



DOC21/123029

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655  
Attention Lashta Haidari

Email: [daplanningportal@northernbeaches.nsw.gov.au](mailto:daplanningportal@northernbeaches.nsw.gov.au)

Attention: Lashta Haidari,

**Re: Modification Application No. MOD2020/0611, 100 South Creek Road, Cromer, NSW**

Thank you for your request for the EPA to comment on modification application (Ref: MOD2020/0611) for 100 South Creek Road, Cromer, NSW (the site, also known as 4-10 Inman Road, Dee Why, NSW). Please note that the EPA has previously provided comment on the development application subject to this modification (DA 2019/1346) in a letter to Northern Beaches Council (Council) dated 18 May 2020 (EPA Ref: DOC20/354050).

Please find below information on the site's contamination and regulatory status, as well as the EPA's recommendations regarding draft conditions of consent for the modification.

**Background to Site Contamination and Regulation by the EPA**

The site was previously used for various commercial and industrial activities including wire cable manufacturing, pharmaceutical laboratories, storage of chemicals and petroleum products, and commercial distribution. Some of these activities have caused contamination of the land.

The EPA has assessed this contamination and in June 2016 we declared part of the land to be "significantly contaminated" as defined under the *Contaminated Land Management Act 1997* (CLM Act). The land was declared because groundwater beneath the site was contaminated with benzene and trichloroethylene and the contamination plume had migrated off-site to the south. We also consider that without suitable management, people and/or ecological receptors could potentially be exposed to these contaminants. The EPA's declaration means that we have powers to regulate the management of contamination in the declared part of the site.

Following our declaration in 2016, the site owner at the time, Roche Products Pty Ltd (Roche) provided us with a Voluntary Management Proposal (VMP) for remediation works to address the reasons for the declaration. Environmental investigations and remediation works have been progressed by Roche in accordance with a remedial action plan developed under the VMP. Roche have been remediating the site under a series of staged VMPs due to the complex nature of the contaminants and time taken to remediate the site. Roche are currently working through their fourth VMP (VMP Approval No. 20191730), which includes in-situ chemical oxidation (ISCO) events and soil vapour extraction events. The works under the current VMP are due for completion by April 2022. It remains possible that further remediation works will be required for several years following the completion of these works.

## **EPA Comments for Modification Application MOD2020/0611**

In preparing this letter, the EPA has reviewed the document *Willow Tree Planning, Application for Modification of DA2019/1346 Alterations and Additions to an Existing Industrial Facility, 4-10 Inman Road, Cromer (Lot 1 DP 1220196)*, along with other supporting documents for modification application MOD2020/0611 which are publicly available on Council's website.

The EPA notes that the overall intent of the proposed modification is to “*resolve the configuration of the approved self-storage facility at the basement level, which would align with the requirements of the intended end use*” and that the proposed modification seeks to change the double height basement to a single level with a larger footprint. Our comments on this proposal are below:

### *Contamination in non-declared parts of the site*

*Table 2: Development Images Comparison*, contained in the modification application, shows the car park has been relocated to the north-east, presumably outside of the EPA declared area. The carpark is proposed to be replaced by self-storage units. The EPA notes that although only a portion of the overall site is declared as significantly contaminated land, other areas of the site may also contain residual contamination which would warrant further assessment and management. Contaminants could include asbestos, heavy metals, petroleum hydrocarbons, and chlorinated hydrocarbons.

### *Suitability of the Site for the Proposed Development*

The EPA notes that the application includes a Site Audit Report dated 20 April 2018 for the “*Part A Unregulated Area, 4-10 Inman Road, Dee Why, NSW*”. The Site Audit Statement concluded that the site was suitable for commercial/industrial purposes (and a range of other land uses), however that “*should basement car parking and/or other excavations potentially requiring dewatering of Part A be considered, then reconsideration of the suitability of the Site may be required*”. Based on the approved development consent and proposed modification application, the EPA considers that the Auditor engaged for the development will need to reassess the suitability of the site based on the actual proposed land use, as described in the development application and modification documents.

### *Timing of Remediation and Development*

The EPA understand that Roche's remediation schedule may be disrupted should the development interfere with their key monitoring and injection well network. If the well network is damaged, new monitoring wells may need to be installed which will lead to a longer time to remediate the site. The VMP agreement is currently between the EPA and Roche.

## **The EPA recommends the following draft consent conditions for the proposed modification:**

1. The recommended consent conditions provided by the EPA for DA 2019/1346 (see: attached) continue to apply for MOD2020/0611.
2. Any variations to the approved Remediation Action Plan must be approved in writing by the Site Auditor.
3. If work is to be completed in stages, the Site Auditor must confirm satisfactory completion of each stage by the issuance of Interim Audit Advice/s.
4. The applicant must obtain a Section A1 Site Audit Statement - or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan - from a Site Auditor and submit it to the consent authority prior to commencement of occupation. The Site Audit Statement must certify the site is suitable for its use.

Please also note that the EPA recommends use of “certified consultants” for contaminated land matters. The EPA’s Contaminated Land Consultant Certification Policy (<https://www.epa.nsw.gov.au/publications/contaminatedland/18520-contaminated-land-consultant-certification-policy>) supports the development and implementation of nationally consistent certification schemes in Australia, and encourages the use of certified consultants by the community and industry. Note that the EPA requires all reports submitted to the EPA to comply with the requirements of the CLM Act to be prepared, or reviewed and approved, by a certified consultant.

If you have any questions, please do not hesitate to contact Brenda Ioffrida on 02 9995 5195 or [Brenda.Ioffrida@epa.nsw.gov.au](mailto:Brenda.Ioffrida@epa.nsw.gov.au) regarding the ongoing regulation of the site, or Andy Hawkins on (02) 9995 5793 or [andrew.hawkins@epa.nsw.gov.au](mailto:andrew.hawkins@epa.nsw.gov.au).

Yours sincerely

Yours sincerely



23 February 2021

**STEVEN TAN**  
**Acting Unit Head – Regulatory Operations Metro North**  
**Environment Protection Authority**

cc:

1. Northern Beaches Council Mailbox - [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)
2. Rosemary Roche, Northern Beaches Council - [rosemary.roche@northernbeaches](mailto:rosemary.roche@northernbeaches)

Attachments:

1. EPA letter to Northern Beaches Council re: DA2019/1346 for 4-10 Inman Street, Dee Why, 18 May 2020.

**Attachment 1: EPA letter to Northern Beaches Council re: DA2019/1346 for 4-10 Inman Road, Dee Why, 18 May 2020**



DOC20/354050

Northern Beaches Council  
Environmental Health  
Attn: Ms Rosemary Roche

Email: [Rosemary.Roche@northernbeaches.nsw.gov.au](mailto:Rosemary.Roche@northernbeaches.nsw.gov.au)

Dear Rosemary

Thank you for your request to comment on development application (Ref. DA2019/1346) for 4-10 Inman Street, Dee Why.

As we discussed, this land is declared as significantly contaminated under the *Contaminated Land Management Act 1997* (CLM Act) due to groundwater contaminated with benzene and trichloroethylene. In January 2020, the EPA approved the terms of a Voluntary Management Proposal (VMP) from Roche Products Pty Ltd (Roche) to regulate the next phase of remediation of the land under the CLM Act. Council were provided copies of both Notices, as it is a requirement for Council to include the existence of these on the planning certificate certificates issued under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

We have reviewed the Willow Tree Planning, *Statement of Environmental Effects, Proposed alterations and additions to an existing industrial facility, offices and ancillary café*, November 2019 as well as the letter from Andrew Cowan from Willow Tree Planning, 4 March 2020 *Re: Response to Request for Additional Information from Environmental Health – Contaminated Lands (DA2019/1346) Property at 4-10 Inman Road, Cromer (Lot 1DP1220196)*. We have also looked at other documents on the Northern Beaches Planning website for DA2019/1346 including the building plans and the JK Geotechnical *Preliminary Assessment Report*, 18 August 2017.

In the Statement of Environmental Effects, the applicant indicates that there will be a basement carpark as well as self-storage areas excavated below ground level. These are shown on the plans attached to the application, and it appears that the area currently being used to remediate groundwater is planned to be light industrial units with a basement car park. The geotechnical assessment mentions the potential need to excavate and tank the basement near the southern portion of the site (the remedial area) and pump groundwater.

The Statement of Environmental Effects acknowledges that *Roche, in conjunction with ERM, are in the process of undertaking the necessary remediation works. Roche have advised that the Site Audit Statement and close out for the regulated portion of the site is projected for 2027*. In the letter to council, Willow Tree Planning state that they believe the VMP will be completed in advance of the dates specified, and that the shallow TCE plume is being remediated.

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## **Current Status of the Groundwater Remediation**

Roche provided the EPA with a status update of the groundwater remediation, which is summarised below. They also attached a list of reports (enclosed with this letter), if you would like to request any for information.

The remediation works are currently in a period of groundwater monitoring and data evaluation following the second In-Situ Chemical Oxidation (ISCO) injections in July 2019. The focus of the monitoring is to evaluate the effects of the ISCO on Chlorinated Volatile Organic Compound (CVOC) concentrations in groundwater and to monitor the persistence of injected oxidant (sodium permanganate) in the subsurface. Contaminant concentrations in groundwater have reduced and CVOC concentrations are currently below the primary remediation criteria, but there is potential for rebound of concentrations as the oxidant ceases to actively reduce CVOCs. The EPA is concerned about this potential for rebound, hence it is necessary to closely monitor the contaminant concentrations in groundwater.

The next injection (currently scheduled for late 2021) will go ahead only if the oxidant previously injected has been used up in the aquifer AND if the contamination concentrations rebound. This will be confirmed by close monitoring of the groundwater concentrations. Monitoring is also required because groundwater levels were lowered over the last year, which resulted an increase in the generation of vapours, especially in the area of Building 18 (currently on site). Water levels have since recovered.

### **EPA Comments on DA2019/1346**

#### **Estimated time until the site is remediated.**

The EPA would like to emphasise that the completion of the actions under the current approved Voluntary Management Proposal Ref. 20191730 is not the completion of the groundwater remediation.

This is Roche's fourth staged VMP for the investigation and remediation of the contaminated groundwater. The final action on the current VMP is the submission of a new VMP (June 2022) with the future management actions to be based on the information being currently collected.

The EPA agree with Roche in terms of the timescale, that it is estimated to be years for the ongoing regulation of the remediation of groundwater on this site with the current remediation approach.

#### **The EPA's agreement for the remediation is with Roche. However, this approved VMP could be replaced by any other proposal from any other interested party.**

If the new site owner (and applicant for the development) intends to remediate the site associated with the proposed development or in a more timely manner, they must submit a proposal to the EPA for review and approval, which should include a remedial action plan. Please contact the EPA for more information if this is the preferred option for management of the contamination.

#### **The EPA has concerns regarding the potential effects of the proposed development on the current remediation at the site.**

The plans show that the development includes a basement level across the majority of the area declared as significantly contaminated, including the areas of groundwater contamination. The development would require the removal of the infrastructure currently being used to remediate the groundwater including injections wells and many of the monitoring wells. There is potential for a portion of the network to be re-installed during construction, but if this goes ahead it will be difficult to compare data when evaluating the success of the remediation. Further, if the data from the current VMP shows that further In-Situ Oxidation injections are required, this will be difficult to perform in a basement. We would assume however, that any potential risks associated with the proposed development, including the construction of a basement and dewatering of contaminated

groundwater, would be addressed by Council under the conditions of consent for development and in accordance with *State Environmental Planning Policy No. 55 - Remediation of Land*.

There is also potential for the excavation and construction to extend remediation timeframes.

**The EPA recommends the following draft consent conditions for the development:**

1. Prior to the commencement of construction, the Applicant must engage an auditor accredited under the CLM Act (Site Auditor) throughout the duration of works to ensure that any work required in relation to soil and/or groundwater contamination is appropriately managed.
2. The Applicant must conduct site investigations to determine the full nature and extent of the contamination at the project area. The site investigations must be undertaken, and the subsequent report/s, must be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.
3. At the completion of the site investigations, the Applicant must provide a Remediation Action Plan to ensure the site will be suitable for the proposed use when the RAP is implemented. The Remediation Action Plan must be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.
4. Prior to commencing the remediation, the Applicant must submit Interim Audit Advice or a Section B Site Audit Statement from the Site Auditor that certifies that the site can be made suitable for the proposed use subject to the implementation of the Remediation Action Plan.
5. The applicant must adhere to the management measures in the Remediation Action Plan which were approved by the Site Auditor.
6. Any variations to the approved Remediation Action Plan must be approved in writing by the Site Auditor.
7. If work is to be completed in stages, the Site Auditor must confirm satisfactory completion of each stage by the issuance of Interim Audit Advice/s.
8. The applicant must obtain a Section A1 Site Audit Statement - or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan - from a Site Auditor and submit it to the consent authority prior to commencement of occupation. The Site Audit Statement must certify the site is suitable for its use.

Please also note that the EPA recommends use of “certified consultants” for contaminated land matters. Please note that the EPA’s Contaminated Land Consultant Certification Policy (<https://www.epa.nsw.gov.au/publications/contaminatedland/18520-contaminated-land-consultant-certification-policy>) supports the development and implementation of nationally consistent certification schemes in Australia, and encourages the use of certified consultants by the community and industry. Note that the EPA requires all reports submitted to the EPA to comply with the requirements of the CLM Act to be prepared, or reviewed and approved, by a certified consultant.

If you have any questions, please do not hesitate to contact Olivia Patterson on 02 9995 5798 or [Olivia.patterson@epa.nsw.gov.au](mailto:Olivia.patterson@epa.nsw.gov.au) or for the ongoing regulation of the site; Sarah Dorward on (02) 4908 6838 or [sarah.dorward@epa.nsw.gov.au](mailto:sarah.dorward@epa.nsw.gov.au).

Yours sincerely



18 May 2020

**BEN LIVISSIANIS**  
**Unit Head Regulatory Operations**  
**Environment Protection Authority**