

Environmental Health Referral Response - contaminated lands

Application Number:	DA2020/1027
Date:	09/02/2021
Responsible Officer	Jordan Davies
Land to be developed (Address):	Lot 1 DP 1129384 , 0 Stuart Street MANLY NSW 2095

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

Application is for the alterations and additions to the existing café Stuart Street, Little Manly Reserve, Manly.

SEE advises the following:

The development proposes a small rear extension including cold storage and freezer rooms and a bin storage area, as well as a reorganisation of the existing interior of the café and an addition to the outdoor seating area.

The site (Lot 1 DP 1129384) is located adjacent to the former Manly Gasworks that is classed as significantly contaminated land under Contaminated Land Management Act 1997 (CLM Act) this includes Lot 2 Sec 13 DP 975494 that is located directly adjacent to Lot 1 DP 1129384.

Under the EPA Maintenance of Remediation Notice No. 28008 there are the following Maintenance requirements for Lot 2 Sec 13 DP 975494:

3. Maintenance requirements

The EPA requires the recipient to maintain the following remediation action in relation to the land:

- a) The occupier of the land must refrain from disturbing any part of the land below a depth of one half metre (0.5m) unless prior written approval from the EPA is obtained; and*
- b) The occupier of the land is to cease work immediately and notify the EPA if gasworks waste material is intercepted at depths less than 0.5m.*

While the site (Lot 1 DP 1129384) is not subject to the EPA Maintenance of Remediation Notice there are potential concerns due to the site being located adjacent to a contaminated site.

Some of the proposed works will likely involve the disturbance of subsurface soils including:

- Construct a new cool room, freezer room and bin storage area at the rear of the existing café and the construction of an enclosed slab behind the new cool room for the condensers; and
- The removal of an existing grease trap and the installation of a new underground grease trap.

The proposal is not for a change of use however, as part of SEPP 55 a Consent Authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Consideration needs to be given to the environmental risks during construction and operation of the development. This includes work safety issues and the potential for construction to disturb

contamination and cause off-site movement of chemicals.

A preliminary site investigation (Stage One) by a suitably qualified and experienced environmental consultant is required in accordance with SEPP 55 and NSW EPA guidelines in order to establish if there will be any risks from contamination during the construction and operation of the development.

Depending on the outcome of the preliminary site investigation, a detailed site investigation (Stage 2) by a suitably qualified and experienced environmental consultant may also be required in accordance with SEPP 55 and NSW EPA guidelines.

If the land is found to be contaminated and not suitable for the proposed development, a Remedial Action Plan (RAP) by a suitably qualified and experienced environmental consultant in accordance with SEPP 55 and NSW EPA guidelines will also be required for the remediation of the land.

Recommendation

REFUSAL

New Information – Additional Review 9 February 2021

The applicant has submitted a Preliminary Site Investigation by Martens and Associates dated 14 January 2021 (reference: P208072JR01V01). The report concluded/recommended the following:

Based on the site history, no significant risk to current or future receptors is expected at the site. No further investigation for contamination is warranted. If any unexpected finds (such as fibro material, odours or soil staining) are encountered at a later date, the unexpected find will require assessment by MA to determine requirements for additional investigation and / or remedial action.

Recommendation

APPROVAL - subject to conditions

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 COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Requirement to Notify about New Contamination Evidence

Any new information revealed during 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 Certifying Authority.

Reason: To protect human health and the environment.