

10 March 2020

Principal Healthcare Finance Pty Ltd  
Level 27 135 King Street  
Sydney NSW 2000

Dear Sir/Madam

**Application Number:** Mod2020/0007  
**Address:** Part Lot 2 DP 595174 , 184 Garden Street, WARRIEWOOD NSW 2102  
**Proposed Development:** Modification of Development Consent N0123/17 for a new residential aged care facility to amend condition 22 to require compliance with an Environmental Management Plan.

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Anne-Marie Young  
**Planner**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	Mod2020/0007
<b>Determination Type:</b>	Modification of Development Consent

### APPLICATION DETAILS

<b>Applicant:</b>	Principal Healthcare Finance Pty Ltd
<b>Land to be developed (Address):</b>	Part Lot 2 DP 595174 , 184 Garden Street WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Modification of Development Consent N0123/17 for a new residential aged care facility to amend condition 22 to require compliance with an Environmental Management Plan.

### DETERMINATION - APPROVED

<b>Made on (Date)</b>	10/03/2020
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The request to modify the above-mentioned Development Consent has been approved as follows:

#### A. Modify Condition 22 (Detailed Site Investigation) to include the following:

##### (a) Contaminated Land Requirements

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 Certifying Authority. The plan shall detail:

- a) How all the requirements and / or recommendations contained within the Contamination Reports entitled # numbered # prepared by # and dated are to be implemented;
- b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, 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 Warringah Council and the Principal Certifying Authority.
- d) A requirement 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 contaminates 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 NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

Note: 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.

Note: 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.

Note: 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 at (\*), to the subject premises.
  - Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall 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 Principal Certifying Authority (prepared in accordance with the Department of Environment & Climate Change's guidelines).

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

Reason: Protection of the environment, SEPP 55 compliance.

### **(b) Review of RAP by a Site Auditor**

The Remedial Action Plan (RAP) prepared by JBS&G Australia Pty Ltd (Ref: 55792/124336 (Rev 0)) and dated 3 September 2019 is to be submitted to a NSW Environmental Protection Authority accredited Site Auditor for review and approval 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: Protection of the environment, SEPP 55 compliance.

### **(c) Site Remediation Works/ Remediation Action Plan**

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.

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

#### **(d) Validation of Remediation**

A validation and site monitoring report, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must submitted to the Site Auditor for review and approval prior to the issue of the Site Audit Statement.

The plan must identify 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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Protection of the environment, SEPP 55 compliance.

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

A long-term Environmental Management Plan (EMP) is to be prepared by a suitably qualified Environmental Consultant for the long-term management of any residual contamination remaining onsite. The EMP must be 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 minimises the impact of environment or human health.

#### **(f) Positive Covenant for Encapsulated Contamination**

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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Environmental Protection.

#### **(g) Site Audit Statement / Validation Report**

Upon completion of the works and validation a Site Audit Statement must be submitted to Council. 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 Remediation Action Plan and that the site is suitable for its proposed use; and
- That the long-term Environmental Management Plan (EMP) prepared for the site is suitable for its 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

#### (h) Compliance with Long Term Environmental Management Plan

The long-term Environmental Management Plan (EMP) for the management of the residual contamination remaining onsite is to be implemented and complied with at all times by the owner/occupier.

Reason: To ensure compliance with the EMP and to manage the encapsulated contamination in a way that minimises the impact of environment or human health.

## Important Information

This letter should therefore be read in conjunction with

#### Planning Principles

In a merit consideration of the proposal, consideration of the development has been given against the Land and Environment Court Planning Principle in relation to The extent of demolition - alterations and additions or a new building detailed in Edgar Allan Planning Pty Limited v Wollahra Municipal Council [2006] NSWLEC 790 as follows:	
Will the development result in an alteration to an existing by more than half (50%) of the existing external fabric of the building is demolished?  (Note: The area of the existing external fabric is taken to be the surface area of all the existing external walls, the roof measured in plan and the area of the lowest habitable floor)	NO
Is the development considered to be Alterations and additions; or	NO
Is the development considered to be a new building	YES

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

### **Right to Review by the Council**

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

### **Right of Appeal**

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

*NOTE: A fee will apply for any request to review the determination.*

**Signed**                      On behalf of the Consent Authority



Name                      Anne-Marie Young, Planner

Date                      10/03/2020