boundary needs to be replaced/reinstated at Stage 4 (addressed in conditions);
- *Demolition impacts* - Potential impacts from noise and vibration during demolition, requests a dilapidation report be undertaken and consultation with residents regarding hours when noise levels will be excessive for the elderly and companion animals (addressed in conditions);
- No redevelopment plans - There are no plans for future redevelopment which are required by the DCP when demolishing a heritage item (addressed in Section 4);

The issues raised in the submissions in support of the proposed demolition included:

- The buildings have become a public disgrace,
- The buildings have become dilapidated and need to be rectified as soon as possible, currently a blight on the streetscape and a temptation for vandals
- The buildings are a safety issue of the community;
- The proposal clearly identifies that demolition is the only realistic option available to rectify the situation

These issues are considered in detail in Section 6 of this report and in the recommended conditions of consent where relevant.

5.5 S.4.15(1)(e) - Public interest

The public interest is a broad category of matters to be considered which essentially covers topics such as policies, studies or credible research findings which could affect the interests of the public. In planning terms, the consistency with planning instruments and objectives is a common consideration. The objects of the EP&A Act are also instructive in this instance

(Section 1.3). While there is object which consider the sustainable management of built and cultural heritage, it is considered that, in this instance the overriding objective needing to be satisfied is that of protection of the health and safety of building and their occupants (S1.3(h)). The orderly and economic use and development of land, object (c), is also relevant, which considers that the proposed demolition will allow for future redevelopment of the site in buildings which are free of asbestos contamination. These issues are further discussed in Section 6 of this report.

It is considered that having weighed up the issues of heritage conservation and contamination, that the public interest is best served by allowing the demolition of all of the buildings on the site as proposed in this development application.

6. Key Issues

There are a number of key issues in this assessment, including the following:

- Contamination
- Heritage significance
- Economic analysis
- Structural and BCA/NCC Assessment
- Noise and vibration
- Council's reasons for the proposed retention of Caldwell House

These key issues are considered further below.

6.1 Contamination

The buildings on the site are heavily contaminated with asbestos. The buildings, having been constructed at a time when asbestos was a commonly used building material, were vandalised in recent years following the cessation of the medical and community health uses both on the site and within the vicinity of the site. This occurred when Orange Base Hospital relocated to a new, larger and more modern complex several kilometres away in 2011 and left the site unoccupied.

While there are some differing opinions in terms of the extent of the asbestos contamination, it is undisputed throughout the reports that this vandalism has exacerbated the asbestos contamination on the site. There have been several attempts since the damage occurred in around 2016 to undertake 'make safe' works within and external to the buildings, which have largely consisted of placing plastic over the contamination to prevent airborne fibres.

There is some commentary provided in both the community submissions and Council's assessment report that this vandalism was due to a lack of adequate security provided by the owner of the site (HI), however, it is important to note that the intention and objectives of the planning legislation is not to lay blame or punishment. The facts as presented in this case is that significant asbestos contamination is now present at the site and the question remains whether this contamination is of such significance that it warrants demolition of all of the buildings on the site, while also considering their inherent heritage value.

There are numerous reports accompanying the application which consider the asbestos contamination issue, which are considered below in chronological order. It is noted that these reports and inspections were unable to invasively examine the building given the inherent health concerns with disturbing the asbestos further.

It is further noted that there are no significant concerns raised by Council or the Panel regarding the demolition of the majority of the structures on the site, with the only building in contention being Caldwell House.

Preliminary Contamination Investigation (Envirowest Consulting dated 27 May 2016)

This study was conducted in accordance with the contaminated land management planning guidelines under SPEP 55 to determine the soil contamination status of the site and did not include a hazardous material audit of the buildings. An inspection was undertaken in April 2016. While the site has been used in the past for hospital related activities, the report noted that no contaminating hospital activities were expected on the site. Potential sources of contamination were identified as likely to result from building maintenance activities or

introduced fill. Soil sampling of the site was undertaken and analysed for a variety of contaminants.

The soil sampling program identified elevated levels of various contaminants, however, they were found to be below the ecological or health investigation level, were deemed not to be significant as contamination is considered localised and not expected to migrate off-site or were below the residential land-use thresholds (NEPC 1999). Background radiation levels were also found to be below the recommended exposure limits to ionizing radiation. The report concluded that the site is considered suitable for residential and/or commercial land-use.

Hazardous Material Survey (Envirowest Consulting Pty Ltd dated August 2017)

This study reviewed the site for potential hazardous substances including asbestos containing material (ACM), lead paint, polychlorinated biphenyls (PCB), synthetic mineral fibre (SMF) and ozone depleting substances (ODS). The report is a compilation of previous reports prepared throughout 2016 and 2017 with site inspections being undertaken in May 2016 and 2017 following damage to the buildings.

A visual inspection of accessible areas of the buildings were undertaken with sampling of some building materials suspected of containing asbestos undertaken. At each location where ACM was suspected an assessment was made of friability, accessibility and conditions. The assessment was used to assign risk rating and recommend action. Professional judgement was used to identify samples that potentially contained asbestos. Three samples were collected for laboratory analysis. Investigations did not evaluate material that may be hidden by building materials and surface material including stockpile material, soil, vegetation and pavements.

In relation to the hazardous materials, the following was observed:

- ACM – identified in the pipe lagging and cement sheeting in various areas of both buildings, particularly the basement area of the nurse's accommodation and the internal areas of levels 1, 2 and 3 as well as within Caldwell House in the internal areas of levels 1 and 2 (as outlined in Table 3 and 4 of the report). The pipe lagging is damaged throughout the buildings including the ceiling cavity, basement and subfloor space and consists of friable asbestos and is in poor condition;
- Lead – lead paint was identified on all internal and external painted surfaces in the former 1970s nurse's accommodation, Caldwell House and other outbuildings on the site. Lead flashing was used in the construction of the former 1970s nurse's accommodation.
- PCBs – identified in the former 1970s nurse's accommodation and Caldwell House;
- SMF – identified as ceiling insulation throughout the buildings;
- ODS – none identified in any of the buildings.

The report provided recommendations for each of the identified hazards materials. Solutions for the other hazardous substances were provided while the ACM, was ranked on a risk rating and description. There were several parts of the buildings rated as high to very high risk, which required the immediate removal of the materials.

The areas which were given a risk rating of 'high' to 'very high' and therefore require immediate action included the following areas:

- Nurses accommodation – the basement and asbestos lagged pipework in all areas of the first, second and third floors, and

- 'Caldwell House' – damaged lagging in the sub-floor and ceiling cavity and all internal areas (very high risk level).

Accordingly, this report considers that the high to extreme risk areas is where immediate action is required.



Figure 11: Buildings on the site as described in the Contamination Reports (Source: Hazardous Material Report, Envirowest Consulting, August 2017)

Asbestos Removal Control Plan (Envirowest Consulting Pty Ltd, 17 May 2018)

This report outlines a method for the removal of the ACM. The report notes that the asbestos is an extremely high risk to people entering the building and that the heavily contaminated areas have been covered and sealed with plastic and the exterior of the building has been sealed during 'make safe' works. The report states that all asbestos requires removal from the buildings as well as soil from the pipes in the subsurface space under the buildings (until no asbestos is indicated).

Asbestos Removal Options (Envirowest Consulting Pty Ltd, 26 June 2018)

This report outlines the two options for the treatment of the asbestos contamination as the removal of the asbestos is required to enable reuse of the building and the land. These asbestos removal strategies are outlined in this report as:

- Retain the building
- Demolish the building.

The purpose of this report is to describe and compare the required asbestos removal options of retaining versus demolition of the Caldwell House building. The report was not provided to recommend on option over the other.

This report outlines that all areas of the building are considered to be contaminated with friable asbestos residue including the floor, walls and ceiling. This occurred as a result of the stripping of the pipe lagging from the copper pipes and cables and has now infiltrated the majority of

the building, including the external wall cavities, the timber frame of the building and the underside of the terracotta tiled roof, likely assisted by the wind.

Section 5 of the report details the asbestos risks and states:

“The entire Caldwell House building including both levels, the roof space and subfloor space contains friable asbestos from pipe lagging. The asbestos is accessible to any person entering the building. The asbestos risk classification is very high to extreme.

All persons should be restricted from entering the building unless accompanied by an asbestos assessor or licensed friable removalist. All person entering the building should wear appropriate PPE including P3 respirators and coveralls and undertaken decontamination upon exiting.

Other asbestos material in the building area are a low risk unless disturbed.

The asbestos is currently contained to the building area by encapsulation. If the temporary encapsulation measures are breached it is possible the building could be a source of contamination to the surrounding areas”.

The report states that the removal of the ACM is required before reoccupation due to the health risk as the distribution of asbestos residue is extensive throughout the building and internal stripping of the building is required to ensure sufficient removal to make safe. The report outlines the process for the removal of asbestos, stating that it must start in the roof space and progress downwards. Some of the asbestos contamination is shown in **Figure 11**.



Figure 12: Corridor with asbestos lagging
(Source: Asbestos Removal Options Report, Envirowest Consulting Pty Ltd June 2018)

The report outlines the comparisons of the removal factors for remediation options as outlined in **Table 3**.

Table 4: Comparison Table of Remediation Options
(Source: Asbestos Removal Options Report, Envirowest Consulting Pty Ltd June 2018)

Factor	Retain Building	Demolition
Practical	Yes (accessibility restrictions)	Yes
Damage to building	Floor requires grinding for vinyl floor removal All cables and pipes will require reinstallation Ceilings and walls will require replacement Possible accidental damage in removal process	N/A
Cost	High	Moderate
Clean up time	High	Low
Asbestos retained on the site	Yes (encapsulated to make safe)	No
Restriction on future use	Yes (site management plan)	No
Waste generated	Asbestos	Asbestos and non-asbestos
Transport	Asbestos waste only	Additional asbestos waste and non-asbestos waste for re-use material
Reuse of materials	No	Crushed brick and concrete

The report provides the following summary in terms of each of the options:

- Building demolition – will selectively remove asbestos in association with other materials. The building and all asbestos material will be removed, and the site cleared for reuse without restrictions. This option removes more asbestos material than the retention option and all bricks and concrete cleared of asbestos will be crushed on site for reuse.
- Retaining the building – this is expected to be costly and have a longer time frame than demolition. The asbestos cannot be removed without demolition of the building. Areas where asbestos remains in the roof space, sub floor space and external wall cavities will require implementation of controls on access and future disturbance. A Site Management Plan will need to be prepared which will limit access to areas of the building containing the encapsulated asbestos in the roof space, sub floor space and wall cavities to trained personnel. Restrictions will apply to retaining the building which has cost implications for redevelopment and ongoing maintenance. The site will also need to be registered as contaminated land on the Section 10.7 Planning Certificate.

Importantly, the report states that, in relation to the future restrictions and management under the 'retain' option, that **asbestos cannot be completely removed from the building** due to the impact on porous surfaces and inaccessible location in voids. All timber in the roof and timber in subfloor space will remain and is impacted with asbestos fibres. Asbestos in the exterior wall cavity is also impacted with asbestos fibres. Asbestos will also remain in the soil under the building after the removal works.

The report also outlines that 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.

The report, while not recommending one option over the other, is very clear of the ongoing risks and careful management which would be required in the event the building was retained and that not all asbestos could be removed under this option.

Demolition methodology (Cook Roe Structural Engineers, 2 July 2018)

This report presented the proposed demolition methodology in accordance with AS 2601-2001 *The Demolition of Structures*. This report indicated that the proposed demolition would take approximately 12 to 20 weeks to complete, depending on weather and other factors.

The plan outlines the following stages:

- Stage 1 works – site establishment
- Stage 2 works – removal of hazardous substances
- Stage 3 works – removal of single storey structures (carports, the annex building and the link building)
- Stage 4 works – removal of multi-storey buildings
- Stage 5 works – demobilisation of site (removal of equipment)
- Stage 6 works – stabilisation of site (ground levelled and sown with grass seeds)
- Stage 7 works – final handover (including site certificate for asbestos removal works).

Following a preliminary assessment of the proposal by Council and the submissions from the community, revised and additional information was lodged in August 2019, which is considered below.

Independent Specialist Occupational and Environmental Health Review of Asbestos-contaminated Buildings in orange (Dr Gardiners, 26 July 2019)

This report was prepared by Dr Ian Gardner, a consultant occupational physician, who also undertook consultancy work for the Commonwealth and ACT Governments in relation to the 'My Fluffy' loose fill asbestos contamination which led to the buy-back and subsequent demolition of more than 1000 houses in Canberra.

This report was prepared following consideration of all of the contamination reports prepared for the site to date and was confined to the occupational and environmental health issues only relation to the ability of any future building owner to safely, comprehensively and permanently remediate the extensive asbestos contamination on site. This was to ensure that there will be no ongoing exposure for occupants, tradespersons or the surrounding environmental from air borne asbestos fibres above background environmental levels. Issues relating to financial costs, heritage and the like were not considered.

The key points from this report included:

- The report noted that there was currently no ongoing harm to people (security guards, neighbours etc) or the environment as long as the air monitoring and area protection measures remained in place;
- Agrees with the asbestos reports prepared by Envirowest Consulting P/L;
- Inspected the site in July 2019 and viewed photos of the inaccessible area such as the wall cavity spaces, which showed chunks of loose asbestos strewn through the cavities;
- The asbestos inspected was friable and in a hazardous state. Loose asbestos was noted in the hallways, cupboard, closets, roof spaces, wall spaces, the boiler room and wherever asbestos lagged copper pipe had been ripped from the building by vandals. Ventilation holes in the cavity brick wall at the Sale Street frontage were observed and had air moving through them,
- Considered that there is almost certainly amounts of respirable asbestos fibres in the wall cavity (based on Mr Fluffy example in the ACT) and consequently it will be impossible to effectively clear or encapsulate all the asbestos fibres from the wall cavity at any cost and thus will be unable to certified as 'clean';
- The asbestos risk post remediation will not be zero and cannot be guaranteed to be so. There are health risks even at low exposure levels with the disease taking many decades. 'safe' exposure levels are uncertain, particularly for children and young people.
- The only certain way to prevent future asbestos-related disease is to reduce airborne asbestos fibre exposures to zero, or if this is not attainable, to a level 'as low as reasonably practicable'. In this case, given the wall cavity unknown risk issues etc this will not be possible.
- The only viable health-based solution is to demolish all the buildings and remediate the site to the required health-based and environmental standards required for redevelopment.
- Recommends the planned, safe demolition of the buildings and comprehensive site remediation.

This report very strongly supports the demolition of all of the buildings on the site given the extensive contamination and the likelihood of respirable asbestos fibres remaining in the wall cavity, which is based on Dr Gardner's extensive experience with the 'Mr Fluffy' example in the ACT. Accordingly, it will be impossible to effectively clear or encapsulate all the asbestos fibres from the wall cavity at any cost and thus will be unable to certified as 'clean'.

Asbestos Audit (Envirowest Consulting P/L; May 2019)

This report is a compilation of previous reports and concluded the following:-

- that the asbestos was identified throughout all areas of the building.
- the asbestos was friable, damaged and in poor condition.

- entry to the building should be restricted due to the high health risk. Encapsulation of the asbestos in the building is a short term management option.
- the asbestos is located in inaccessible areas and is unable to be removed from the building to sufficient levels to enable reoccupation.
- the building will require demolition as part of removal works.

This report also concludes that demolition of the building is required.

Following consideration of the initial contamination reports, the Council and the Community through submissions were concerned that the cost of remediation to retain the buildings had not been accurately or adequately costed. Accordingly, further cost reports were prepared on behalf of the applicant which are considered below.

G J Seib Revised Cost Report (19 March 2019)

This revised cost report provided a summary of the quotations for the various redevelopment options for the site, current as at March 2019. The expected timeframe for the remediation and demolition of both buildings was 12-14 weeks, and for the remediation and partial retention of Caldwell House is approximately 20 weeks.

This report stated:

- A Clearance Certificate cannot be obtained for any scenario other than the full remediation and demolition of the existing buildings.
- No guarantee that retained buildings can acquire building insurance and will require an Asbestos Management Plan which are costly to maintain. Any work to the building to impacted asbestos areas will require licensed asbestos removal contractors to be engaged.
- The land title will require notification on the Section 10.7 Planning Certificate of the asbestos in the soil under the building.
- Concluded that any future development of this site is deemed to be commercially unviable and impracticable when each of these estimated costs are considered, other than the complete remediation and removal of the existing buildings.
- A report by SERS (Site Environmental and Remediation Services) stated that with the significant quantities of friable asbestos contamination throughout the structure, significant similarities are identified with properties contaminated with sprayed asbestos insulation ('Mr Fluffy'). The report provided two options:
 - Option A: Demolition of the structure
 - Option B: refurbishment of the structure

The report appeared to indicate a preference for Option A, demolition, as Option B was referred to as "*if demolition of the structure is not considered...*"..

Option A stated that since the structure comprised double brick construction, there is a significant likelihood that friable contamination will be present within wall cavities which can cause significant risk to other trades conducting potential refitting works.

DEMEX (December 2018)

This quote/report stated the following:

- Determined that the asbestos contamination in Caldwell House is excessive and has been damaged to such a degree as to render it essentially equivalent to loose-fill asbestos. As such, DEMEX recommends that the protocols utilised for loose fill asbestos remediation be put into place for treating the contamination in this structure. This is demolition as occurred in the ACT in 2013 as it became clear that the 'remediation' of houses affected by loose-fill asbestos in the 1990s had not removed all of the asbestos. A safe and secure living environment within the 'remediated' houses had not been achieved.
- A simple remediation process is not presented by DEMEX as the known evidence states that this would likely fail to treat the extent of the contamination, leaving them to never be considered safe for reoccupation.
- Considered that the only two safe options are a full remediation of the entire interior leaving just a shell or the full demolition of the structures.
- The extent of contamination has likely led to fibres being dispersed entirely throughout the building. In order to avoid any public risk to workers and occupants all surfaces must be considered asbestos contaminated. These surfaces cannot be decontaminated due to inaccessible cavities and porous materials where asbestos fibres will remain despite any attempts at removal.
- The building would have ongoing restrictions that will make the building commercially unviable for any future development as it would affect any future renovations or maintenance.
- The report states that if it is determined that the building is of significant heritage value as to render the need to retain the façade and the roof, then the only means to be able to allow reoccupation of the building and further development of the structure is to remove all internal structures to create a shell for future internal construction and redevelopment of the building.
- Outlined process for demolition and remediation.
- Costed 3 options with positives and negatives (**Table 3**):
 - Option 1 – remediation of Caldwell House and Nurses Quarters;
 - Option 2 – demolition of all structures
 - Option 3 – demolition of Caldwell House, remediation only to Nurses Quarters
- The report recommended Option 2 as it removed all hazards and would allow the property to have no contamination, which would 'future proof' the site as it needs no further maintenance.

Table 5: DEMEX Report: Options

Option	Positives	Negatives
1 - Remediation of Caldwell House and Nurses Quarters	<ul style="list-style-type: none"> • Saving of building for future development 	<ul style="list-style-type: none"> • Highest cost • High hazard cost remains • Ongoing asbestos management plan will be difficult for development to occur • Sale of land unlikely • High ongoing maintenance costs
2 - Demolition of all structures	<ul style="list-style-type: none"> • Site will be entirely remediated of all known contamination • No ongoing maintenance costs • Quickest option • Likely sale 	<ul style="list-style-type: none"> • Loss of structures in the site
3 - Demolition of Caldwell House, remediation only to Nurses Quarters	<ul style="list-style-type: none"> • Saving of nurse's quarters for potential future development 	<ul style="list-style-type: none"> • Second longest program of works • Hazard level left high • Ongoing asbestos management plan will be difficult for development to occur • Sale unlikely • Ongoing maintenance costs high • Costs to renovate and replace materials removed during asbestos removal (walls, ceilings, floors etc) will be high

Interactive Projects (February 2019)

This report provided quotations on 3 options, being the demolition of Caldwell House, the demolition of the Nurses accommodation and the demolition of Caldwell House and nurse's accommodation. The costs outlined in this report are no longer relevant as the Panel considered that the costings provided by the Bradfield Baker report prepared in January 2020 are to be adopted for the purposes of this assessment. This Bradfield Baker report is considered further below.

Airsafe (February 2019)

This letter was prepared to accompany the quotations provided. The letter stated that any clearance certificate issued would contain exclusions to inaccessible cavities, as asbestos would likely be present and that the likelihood of asbestos in these cavities re-interning habitable spaces from air movement (external vents, mechanical ventilation and windows/doors) would be high. The letter indicated that unless asbestos is removed from inaccessible cavities, the exposure risk to the end user is high. The author confirmed that in their previous experience with dwellings contamination of this nature, is that they are demolished and removed, eliminating the risk of future exposure.

In January 2020, the Council commissioned reports to support their assessment of this proposal. This resulted from Council's apprehension to recommend approval of the demolition of Caldwell House due to its heritage value and some questions over the cost estimates which had been provided with the application. This was also an issue raised in Community submissions. These reports are considered below.

Demolition Cost Estimate and Peer Review (Bradfield Baker, 15 January 2020)

This report was commissioned by the Council to undertake a peer review of the application and provide an independent cost estimate. The report summarises the options available to include the following:

- Option A – Complete demolition and asbestos remediation to both the Nurses Quarters and Caldwell House;
- Option B – Demolition and asbestos remediation to both the Nurses Quarters and Caldwell House, however, retain the front façade and verandah of Caldwell House (to remain);
- Option C – Demolition of Nurses Quarters, full asbestos remediation of Caldwell House (Caldwell House to remain).

Table 6: Bradfield Baker Options Summary

Summary - All Options	Total Cost (\$) Ex GST
Option A Demolition of both Nurses Quarters & Caldwell House *	\$3,946,441.50
Option B Demolition of Nurses Quarters, Retain Caldwell House Front Facade*	\$4,924,272.00
Option C Demolition of Nurses Quarters, Retain Caldwell House	\$5,969,024.33

This report states that it is of the opinion that Caldwell House can be remediated and retained to an acceptable level whereby the building retains its historical value and structural integrity. The opinion stated:

“....the removal of asbestos and treatment of the Caldwell House building could be sufficiently achieved so that demolition of the structure in its entirety is not required. This is therefore essentially, a cost issue”.

Other salient points included:

- Difficult to qualify costings in the DEMEX and Interactive Projects reports as the costings were provided in a square metre rate and not on a time and resource-based assessment;
- Appears both quotes (DEMEX and IR) reflect a reasonable cost expected by the contractor given the extent and scope of works involved and were provided from two reputable Class A licensed asbestos contractors;
- Concluded that Caldwell House could be retained with the extent of retainment to be assessed by an occupational hygienist/asbestos assessor (supported by a consultant with near identical experience at the contaminated Sydney hospital site);
- The report concluded that there was no structural impediment that precludes the potential re-use of Caldwell House;

- Suggested recommendations to ameliorate the uncertainty around the future reuse of Caldwell House:
 - A second opinion be provided on asbestos material within the building including a review of previous studies to gain a better understanding of the known vs presumed extent of contamination;
 - Further investigation and strategy be undertaken to reduce the quantity of ACM being disposed off-site (given the cost);
 - Review costings;
 - Use of plastic to cover current friable asbestos contamination is not a medium or long term solution;
 - Studies to date have been limited to returning the building to a state where the building would qualify as being for occupancy and not for an Occupation Certificate. A Building Certifier is best to undertake this assessment;
 - An ongoing management plan would be required if Caldwell House was retained as required by legislation.

While this report supports the retention of Caldwell House, the use of a 'similar' project in Sydney appears to be the basis for this recommendation. To be clear, the 'Sydney' example is contained within the Green Square Town Centre, a large mixed use precinct which contained numerous existing buildings of heritage value. This is an extensive area of land which has been through an extensive master planning process and is not of the same scale as Caldwell House, particularly in terms of the return on investment for the significant costs of remediation and future ongoing management of the site with respect to asbestos.

The retention of Caldwell House, having regard to the Bradfield Barker costings is likely to cost \$2 million more than the demolition of the buildings.

GHD Technical Advice (18 October 2018)

This report was commissioned by the Council, with the objective of this review being to provide Council with technical contamination advice in relation to the proposal and in particular whether asbestos removal from the buildings can occur in such a way as to allow for Caldwell House to be retained and made safe for future adaptive re-use. A site inspection to ground truth information and provide comment on the accuracy of the costings presented were also part of the scope of this study.

The following comments were made:

- The 'make safe' level of clean-up is the level of validation required under SEPP 55 to ensure the site is considered suitable. That is, the level of asbestos removal and clean-up for demolition and the level required for retaining the buildings, is essentially the same.
- Concerns with some of the costings in the G.J Seib report as the costs for removal and disposal of most of the building materials is unclear (whether it is included and/or whether it has been included as asbestos waste or cleaned waste);
- Unclear how an Asbestos Clearance Certificate issued for demolition would differ from an Asbestos Clearance Certificate for building retention;
- The Cook and Rose demolition methodology does not provide any asbestos removal methodology and states it will be carried out in accordance with codes of practice.
- Considers that asbestos removal to allow for adaptive re-use of the buildings is possible as asbestos removal is required regardless of whether the buildings are

demolished or not. Asbestos removal/remediation to allow for re-use is likely to be the more expensive option;

- The costings provided in Quantity Surveyor report do not appear to have obvious errors or omissions, although the asbestos disturbance occurred after the costings were prepared and therefore do not accurately reflect current conditions. Further, it is not clear if all asbestos disposal costs have been allowed for in the complete site demolition.
- Council should seek further advice/quotations in relation to asbestos removal from contractors with demonstrated experience in similar projects.

The following conclusions were made:

- Category 1 remediation works requires a Remedial Action Plan ('RAP');
- Additional costs associated with asbestos removal and remediation will be incurred due to the site being illegally accessed and the distribution of further asbestos within the buildings since the DA was lodged;
- The cost differentiation between asbestos removal for demolition, as proposed to asbestos removal for building re-use have not been appropriately evaluated within the DA documents.
- The asbestos and quantity surveyor reports need to be updated to reflect current site conditions
- Effective security measures are required on the site to reduce the risk of further damage and potential spread of asbestos.

The report does not make a recommendation on retention or demolition, but highlights inadequacies in the application documentation.

Following the referral of Council's assessment report to the Council meeting in July 2020, the applicant prepared further documentation supporting the case for demolition of Caldwell House. This report is considered below.

Contamination Issues at Orange Nurses Quarters (Nation Partners 29 October 2020)

This report was prepared for the applicant (HI) and seeks to provide advice in relation to the potential exposure scenarios that may be encountered for loose fill asbestos in the context of structural demolition or refurbishment of the buildings on the site. The report is based on review of reports provided by the application and no site inspection was undertaken.

Occupational exposure scenarios

The report notes that asbestos removal from the buildings will be required whether the structures are demolished or retained and re-used with the following fundamental differences:

- The extent of asbestos removal required in the short-term;
- The potential for long-term exposure by future occupants;
- The long-term management obligations imposed on future owners and occupiers; and
- The ability to obtain a reliable clearance certificate following asbestos removal.

The report stated that exposure to friable asbestos materials in the scenarios of re-using the buildings is likely to be longer term, more difficult to administer and control and may not support the development of a relevant or reliable clearance certificate. It was noted under the demolition scenarios that exposure to friable asbestos is likely to be short-term, readily controllable via adoption of prescriptive regulatory and industry practices and readily able to the support the development of a clearance certificate.

The report concurred with the findings of the specialist independent occupational and environmental health review (Gardiner, 2019) in that the preferred health-based solution, which provides sufficient assurance regarding the effective mitigation of long term exposure to asbestos, is to demolish the buildings. The report acknowledges that this conclusion has been formed without regard to the relative value or importance of the heritage significance of the buildings.

This demolition approach is consistent with that taken with the loose fill asbestos insulation eradication scheme in NSW and the ACT in 2014, also noting that the removal of asbestos from a multi-storey structure such as Caldwell House would likely be more difficult than the largely single storeys residential dwellings that comprised that program.

Summary of Contamination Issue

There is overwhelming expert evidence outlining the extensive contamination of the buildings with asbestos and that such asbestos is, in places within Caldwell House, in a poor, friable condition meaning it is in its most dangerous form. It is also evident from the expert evidence that it is highly likely that further friable asbestos would be contained within the inaccessible areas of the building, including the wall cavities, such that there is likely to be remaining friable asbestos in the building, despite a gold-standard remediation of the building.

This expert evidence is contained within multiple reports prepared by multiple, suitably qualified consultants, all of which appear to confirm the advice provided in the other reports from other contamination consultants. All of the contamination reports are consistent in their recommendations supporting the demolition of all of the buildings on the site.

There has been some criticism expressed in Council's assessment report and the community submissions disputing the level of contamination in the building. This has resulted largely from the lack of laboratory testing, however, the contamination reports agree that the building contains significant asbestos contamination from a combination of visual assessments to accessible areas of the building, past history of asbestos disturbance from the vandalism to the buildings in recent years and the knowledge that the building was constructed during the time period when asbestos was popular in building products in Australia (from the 1940s to 1987). It is also the likely asbestos in the inaccessible parts of the building which is of just as much concern than the asbestos that can be seen. Together this information has been sufficient for numerous contamination consultants and demolition contractors to suggest that the building is significantly and sufficiently contaminated to warrant demolition.

The report which recommends retention of Caldwell House is the Bradfield Barker report, which is a review of the cost estimates and was not prepared by contamination experts.

The question to be resolved in light of such overwhelming expert evidence, is whether the retention of the building for its heritage value overrides the potential and likely significant health impacts. If this building was not heritage listed, there would be little consideration of the economic analysis of options, it would be a fairly straight forward demolition application.

The health evidence is that the contamination is such that it is extensive, it is likely to be dangerous (based on the 'Mr fluffy' cases), and it is inevitable that there would be lingering asbestos contamination in the building. The need for ongoing management and restrictions on use of the land, significant potential for human health impacts and the likely inability to completely remove the asbestos is considered to result in unacceptable potential future risk to future occupants of the building. Clause 12 of SEPP 55 warrants approval of complete demolition of all buildings on the site.

The evidence from Dr Gardner is determinative in this regard,

“....the only viable health-based solution is to demolish all the buildings and remediate the site to the required health-based and environmental standards required for redevelopment”.

“.....i recommend the planned, safe demolition of the buildings and comprehensive site remediation”.

In these ways, it is considered that the demolition of all of the buildings on the site is warranted having regard to the objects of the EP&A Act, which includes, pursuant to Section 1.3(h), to *promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*

Allowing Caldwell House to stay puts at risk the health of future occupants to the extent that this object cannot be satisfied. Having regard to this object, it is further considered that it is not worth the risk of retaining Caldwell House if it puts the health of the community at greater risk. Putting the health of the community at risk is also contrary to the public interest pursuant to Section 4.15(1)(e) of the EP&A Act.

The demolition of all of the buildings is also supported by Clause 12 of SPEP 55 which requires that a consent authority should not refuse consent to category 1 remediation unless there is a more significant risk of harm to human health, or some other aspect of the environment, from the carrying out of the works than there is of not undertaking the remediation works.

Clause 12(1) of SPEP 55 states:

*The consent authority **must not refuse development consent** for a category 1 remediation work unless the authority is satisfied that there would be a **more significant risk of harm to human health** or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may lawfully be used.*

Risk is defined in various sources as:

- *hazard, chance of or of bad consequences, loss* (Concise Oxford Dictionary);
- *exposure to the chance of injury or loss; a hazard or dangerous chance* (dictionary.com); and
- *the possibility of loss or harm occurring* (Collins Dictionary of Law)

Importantly, risk is associated with the **chance** of harm, injury or loss and does not necessarily require actual loss, harm or injury. In essence, this Clause requires that consent authorities only refuse consent to category 1 remediation work in extenuating circumstances and only if the risk of doing (or not doing) something presents a greater risk. In this case, that would only be if there were a greater risk to human health of demolishing the buildings than not demolishing them.

It is considered that the demolition of the buildings on the site would be undertaken in accordance with the relevant SafeWork NSW requirements and relevant conditions of any consent granted. The contamination reports, including the recent Nation Partners report (October 2020), indicate that the proposed demolition can be undertaken safely. Any exposure to asbestos during the demolition would be confined to the demolition contractors who would be suitably protected in appropriate PPE including any appropriate breathing apparatus. In

this way, it is considered that there are minimal risks to human health and the environment involved in the demolition of all of the buildings on the site.

Conversely, there is a greater (and significant) risk to human health and the environment by not demolishing all of the buildings on the site (and hence the retention of Caldwell House). This is evident through the contamination expert opinions that there is friable (breathable) asbestos in the inaccessible areas of the building, making full remediation impossible. This retention strategy also relies on management strategies of avoiding disturbance to the asbestos for the remainder of the life of the building and relying on future building owners and tradespeople to work within the asbestos requirements of SafeWork NSW.

The risk to human health and the environment of retaining Caldwell House is significant given the extent of contamination the inability to completely remove the asbestos contamination and the fact that experience with Mr Fluffy in the ACT shows even with the best remediation attempts, the remaining asbestos can result in friable asbestos contamination of living areas following 'remediation'. The 'risk' of harm to human health, the test being that there is a **chance** of harm, injury, exists and it is considered too great to take and fails the Clause 12 test. In this way, it is considered that there are greater risks to human health and the environment but retaining the buildings than there is in demolishing them.

Accordingly, it is considered that the demolition of all of the buildings on the site (including Caldwell House) should be supported.

6.2 Heritage significance

The site is listed as a local heritage item under the Orange LEP 2011. The application was accompanied by a Heritage Impact Statement, prepared by Weir Phillips Heritage, dated July 2018 ('the HIS'). Inspections of the site were carried out in April 2016 and June 2018.

This report notes that the Nurses quarters are generally a rare building type, with only 8 other nurses' quarters listed as heritage items on the State Heritage database within NSW. Many of these have been demolished or currently marked for demolition due to the constant evolution and expansion of hospitals. These former buildings are particularly inflexible to suit changing requirements due to current building codes or user needs.

The HIS noted:

- There are numerous other interwar Art Deco Style buildings in Orange which are listed heritage items under the Orange LEP 2011.
- There are numerous more intact examples of this building type in NSW, with several of those maintaining an appropriate curtilage and substantial garden settings that can be appreciated from the public domain.
- The long period of association of the nurse's quarters with this site, together with significant community involvement with nursing staff, means that the site has a high degree of social significance, which unlike other aspects of significance, does not necessarily depend on the physical retention of fabric.

The HIS indicates that the components of significance on the site are the original 1937 buildings including the east and north facing bedroom wings and the former recreation room at the rear ("B" in figure below). The 1944 addition at the western end of the northern wing forms an appropriate addition which marries visually into the original structure ("C" in the figure

below). The 1966 additions (the nurses' accommodation) form a detracting element within the site as well as the streetscape in being out of scale with the earlier building ("D" in the figure below). The outbuildings on the site have no heritage significance (refer to **Figure 14**).

The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013 ('the Burra Charter') provides guidance for the conservation and management of places of cultural significance. Cultural significance is the sum of the qualities or values that a place has, including the five values— aesthetic, historic, scientific, social and spiritual—that are listed in Article 1.2 of the Burra Charter.

Through the processes of investigating the place and assessing each of these values, we can clearly describe why a place is important. Understanding a place and assessing its cultural significance are the first two steps in the Burra Charter Process. Establishing cultural significance is an essential step in developing the best policy for that place (the Burra Charter, 2013). The HIS considered the proposal in terms of the Burra Charter and concluded that the site had social significance.

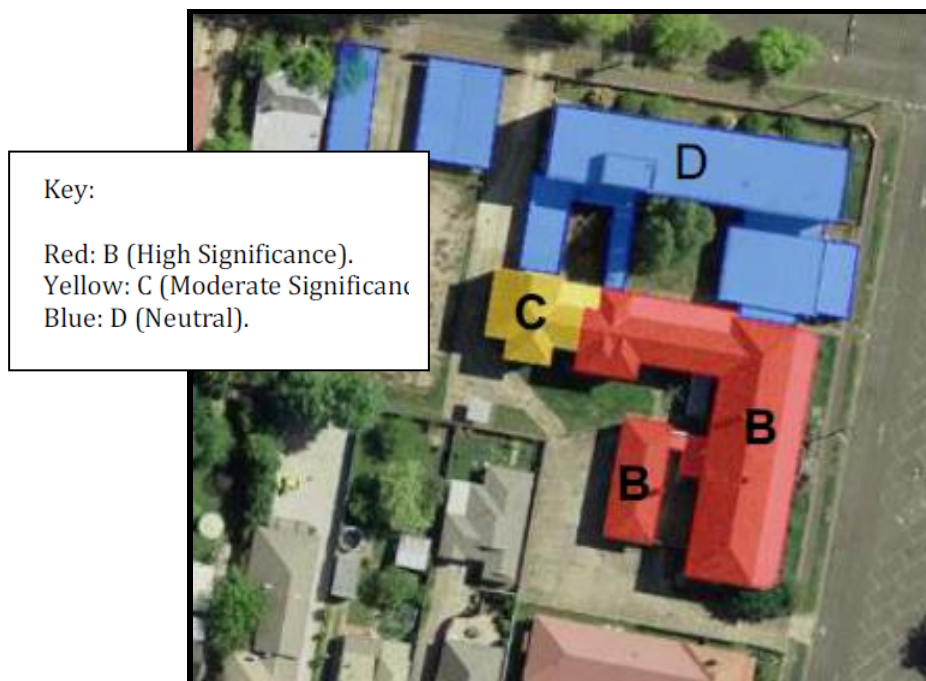


Figure 13: Plan of heritage significance (Source: HIS, July 2018)

The HIS also considered the site in accordance with the guidelines for inclusion/exclusion according to the *Assessing Heritage Significance, NSW Heritage Manual Update* (July 2001). The following conclusions were made:

- Criteria (a) – *An item is important in the course, or pattern, of the local area's cultural or natural history* - the site is associated with a significant activity or historical phase as it shows the historical accommodation of nurses on site of hospitals which reflected government policy and community expectations of the site;
- Criteria (b) - An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of

the local area – significant for its association with the nursing and hospital staff who resided and trained there and for its association with the large number of people including hospital Administrators and the women's hospital Auxiliary which fought for its establishment.

- Criteria (c) - *An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area* – has significance as a good example of a former nurse's quarters designed in the interwar Art Deco Style by the Government Architect;
- Criteria (d) - *An item has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons* – the site has historic and ongoing significance for former resident nurses;
- Criteria (e) - *An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history* – not significant under this criteria;
- Criteria (f) - *An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history* - not significant under this criteria;
- Criteria (g) - *An item is important in demonstrating the principal characteristics of a class of the area's* – cultural or natural places; or – cultural or natural environments – the site is significant as a good example of an Interwar Period Art Deco Style nurses' quarters.

Accordingly, the site had significance in relation to several of these criteria, however, it was largely associated with the former use of the site for nurses accommodation which is now longer undertaken on the site and there is limited geographical relevance given the relocation of the Hospital which once stood opposite the site. While the aesthetic, physical building form was significant in some of these criteria, it is not the primary reason for the building's significance.

The HIS also provided a grading of the relative significance of the item, clearly indicating only the 1937 original building known as Caldwell House (north and east wings) and the adjoining recreation room at the rear has any real significance. The later additions to the western end of the northern wing of this building, as well as the separate Nurses accommodation building, and detached carport structures have limited heritage value.

The HIS assesses the potential impact of the proposal on the heritage significance of the site against the three matters for consideration as required by the NSW Heritage Office Update, *Statements of Heritage Impact (2002)*:

- **Consideration 1 (aspects of the proposal which respect or enhance the heritage significance of the item):**

The removal of the 1966 addition to the nurse's quarters (which is considered to have little heritage value) will enhance the setting of nearby heritage items by removing a building that is anomalous in a streetscape of individual buildings.

- **Consideration 2 (aspects of the proposal which could detrimentally impact on heritage significance, the reasons explained as well as the measures taken to minimise impacts):**

The HIS stated:

‘.... demolition will have a detrimental impact on understanding the former use of the site and its role in the provision of medical services in regional NSW. These buildings had significance as part of the historic development of the Orange Base Hospital Complex. IN particular, there is a high level of social significance and some aesthetic significance in the 1937 building.

There will also some impact on social significance as physical association with the building will be lost, it is noted that the 1937 building is a food example of its type, however there are other examples in Orange that represent the Inter war period”.

The HIS states in regard to the demolition:

- The impact of the demolition of the nurse’s quarters is acceptable considering the issues relating to its asbestos content and the invasive works required to remediate the building;
 - The understanding of importance of the building to past communities is now largely contained in historic records. There are other preserved examples of nurse’s quarters designed in the interwar Art deco Style in NSW;
 - Its high social significance will be perpetuated by a comprehensive interpretation strategy and plan to be integrated with any proposed development at the site.
- **Consideration 3 (sympathetic solutions have been considered and discounted):**

The HIS stated that the retention and restoration of the existing buildings on the site were discounted due to:-

- i. *the considerable cost to remediate the buildings before they can be safe enough for occupation,*
- ii. *the number of major issues regarding compliance with current building codes (prohibitively expensive) and*
- iii. *the existing rooms are below the minimum standard size for bedrooms and as such make the building a poor candidate for residential adaptive reuse.*

The principal reason for discounting this consideration was the pervasive level of asbestos in the building, which the HIS understood to be extremely difficult.

This revised Heritage Report added a discussion on four (4) questions required to be considered for the demolition of a heritage item under the *Local Government Heritage Guidelines* prepared by the NSW Heritage Office in March 2020 as outlined in Table 3 of the Guidelines. These matters are discussed in **Table 5** below.

Table 7: Consideration of matter regarding Heritage Impact

Question to be answered	Applicant's response	Comment
<ul style="list-style-type: none"> Have all options for retention and adaptive re-use been explored? 	<p>The following options for retention and reuse were explored:</p> <ul style="list-style-type: none"> Restoration and adaptive re-use of existing buildings – discounted due to the level of contamination; Sale of site in its current condition; and Demolition of the existing buildings and rehabilitation of the site prior to sale <p>Concluded the only viable option was for demolition.</p>	<p>This question was answered primarily on the grounds that even with remediation and removal of asbestos there would still be potential to pose a health risk to future occupants.</p>
<ul style="list-style-type: none"> Can all of the significant elements of the heritage item be kept and new development located elsewhere on the site? 	<p>The retention of the building and/or the façade is not viable given the level of asbestos contamination. Retention of the building's façade has been discounted as an appropriate response in current heritage practice.</p>	<p>Agree that retention of the façade is not adopted heritage practice and the heritage value of this item is not necessarily the architectural merit of the building, but its social and historic significance as a former nurse's quarters.</p>
<ul style="list-style-type: none"> Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible? 	<p>Demolition is essential to prevent exposure to the public from the hazardous materials within the buildings.</p>	<p>Agreed given future circumstances are unlikely to render the building safe for occupation in its current contaminated or remediated state.</p>
<ul style="list-style-type: none"> Has the advice of a heritage consultant been sought? Have the consultant's recommendations been implemented? If no, why not? 	<p>Consultation and assessment have been undertaken.</p>	<p>The advice is that full demolition is required to ensure recommendation of the contamination experts are followed.</p>

The HIS concluded the following:

Retention as an option is not economically or physically feasible as outlined above. When there is no alternative to demolition of a heritage item, best practice should be used to ensure that the significance of the site is not lost altogether.

Much of the significance of the site is vested in the former nurses and in their role within the provision of medical services in regional New South Wales.

The social significance of the site is best maintained and recognised through the recommendation outlined in 5.3.4. This should include a comprehensive interpretation strategy which may include the retention and integration into any new development the original foundation stone and brass tablet marking the opening of the 1937 nurses' quarters. Any new building or buildings on the site should incorporate the name Caldwell and the names of other prominent nurses through the history of the site.

In recognition of its heritage significance, the site will be photographically recorded to NSW Heritage Branch archival standards prior to the commencement of work.

The heritage value of the item is largely contained within its high social significance, having had a long association with the accommodation of nurses onsite with hospitals throughout the 1930s to the 1980s, with some aesthetic significance in the 1937 building.

In terms of the aesthetic significance, the HIS noted that the 1937 building itself is a good example of its type, however, there are better buildings in Orange that represent the Interwar period and better examples of Nurses Quarters in other parts of the State. In this way, it is considered that the building itself is less important from a heritage perspective than its former use.

The potential impact on social significance also needs to be considered. The HIS acknowledges that the proposed demolition of the building would result in some of this social significance being lost as the physical associations with the building will be gone. However, it is also considered that some of this social significance has already been eroded given the relocation of the hospital from the site on the opposite side of Sale Street. It is also important to note that all of the buildings which formed the original parts of the hospital have since been demolished (**Figure 14**) resulting in the loss of the social connection between the nurse's quarters and the hospital.



Figure 14: Former site of the Orange Base Hospital (Source: Google Maps)

Furthermore, it is considered that the social significance can be maintained and continued to be recognised through the recommendations outlined in the HIS which aim to provide a comprehensive interpretation strategy for the site following the demolition of the building.

These strategies include:

1. That an archival recording to the Heritage Office standard is to be undertaken;
2. Retention and integration of the original foundation stone and brass tablet marking the opening of the 1937 nurses' quarters into an interpretation strategy for any new development;
3. Any new building or buildings on the site should incorporate the name Caldwell and the names of other prominent nurses through the history of the site.
4. Interpretation panels should be incorporated into any future development of the site either as a wall panel on display in a building lobby or a panel located on the site visible from the public domain;
5. Oral or written histories to be recorded by nurses who resided at the nurse's quarters and be made available at the local library (a written publication has been previously undertaken on reminiscences of nurses at Orange Base Hospital).

These strategies are outlined in the recommendations of the HIS (in Section 5.3.4) and are recommended to be imposed as conditions of consent. Strategies 1 and 5 can form standard conditions of consent on any consent granted for the proposed demolition of all of the buildings. A deferred commencement consent condition is recommended for Strategies 2, 3 and 4, which will require a restriction on the land title to be registered with NSW Land Registry Services prior to activation of the demolition consent for the building, given there is currently no proposed redevelopment of the site. Such conditions cannot be imposed on any consent granted for demolition of the buildings only.

The heritage value of the building also has to be balanced against the potential for human health impacts arising from the contaminated state of the building. While cultural heritage needs to be preserved, such preservation should not be at any cost. Such a cost could be future potential impacts on human health and the environment. SEPP 55 requires the consent authority to only refuse consent to category 1 under very limited circumstances.

Taking all of these factors into consideration, on balance, given the social significance has been eroded by the removal of the former hospital buildings opposite the site and the fact that some of the social significance can be preserved through the recommendations of the HIS, it is considered that the impact of the demolition is acceptable and can be supported.

Accordingly, while there is high social significance of the existing 1937 building on the site, this social significance can be maintained through the recommendations of the HIS. Given the heritage significance can be maintained in some form, the proposed demolition is supported having regard to the issues relating to its asbestos content and the invasive works required to remediate the building as outlined in Section 6.1 of this report.

6.3 Economic analysis

The proposal involves the demolition of a heritage item which is contaminated with asbestos. As a consequence, the assessment of the proposal by the Council and the Panel interrogated issues relating to viability and quantity surveyor estimates as to the cost of the work given the complexities of the remediation required for the building.

Having considered the numerous cost reports provided on a number of different options (as referred to in Section 6.1) by different demolition contractors and other quantity surveyors, the Panel adopted the Bradfield Barker cost estimate report commissioned by Council dated 15

January 2020.

The Panel in their initial determination meeting considered that it would benefit from being presented with expert property economics advice comparing the applicant's demolition proposal with Council's preferred remediation building option. The Panel deferred the matter and required the preparation of an 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.

In requesting this additional advice, the Panel considered that such an approach was needed to ensure that investment was made by the applicant in providing a long-term solution for the site and its remediation and reuse that was economically feasible for the site.

This advice was provided in the *Economic Viability Assessment* prepared by macroplan dated December 2020 ('Macroplan report'). This report provided independent expert property economics advice on the economic viability of redeveloping the former Nurses Quarters/Caldwell House site to affect an appropriate re-use of the properties.

The report analyses two redevelopment scenarios:

- Scenario 1 – remediation and full demolition of the site as proposed by HI and redevelopment as detached housing options permissible with consent in the R1 General Residential zone applying to the land; and
- Scenario 2 – remediation and partial retention of the site and potential adaptive re-use options utilising the conservation incentive provisions of the LEP (based on the Bradfield Baker Option B of retaining the Caldwell House front façade).

The report adopted the internal rate of rate ('IRR') as the most appropriate measure of viability and stated that a 20% IRR is the generally accepted target hurdle rate for development, although lower hurdle rates may be acceptable by some developers depending on their finance and risk profile.

The findings of this report were that Scenario 2 (partial demolition and attached dwelling development) would not be attractive to a developer as the internal rate of return ('IRR') of 6.62% was below the 15% usually needed. Higher remediation costs and construction costs had driven this outcome.

Scenario 1 (complete demolition and remediation) provides a higher IRR than Scenario 2 (but still less than 15%) with lower development yield, however, it has lower remediation and construction costs and better realisation rates which increases the project IRR to a more viable rate.

It is considered that the Macroplan report did not provide a wide ranging assessment of the potential redevelopment opportunities on the site under either scenario given the conservation incentives available while ever the heritage item is retained nor the likely other uses which are permissible in the R1 zone without the heritage item. These latter uses could include multi dwelling housing, residential flat buildings and seniors housing, among other uses, while uses

with a heritage listing could include the full range of uses permissible under the LEP (pursuant to Clause 5.10(1)) of the OLEP 2011 subject to not having any significant impact on the amenity of the surrounding area.

Notwithstanding the shortcomings of the Macroplan report, it did highlight the costs associated with a full remediation of the site to enable the reuse of Caldwell House. Of course, what is not factored into these costings is the potential future harm to human health and the environment of retaining a building which has significant levels of asbestos contamination. An economic value cannot be put on human health.

The economics of the proposal are an important factor in decision making and need to be considered pursuant to Section 4.15(1)(b) of the EP&A Act. In this instance, the prevailing economic opinion appears to favour the remediation and full demolition of the buildings on the site, which when combined with the contamination status of the site is consistent with the protection of human health and environmental considerations.

6.4 Structural and BCA/NCC Assessment

A structural and building code review of Caldwell House has been undertaken, which are considered further below.

A *Structural Review of Caldwell House*, prepared by Cook Roe Structural Engineers dated 2 July 2018 noted that generally the building was found to be in a '*sound structural condition*' with no major damage evident to the brick walls, concrete and timber floor structures or roof structure within the building. It was also noted that all internal brick walls to the building are load-bearing and that some minor modifications to the structure have been made, which included enclosing the first floor balcony and the demolition of a number of first floor external walls that adjoined the balcony. The Bradfield Baker report also confirmed that Caldwell House was structurally adequate.

A visual inspection was undertaken in April 2018 with no invasive investigation techniques employed. The inspection was limited by the presence of floor and wall coverings and plastic sheeting covering asbestos-affected areas that could not be reasonably moved during the inspection.

Other findings included:

- existing floor slabs generally meet strength requirements for loading under residential design loads. Any increase in floor loading above this would potentially overstress the existing slab and create additional, and likely excessive, deflections in the slab in a number of areas.
- The first floor slab has the capacity to achieve a Fire Resistance Level (FRL) of 90 minutes, for any greater than this value, additional fire protection would be required.
- Re-use of the existing structure as it currently stands is limited by the small room sizes.

The report also reviewed a number of options to retain the facade of the structure, allowing the remainder of the building to be demolished and rebuilt to suit potential occupant requirements. These options included (refer to figures below):

- Option 1 – retention of eastern (Sale St) façade and awning with partial retention of first floor;
- Option 2 – retention of the eastern (Sale St) façade, awning and main roof;
- Option 3 - retention of the eastern (Sale St) façade and awning only.

All of these options considered that the western section of the building is fully demolished and only parts of the eastern wing, parallel to Sale Street, are retained. The report concluded that there were only two (2) options which are likely to be financially viable for any prospective purchaser of the site including:

- Adopting a re-use of the building that allows little, if any, modification to the existing structure which would significantly limit the potential for re-use applications; and
- Complete demolition of the structure allowing for an un-impeded redevelopment of the site.

The conclusions of the structural review of the building are consistent with the view that there is significant asbestos contamination throughout the building and that the complete demolition of the building is supported.

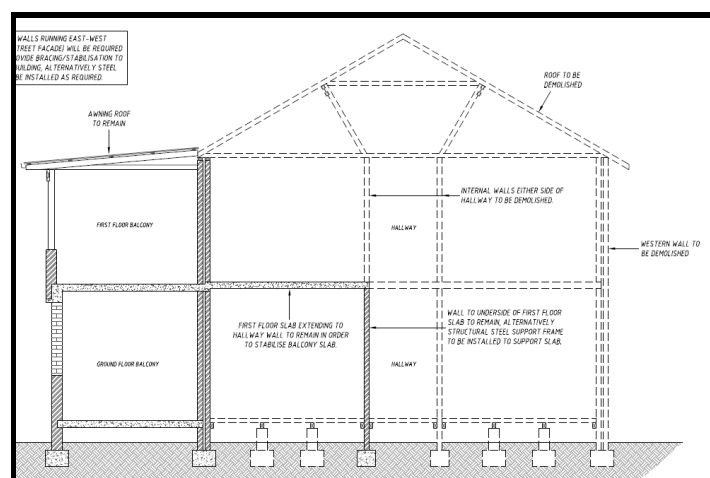


Figure 15: Option 1 - Structural report (Source: Cook Roe, 2018)

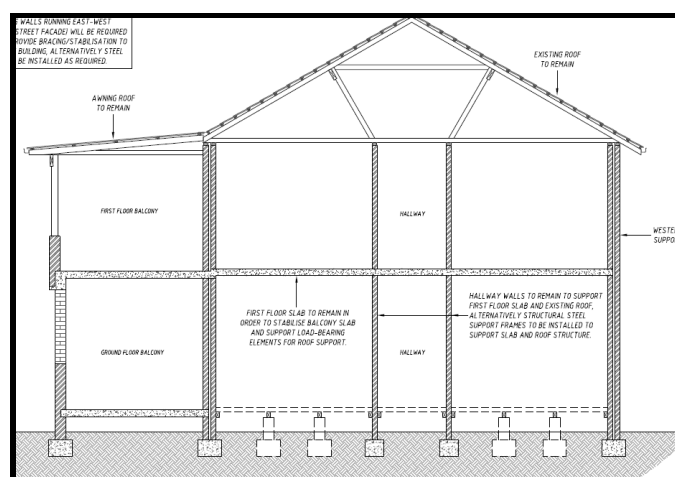


Figure 16: Option 2 - Structural report (Source: Cook Roe, 2018)

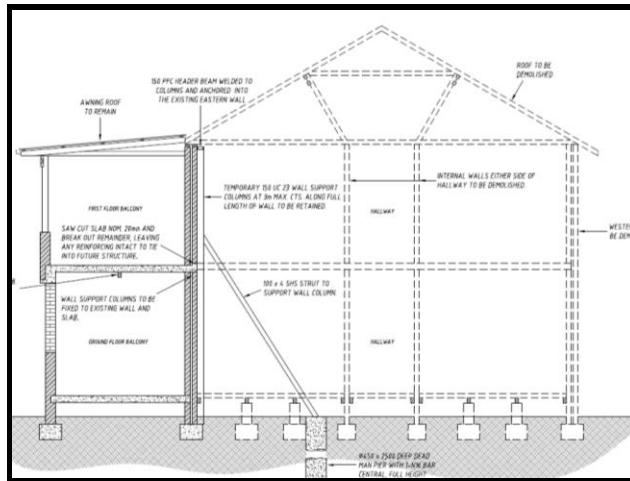


Figure 17: Option 3 - Structural report (Source: Cook Roe, 2018)

A *Fire Safety Audit Report* was prepared by Credwell Consulting dated 16 May 2018 to provide a fire safety audit of the buildings, addressing relevant aspects of Sections C, D and E of Volume 1 of the *National Construction Code* ('NCC'). The Report also provides an upgrading strategy to provide a suitable level of fire and other safety measure to the building (to Type A Construction standard).

An inspection was undertaken in May 2018 to the accessible areas of the building, having regard to the fact that some parts of the building were inaccessible due to restrictions arising from the asbestos contamination. A list of upgrading measures were detailed as required to provide an adequate level of fire and other life safety to the building given the existing nature of the building.

It is considered that this would add a significant cost to any proposed reuse of the building in its current configuration which coupled with the contamination status of the building would also support demolition of all of the buildings on the site.

6.5 Noise and vibration Assessment

The potential for noise and vibration to impact on adjoining properties is an important consideration given the extent of demolition proposed and the demolition methods likely to be utilised. The application was accompanied by a *Demolition Noise and Vibration Assessment* prepared by Wilkinson Murray, dated July 2018 ('Noise and Vibration Report') which considered this issue.

The Noise and Vibration Report considered the noise and vibration impacts arising from the proposed demolition of the buildings on the site. The report concluded that construction noise levels at nearby receivers are likely to exceed the noise management levels and, in some instances, could exceed the construction noise level of 75Db(A). Similarly, the use of a hydraulic hammer was identified as having the potential to cause exceedances of vibration criteria. Alternative work methods and vibration monitoring were recommended to manage the impacts from vibration intensive plant.

The report concluded that the works could proceed if a Construction Noise and Vibration Management Plan to reduce the likelihood of noise impacts due to construction activity being prepared. Council has considered this report and following a detailed assessment, concluded the report was satisfactory notwithstanding the likely noise exceedances which could be addressed in recommended conditions of consent, which is supported.

6.6 Council's Reasons for Retention of Caldwell House

A review of Council's reasons for not supporting the demolition in its assessment report to the Panel dated 2 October 2020 has been undertaken. These reasons are considered below:

- *The building should have been managed more responsibly by HI – The cause or blame for the current state of the buildings on the site is not a relevant consideration in this assessment. The planning legislation is not to assign blame or punishment;*
- *There is a greater impact on the environment through additional embodied energy generated as a result of the demolition. 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 – The demolition methodology outlines that the asbestos will be removed with the remaining building materials, once cleaned, being recycled/crushed on site. This ensures that a large proportion of the building materials resulting from the proposed demolition will be recycled.*
- *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 – Sufficient expert evidence has been provided as to the extent of the asbestos contamination. The largest impact is likely to result from the asbestos in the inaccessible areas of the building which is unable to be laboratory tested in any case.*
- *The building needs to be cleaned of asbestos or asbestos-containing material in any case – It is acknowledged by the applicant that the asbestos will need to be appropriately managed under either scenario. The total removal of asbestos cannot be guaranteed under the remediate and re-use scenario which is a determinative factor in this assessment.*
- *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 - This is irrelevant as a development application may be lodged for demolition only.*
- *The building can be made fit for purpose and can be adaptively reused retaining the heritage significance of the place with an ongoing asbestos management plan.*
- *The cost analysis presented by the applicant is flawed as it only accounts for the redevelopment of the site up to the demolition phase and does not consider the complete redevelopment of the site. Council considers that the additional cost in retaining the building would be recouped by retaining the building on the land which does not have to be rebuilt – The redevelopment of the site was considered in the Macroplan report and considered in more detail in Section 6.1.*
- *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 – the potential impact on heritage is considered in detail in Section 6.2.

It is also noted the Councils assessment of public interest pursuant to s4.15(1)(e) of the Act is unsatisfactory, stating (my emphasis added):

*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.*

This matter for consideration is not a measure of how much public interest there is in a project, but whether the proposed development is in, or contrary to, the public interest. This assessment needs to answer the following questions:

- Is the level of asbestos contamination such that the building should be demolished?
- Is the heritage significance so great that it warrants retention of the heritage item?
- Is it good use of tax payers money to rehabilitate/renovate a building which is heavily contaminated with asbestos at an extra cost of approximately 33% more than the quoted cost of demolition?

7. Conclusion

This development application proposes demolition of all structures on a site on Sale Street, Orange, which is owned by Health Infrastructure (NSW). Health Infrastructure is a public authority, which satisfies the definition of the Crown pursuant to the Regulations (Clause 226(1)). Accordingly, this proposal is a Crown DA for the purposes of Division 4.6 of the EP&A Act.

Following Council's assessment of the proposal, draft conditions were prepared which would have prevented Caldwell House from being demolished, despite that being the intent of the owner of the site. Accordingly, this report has been prepared to assess the issues relating to the draft conditions which were objected to by the Crown in an attempt to resolve the issue of whether Caldwell House should be demolished pursuant to Section 4.33(1)(b) of the EP&A Act.

This assessment has considered all of the key issues raised in relation to the proposed demolition of all of the buildings on the site, including Caldwell House, a local item of heritage. These issues included contamination, heritage, economic analysis, structural and building code considerations and noise and vibration issues. A brief review of Council's reasons for objecting to the demolition of Caldwell House were also undertaken.

In relation to contamination, it is considered that the risk to human health and the environment of retaining Caldwell House is significant given the extent of contamination, the inability to completely remove the asbestos contamination and the fact that experience with 'Mr Fluffy' in the Act shows even with the best remediation attempts, the remaining asbestos can result in friable asbestos contamination of living areas following remediation. The 'risk' of harm to human health exists and it is considered too great, failing the test under Clause 12 of SEPP 55. In relation to heritage, while it is acknowledged that Caldwell House has social significance, some of this significance can be retained in a comprehensive interpretation strategy to be undertaken for a future redevelopment of the site.

The economic analysis revealed the extent of remediation and clean-up costs at the site to allow reuse of Caldwell House is extensive and that it is probable that such a proposal is unviable on the site. While the economic analysis and quantity surveying information provided with the application has been informative, the potential health implications of retaining Caldwell House is the determining factor in this assessment.

While there were numerous submissions from the community and the Council expressing concern with the loss of an item of environmental heritage, on balance and in view of the compelling advice from the contamination experts regarding the asbestos within the buildings, the extent of the asbestos contamination in the buildings, coupled with the likelihood of lingering asbestos remaining in the building despite a thorough remediation of the buildings, the retention of Caldwell House cannot not supported.

Accordingly, it is considered that the demolition of all of the structures on the site is supported subject to the recommended conditions in **Annexure A**. It is noted that this report recommends further conditions to those proposed by the Council, which are indicated in red in Annexure A. Council's draft conditions which are not supported by this report are shown with strikethrough text.

Pursuant to Section 4.33(1)(a) of the EP&A Act, DPIE should undertake further discussion with Health Infrastructure to confirm their agreement with the draft conditions of consent as outlined in **Annexure A**.

8. Recommendation

It is recommended that the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report;
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application; and
- directs the Western Regional Planning Panel to grant consent for the application in respect of development application DA 234/2018(1) for the 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 subject to the conditions in the attached draft conditions of consent.

Recommended by:

Kim Johnston

Principal Planner

Local and Regional Planning, Planning Panel Secretariat

Annexures

A – Draft Conditions of consent

PART 1 – DEFERRED COMMENCEMENT CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a “Deferred Commencement” Consent under the provisions of Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

1. Restriction on the Use of Land

Evidence is to be provided to Council demonstrating that the following has been imposed as a Restriction on the title of the land pursuant to the provisions of the *Conveyancing Act 1919*

Future development on the site is to provide the following:

- retention and integration into any new development the original foundation stone and brass tablet marking the opening of the 1937 nurses’ quarters; and
- any new building or buildings on the site should incorporate the name Caldwell and the names of other prominent nurses through the history of the site.

Details listed above must be included in documentation submitted to satisfy the Deferred Commencement Development Consent.

Upon satisfaction of the details required above, Council shall issue an approval consistent with the Conditions in Part 2, and any conditions reasonably arising from consideration of the details submitted to satisfy the deferred commencement.

PART 2 –CONDITIONS OF CONSENT

GENERAL 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 (incl aerials (8 sheets)
- ~~(b) Statements of environment effects prepared by Peter Basha Planning and Development dated 4 July 2018 or other similar associated documents that form part of the approval~~
- ~~(c) Preliminary Contamination Investigation prepared by Envirowest Consulting dated 27 May 2016;~~
- ~~(d) Hazardous Material Survey prepared by Envirowest Consulting Pty Ltd dated August 2017~~
- ~~(e) Asbestos Removal Control Plan prepared by Envirowest Consulting Pty Ltd 17 May 2018;~~

- (f) Asbestos Removal Options prepared by Envirowest Consulting Pty Ltd dated 26 June 2018)
- (g) Demolition methodology prepared by Cook Roe Structural Engineers dated 2 July 2018)

As amended in accordance with any conditions of this consent.

- ~~(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 contaminating materials 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.~~

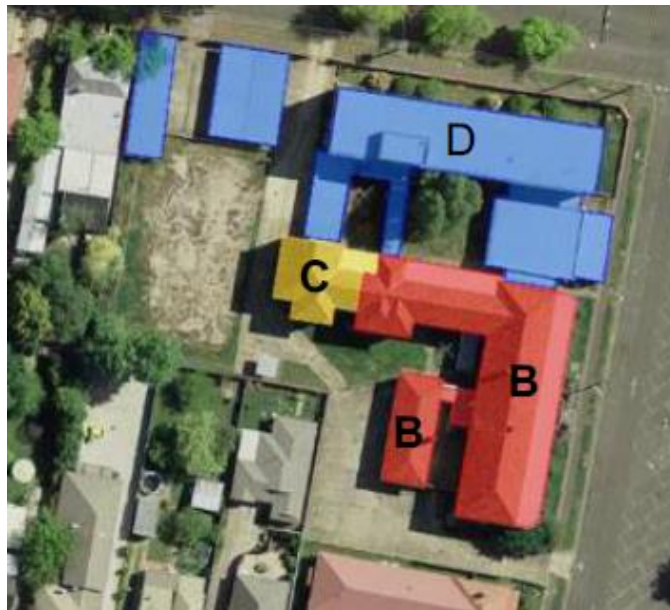


Figure 1—significant buildings shown red and labelled “B”

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

- (2) The following condition contains the requirements of Essential Energy:
- (a) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
 - (b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
 - (c) 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.
 - (d) 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).
- (e) 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.

PREScribed CONDITIONS

- (3) 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

- (4) 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 prior to works commencing on the site.

- (5) A Remedial Action Plan ('RAP') is to be prepared in accordance with the *Managing Land Contamination Planning Guidelines* prepared by the Department of Urban Affairs and Planning (1998) as required by Clause 17(1) of *State Environmental Planning Policy No 55 – Remediation of Land*.
- (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	Review control measures
	2. Investigate 3. Implement	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	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
	3. Investigate the cause	Conduct a thorough visual inspection of the enclosure (if used) and associated equipment in consultation with all workers involved with the removal work.
	4. implement controls to eliminate or minimise exposure and prevent further release	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.
	5. Do not recommence removal work until further air monitoring is conducted	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 1993* 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/SITE WORKS

- (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 the following:
 - (a) Clause 452 of the *Work Health and Safety Regulation 2017*;
 - (b) ~~Managing Land Contamination Planning Guidelines prepared by the Department of Urban Affairs and Planning (1998);~~
 - (c) ~~State Environmental Planning Policy No 55 – Remediation of Land; and~~
 - (d) ~~Requirements of SafeWork NSW.~~
- ~~(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 Heritage NSW, 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 Heritage NSW.
- (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. **Evidence of disposal of the asbestos at an appropriately licensed waste disposal facility is required.**
- (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.

- (27) The sub floor space under Caldwell House contains soil contaminated asbestos and removal of this soil is required until no asbestos is present as outlined in the *Asbestos Removal Control Plan* prepared by Envirowest Consulting Pty Ltd dated 17 May 2018. Testing of the soil will be required of the soil to provide a clearance.

FOLLOWING COMPLETION OF DEMOLITION/SITE WORKS

- (28) Following the removal of all asbestos containing materials, other building materials and demolition equipment, the site shall be reasonably levelled to natural ground level (following removal of any contaminated soil) and sown with appropriate grass seeds.
- (29) A notice of completion of remediation work on the site must be provided to Council within 30 days after the completion of the work.
- (30) An Asbestos Clearance Certificate is required to be issued at the completion of the asbestos removal process by an accredited licensed asbestos removal contractor and provided to Council within seven (7) days of issue.

REQUIREMENTS FOR ESSENTIAL ENERGY