

## Environmental Health Referral Response - contaminated lands

<b>Application Number:</b>	DA2022/0717
<b>Date:</b>	26/10/2022
<b>Responsible Officer</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 2 DP 402645 , 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 3 DP 402645 , 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 4 DP 402645 , 101 Old Pittwater Road BROOKVALE NSW 2100 Lot 1 DP 402645 , 99 Old Pittwater Road BROOKVALE NSW 2100

### 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

#### General Comments

### Supported – Subject to Conditions

The following contaminated land reports have been provided with the application:

- Detailed Site Investigation by EI Australia dated 1 July 2022 (reference: E25568.E02\_Rev0).
- Remediation Action Plan by EI Australia dated 8 July 2022 (reference: E25568.E06\_Rev0).

The Detailed Site Investigation has identified the following contamination:

- Friable and bonded asbestos were detected in shallow fill at BH7 (depths 0.1-0.2mBGL); and
- Asbestos was also identified in fill soils at two previous locations investigated by JKE (2022), being JKE-BH6 (depths 0.13-0.35 mBGL) and JKE-BH7 (depths 0.2-0.6mBGL).
- TRH-F1 concentrations above the laboratory practical quantitation limit (PQL) were detected at GW-BH1 (170 µg/L), while TRH-F2 concentrations were above the PQL were detected at GW-BH3 (72 µg/L).
- Chlorinated volatile organic compounds (CVOCs) were only detected in groundwater at GW-BH1. The detected contaminants included perchloroethylene (PCE) and its breakdown products cis-1,2-dichloroethene (cis-DCE) and Trichloroethylene (TCE).

The RAP concluded that the site can be made suitable for the proposed land use through the implementation of the site remediation and validation process outlined within the RAP.

The RAP identified that given the proposed development, dewatering of the site is considered likely. Due to the identified contaminants an appropriate Dewatering Management Plan will be required. This

will also need to take into consideration any requirements by Water NSW.

Given the presence of volatile compounds that may require ongoing management along with the proposed basement level carpark, Environmental Health recommends that a Site Auditor be appointed for the development.

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:**

#### **Dewatering Management Plan**

Prior to the issue of any Construction Certificate, a site-specific Dewatering Management Plan is to be prepared. The plan and water quality parameters are to be in accordance with relevant guidelines, any requirements from WaterNSW and take into consideration any contaminants identified within the site contamination reports that may impact on the receiving environment.

The plan is to include but not limited to the following:

- Any requirements from WaterNSW including but limited to the General Terms of Approval Reference Number: IDAS1144380, Issue date of GTA: 12 July 2022;
- Water quality parameters complying with the standards for freshwater ecosystems; and
- Frequency of testing and maintenance of any required equipment.

The Dewatering Management Plan is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy. The Dewatering Management Plan is to be reviewed and approved by appointed Site Auditor and submitted to satisfaction of Council.

Reason: Protection of the Environment.

#### **Appointment of Site Auditor & Review of Contamination Reports by a Site Auditor**

Prior to the issuing of the construction certificate, a NSW EPA accredited Site Auditor is to be appointed for the duration of the works until the issue of a Site Audit statement.

The Detailed Site Investigation by EI Australia dated 1 July 2022 (reference: E25568.E02\_Rev0) & the Remediation Action Plan by EI Australia dated 8 July 2022 (reference: E25568.E06\_Rev0) are to be submitted to the appointed Site Auditor for review and approval prior to issuing the construction certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Protection of the environment, State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

#### **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced

person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the Environment.

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

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

Any new information revealed during remediation, demolition or construction works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to Council, the NSW EPA accredited Site Auditor and the Principal Certifier.

Any variations to the approved Remediation Action Plan shall be submitted to and approved in writing by the Site Auditor and Council prior to the continuing of such work.

Reason: To protect human health and the environment.

### **Dewatering Requirements**

Prior to commencing any excavation works, a Council issued Groundwater Dewatering permit will be required.

The dewatering and water to be discharged must be compliant with the following:

- Terms within Council's Dewatering Permit;
- WaterNSW requirements including but limited to the General Terms of Approval Reference Number: IDAS1144380, Issue date of GTA: 12 July 2022;
- The approved Dewatering Management Plan;
- Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book); and
- Protection of the Environment Operations Act 1997.

The ongoing testing of the water to be discharged is to be carried out as per any WaterNSW requirements, the approved Dewatering Management Plan and within forty-eight (48) hours of request by Council.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources and to ensure discharges remain within the capacity of the local stormwater system or waterway.

### **Contamination management**

All remediation and validation works are to be carried out in accordance with the Remediation Action Plan (RAP) that has been reviewed and approved by the Site Auditor.

Any Recommendations within the approved RAP must be followed during works.

Reason: Protection of the environment, State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

## **Hazardous Building Materials**

Any recommendations within the Hazardous Building Materials Register are to be implemented during works.

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To protect human health.

## **Dust Control Measures**

Dust control measures, including best practice and in accordance with NSW Workplace Health and Safety Regulations and the Protection of the Environment Operations Act 1997, shall be implemented to minimise dust to neighbouring residents and businesses and ensure any airborne substance is kept within the boundaries of the site.

Measures may include but not be limited to:

- Water sprays
- Bunker storage
- Limiting size of stockpiles and covering stock piles
- Vertical barriers e.g. fencing with fine mesh attached
- Exhaust and capture

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution.

## **Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an

appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

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

### **Long-term Environmental Management Plan (EMP)**

On completion of remedial works, if ongoing management of any residual contamination is required a long-term Environmental Management Plan (EMP) is to be prepared for the long-term management of any residual contamination remaining onsite. The EMP is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy.

The EMP shall describe the nature and location of the contamination and prescribe how the contaminants will be managed and the responsible parties for this management in the long-term.

The EMP must be submitted for review and approval by Council and approved by the Site Auditor prior to the issue of the Site Audit Statement.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Manage contaminated land in a way that protects human and environmental health.

### **Site Audit Statement**

Upon completion of the works, a Site Audit Statement must be submitted to Council and the Principal Certifying Authority on completion of remediation works. The Site Audit Statement must be prepared by a Site Auditor registered with the NSW Department of Planning, Industry and Environment (DPIE) and must be in accordance with the EPA's Site Audit Scheme and the protocol outlined in the NSW EPA (1997) document entitled Guidelines for Consultants Reporting on Contaminated Sites, and the NSW EPA (2017) Guidelines for the NSW Site Auditor Scheme. The Site Audit Statement must state the following:

- That the remediation and validation has been completed in accordance with the approved Remediation Action Plan and that the site is suitable for its proposed use; and
- That if any long-term Environmental Management Plan (EMP) is required, that the EMP is suitable for the sites proposed use.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with Contaminated Land Guidelines and protection of environment and human health

### **Validation for Remediation**

At the completion of remediation works a validation report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy and submitted to the satisfaction of the Principal Certifying Authority.

The Validation Report must be in accordance with the requirements of the following:

- State Environmental Planning Policy (Resilience and Hazards) 2021 compliance;
- Contaminated Land Management Act 1997;
- Relevant NSW EPA guidelines including the NSW EPA Guidelines for Consultants reporting on contaminated Land: Contaminated land guidelines 2020

The report shall document the following:

1. The extent of validation sampling, and the results of the validation testing; and
  2. That the remediation and validation of the site has been undertaken in accordance with the Remediation Action Plan (RAP) that has been reviewed and approved by the Site Auditor.
- Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Manage contaminated land in a way that protects human and environmental health.

### **Positive Covenant for encapsulated contamination**

If there is any residual contamination remaining onsite, the applicant must register a covenant on the title of the land under Section 88E of the Conveyancing Act 1919, to indicate that contamination is being managed under a management plan onsite.

The covenant shall be binding upon the registered proprietors of the subject land and successors on the title, binding the owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the residual contamination. This covenant shall also include, but not necessarily be limited to, the following;

- i) Survey delineating the position, depth and dimensions of any containment cells.
- ii) The Environmental Management Plan as reviewed by the NSW EPA accredited site auditor, as required by the development consent.

Details demonstrating compliance are to be submitted to Council and the Principal Certifier, prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure any residual contamination is managed appropriately in a way that protects environmental and human health.

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **Compliance with Long-term Environmental Management Plan (EMP) – If Required**

If a long-term Environmental Management Plan (EMP) is required for the long-term management of any residual contamination remaining onsite, the requirements of the EMP are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Any future intrusive ground works carried out that have the potential to conflict with any residual contamination remaining onsite must only be carried out in accordance with the EMP.

Reason: To ensure any residual contamination is managed appropriately in a way that protects environmental and human health.

