

## Environmental Health Referral Response - contaminated lands

<b>Application Number:</b>	DA2023/0669
<b>Proposed Development:</b>	Demolition work and the construction of 28 dwellings, infrastructure, roadworks, tree removal, landscaping, community title subdivision and the dedication of the creekline corridor to Council.
<b>Date:</b>	17/09/2024
<b>Responsible Officer</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 4 DP 553816 , 16 Macpherson Street WARRIEWOOD NSW 2102

### Reasons for referral

This application requires detailed consideration of Phase 1 and 2 contaminated land matters And as such, Council's Environmental Investigations officers are required to consider the likely impacts.

### Officer comments Supported with Conditions

#### General Comments

Specifically, the application, plans and amended plans, proposes the construction of 28 dwellings, infrastructure, roadworks, landscaping, community title subdivision and the dedication of the creek line corridor to Council.

The proposed development also proposes the rehabilitation of the creek line corridor and the construction of the shared pathway within Brands Lane, being works identified in the Warriewood Valley Contributions Plan.

A site investigation was carried out by EI Australia 25th of May 2023 which concluded in its report that the site can be made suitable for purpose.

The site is not designated as Contaminated Land by the EPA.

This development will require prior to demolition, a hazardous materials hazardous material survey to identify all hazardous materials and their management.

In summary any contaminants (if found during additional site examination as required by EI Australia's report) can be appropriately managed.

Environmental Health supports the proposal subject to conditions. (Reviewed and amended 17/9/2024)

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

## Recommended Environmental Investigations Conditions:

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

#### Remedial Action Plan

A Remedial Action Plan is to be prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

#### Contaminated Land Requirements

1. An assessment of potential Hazards materials in existing buildings to be demolished is to be carried out.
2. The findings and recommendations in the "Additional Site Investigation by EI Australia dated 25 May 2023" shall be implemented.
3. Prior to the issue of any Construction Certificate, a Contamination Management Plan is to be prepared by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifier. The plan shall detail:
  - a) How all the requirements and / or recommendations contained within the Contamination Report by EI Australia dated 25 May 2023 is to be implemented;
  - b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997;
  - c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24 hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Northern Beaches Council and the Certifier.
  - d) A requirement where necessary to complete ongoing water and soils testing during excavation, demolition and development works as follows:
    - (a) During construction in order to monitor water and soil quality the following is to be implemented:
      - i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
      - ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.
    - (b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:
      - i) Fortnightly during excavation works
      - ii) Monthly during building works
  - e) To ensure water quality is maintained runoff must be drained to an adequately bunded central collection sump and treated, to meet The NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) (formerly Environment Protection Authority) discharge criteria.

Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility.

f) All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997; and
- ii) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- g) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

The following standards applied at the time of determination:

- i) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- h) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:
  - 'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the site.
  - Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall be suitable for the use on the land.
  - Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Certifier (prepared in accordance with NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) guidelines).

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **Requirement to Notify about New Contamination Evidence**

Any new information revealed during excavation or demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

### **Imported Fill**

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance

with the Department of Planning and Environment guidelines, the validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the fill being imported to the site.

Reason: To ensure that any imported fill is of an acceptable standard.

#### **Compliance with Contamination Management Plan**

The requirements of the Contamination Management Plan required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

#### **Off-site Disposal of any Contaminated Soil - Chain of Custody**

'Chain of Custody' documentation shall be kept and submitted for the transport of any validated fill material from the site.

Details demonstrating compliance are to be submitted to the Principal Certifier and Council within seven (7) days of transport.

Reason: For protection of environment.

### **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

#### **Positive Covenant for any proposed on site encapsulated of contamination material**

A covenant must be registered on the title of the land, giving notice of the former use, level of site contamination and its former location on the land.

A covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from of any contaminants or for any works required by Northern Beaches Council or any State or Federal Department/Authority.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Environmental Protection if onsite encapsulation is carried out.

#### **Compliance with Contamination Management Plan**

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of the Contamination Management Plan have been compliance with throughout excavation, demolition and development work stages. The certification shall also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

- b) A detailed survey of all sites used for any landfill disposal must be prepared within one month from completion of the remediation work and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.