

Case Update on Demolition of 'Dangerous' Heritage Protected Buildings – Sanur Pty Ltd v City of Subiaco [2025] WASAT 107

By

Background

In October 2025, the State Administrative Tribunal (**SAT**) delivered a key decision concerning the demolition of the heritage-protected buildings at 424–436 Hay Street, Subiaco (**Building**). Sanur Pty Ltd, the owner, applied for a demolition permit citing urgent public safety grounds under the *Building Act 2011* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. That application was refused by the City of Subiaco (**City**) and the owner sought review of that refusal in SAT.

Legal Framework

The Building is located in a heritage precinct and therefore requires development approval before a demolition permit can be issued, pursuant to section 21(1)(j) of the *Building Act 2011*. An exemption in Item 18, clause 61(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* permits demolition without development approval only if it is “urgently necessary for public safety” that the demolition occur.

Tribunal’s Analysis on ‘Urgently Necessary for Public Safety’

The Tribunal interpreted the exemption narrowly, finding that it applies only when demolition must occur immediately to secure public safety and in circumstances when there is insufficient time to follow the usual planning approval process. In this case, it was difficult to argue that the demolition was truly urgent, noting that the proceedings were not concluded until approximately 3 years after the owner made the relevant application. Delays in the review proceedings were largely due to the applicant’s delayed prosecution of the application.

The Tribunal found that the exemption serves as a defence for truly urgent cases, not as an alternative pathway to avoid the planning approval process.

Assessment of Expert Evidence

A key technical issue was whether the Building was in an active state of movement, which may have been indicative of structural failure and urgent risk. The applicant’s engineers claimed imminent danger based on assumed building

movement. However, the City presented surveyor evidence showing no movement trends over several years. The applicant failed to produce competing survey evidence and conceded that there was no evidence of movement of the Building since 1989. The applicant's experts then endeavoured to argue that the urgency of demolition was independent of movement, claiming demolition was necessary since 1989. The Tribunal rejected this reasoning, finding that the applicant's expert evidence was not credible and that there was no current urgency for demolition.

Final Decision

The Tribunal ultimately dismissed the application for review, affirming the City's refusal to grant the demolition permit.

The ruling reinforces that the urgent demolition exemption is narrowly applied and does not allow the development approval process to be bypassed, except in true emergencies.

A more detailed discussion of the Tribunal's decision will shortly be published in LG Professionals WA's Statewide Magazine. The information contained in this article should not be relied upon without obtaining further detailed legal advice in the circumstances of each case. For any comments or questions on this article please contact Tim Beckett (tbeckett@mcleods.com.au) or Madeline Madvad (mmadvad@mcleods.com.au).

Liability limited by a scheme approved under Professional Standards Legislation.