



07 December 2022

Mr David Springford
TOGA
by email

INTERIM ADVICE 04: REVIEW OF DETAILED SITE INVESTIGATION AND REMEDIAL ACTION PLAN

Dear David,

1. INTRODUCTION

1.1. Background

Mr David Springford of TOGA engaged Rod Harwood, a NSW EPA accredited Contaminated Land Auditor (accreditation no. 03-04) who is employed by Harwood Environmental Consultants (HEC), to provide Contaminated Site Audit Services for the Site located at 2-8A Lee Street, Haymarket NSW, identified as Lot 30 in DP1062447. Rod Harwood is an Auditor accredited by the NSW EPA (accreditation number 03-04) who has worked with a wide range of consultants to provide practical and competent outcomes and resolutions on contaminated site issues.

The final outcome of this engagement is to prepare a Site Audit Statement (SAS) and associated Site Audit Report (SAR) in accordance with the Guidelines for the NSW Site Auditor Scheme (3rd Edition), 2017, indicating the suitability of the Site for the proposed redevelopment as a multi-storey commercial tower with a three-level basement and access tunnels beneath neighbouring sites.

It is understood that the Site is a State Significant Development and that standard Secretary's Environmental Assessment Requirements (SEARs) have been formed. It is understood that Douglas Partners are in charge of Geotechnical and Environmental Services and will prepare a Detailed Site Investigation and RAP given the current restricted access to the site. Douglas will then complete a more rigorous DSI and potential RAP once buildings have been demolished

The Audit is therefore considered to be statutory.

While Interim Audit Advice is provided to assist in the assessment and management of contamination issues at the site, the Interim Audit Advice should not be regarded as 'approval' of any proposed investigations or remedial activities, as any such approval is beyond the scope of an independent review.

This letter of interim advice has been produced to satisfy the requests submitted by City of Sydney Council and the Department of Planning and Environment (DPE):

City of Sydney Submission item 9. Contamination

Recommendation:

- *The DESI and RAP must be reviewed by a NSW EPA Accredited Site Auditor and include a Section B Site Audit Statement or letter of interim advice issued by the Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before any consent is granted.*

DPE request item 44

Contamination

44. *Provide an interim advice letter prepared by a Site Auditor to certify the RAP is appropriate and the site can be used for its intended purpose.*

1.2. Site Audit Process

EPA (2017) Contaminated Land Management: Guidelines for the NSW Site Auditor Scheme (3rd Edition), describes the site assessment and Audit process:

The **‘first tier’ is the work of a contaminated site consultant**, generally engaged by the site owner or developer. The contaminated site consultant designs and conducts a site assessment and any necessary remediation and validation and documents the processes and information in reports.

The **‘second tier’ is the site audit**, which involves a site auditor independently and at arm’s length reviewing, for one of the audit purposes stated in the CLM Act, the consultant’s assessment, remediation, validation and management plans or reports. The material outcomes of a site audit are a site audit report and a site audit statement.

It is important to note that with respect to waste management on contaminated sites, the EPA Contaminated Land Management: Guidelines for the NSW Site Auditor Scheme (3rd Edition) state:

- a. When reviewing information relating to the management of waste, site auditors must have regard to the provisions of the NSW Government’s framework for managing wastes. In New South Wales, it is an offence to transport waste to a place that cannot lawfully receive it or use a site to receive waste that cannot lawfully be used as a waste facility. To ensure that waste generators (or their representatives) do not trigger such offences:
- b. in relation to disposal, they must ensure their waste is carefully classified in accordance with the Waste Classification Guidelines – Part 1: Classifying Waste (EPA 2014) as in force from time to time (the ‘Waste Guidelines’, available from Waste classification guidelines: www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines), and the waste is taken to a facility that is lawfully able to receive that waste; and
- c. in relation to re-use for land application purposes, they must ensure their waste meets the requirements of the resource recovery order and resource recovery exemption framework.

For consultants who have been engaged to classify waste, or to assist their client in complying with the order and exemption framework, they must ensure their work complies with all of the requirements of the Waste Guidelines, and the relevant order and exemption. It is an offence to supply information about waste that is false or misleading.

Part 4 Section 53B of the CLM Act describes that Site Audits conducted by EPA Accredited Site Auditors must take the following matters into account:

- a. the provisions of the CLM Act and the CLM Regulations;
- b. the provisions of any environmental planning instruments applying to the site; and
- c. the guidelines made or approved by the EPA.

Therefore, the contaminated land consultant and other relevant parties should be satisfied that the work to be conducted conforms to all appropriate regulations, standards and guidelines and is suitable based on the site history and the proposed land use.

At the completion of the Site Audit process, the Site Auditor must complete a Site Audit Statement (form provided by EPA which only accredited site Auditors may sign under the Contaminated Land Management Act 1997) supported by a Site Audit Report (comprehensive critical review of all contamination assessment

and remediation conducted at the site). However, the Auditor may provide written interim advice on the work plans or reports in the lead-up to issuing the final Site Audit Statement at the end of the entire Audit.

When this Interim Advice is provided, the Site Auditor must:

- a. specify that the Interim Advice does not constitute a Site Audit Report or Statement;
- b. ensure the Interim Advice is consistent with NSW EPA guidelines and policy;
- c. not pre-empt the conclusion to be drawn at the end of the Site Audit process;
- d. clarify that a Site Audit Statement will be issued at the end of the Audit process; and
- e. document in the Site Audit Report all Interim Advice that was given.

Section 3.1 of the Auditor Guidelines states that the site auditor must meet the following particular requirements regardless of whether the audit is statutory or non-statutory:

- a. comply with applicable provisions of the CLM Act, regulations, environmental planning instruments, and any guidelines made or approved by the EPA under the CLM Act
- b. not have a conflict of interest in relation to the audit as defined by the CLM Act
- c. where these guidelines allow an auditor to adopt or endorse an approach that differs from policies made or approved by the EPA, exercise independent professional judgement in doing so and provide in the site audit report adequate and explicit justification for taking this course
- d. finalise the site audit report before signing the site audit statement
- e. provide in the site audit report a clear, logical discussion of issues covered in the site audit and clearly substantiate the rationale for the auditor's conclusions Therefore, the contaminated land consultant and other relevant parties should be satisfied that the work to be conducted conforms to all appropriate regulations, standards and guidelines and is suitable based on the site history and the proposed land use.
- f. discuss in the site audit report all issues pertinent to the actual or potential contamination of the site and all issues required by these guidelines to be raised during a site audit
- g. state clearly why any human health and environmental issues that would normally be of concern are not of concern in the case of this audit
- h. make every reasonable effort to identify and review all relevant data, reports and other information held by the person who commissioned the site audit, or which is readily available from other sources, that provides evidence about conditions at the site which is relevant to the audit
- i. obtain advice from the appropriate expert support team members on issues that are outside the auditor's professional education, training or experience, and document in the site audit report where and from whom advice has been obtained
- j. exercise independent and professional judgement in deciding whether or not they have sufficient information to make a decision about the suitability of a site or a plan or to draw any other conclusion in relation to actual or potential contamination of a site in the course of a site audit, with justification for conclusions to be given in the site audit report
- k. make reasonable endeavours to find out whether any other audits have been commissioned in relation to the site and, if so, whether any of them were prematurely ceased and why
- l. state in the audit report the scope and findings of any previous audits
- m. in cases where the audit involves a review of site assessment, remediation or management work, visit the site to observe and verify, as far as is practicable, the completion of this work.

2. INTERIM ADVICE

The current interim advice provides comments on the following documents:

- Douglas Partners, "Report on Detailed Site Investigation (Contamination)", 2-8a Lee Street, Haymarket, Ref: R.002.Rev3, dated 28 November 2022.
- Douglas Partners, "Remedial Action Plan", 2-8a Lee Street, Haymarket, Ref: R.003.Rev1, dated 28 November 2022.

3. AUDITOR SUMMARY OF DETAILED SITE INVESTIGATION:

A review and summary of the reports with respects to the Auditors scheme is provided below:

Report	Summary
Douglas Partners: Detailed Site Investigation (2022-Rev3)	<p>Key information from the Douglas Partners (2022) Detailed Site Investigation (DSI) regarding the amendments and additional information requested by the auditor in IA_03 are summarised below. Information which has been summarised in previous letters of Interim Advice (IA_01, IA_02, IA_03) has not been included in this summary.</p> <p>As summarised in Letter of Interim advice 03, the following comments required addressing prior to the Auditor's approval:</p> <ul style="list-style-type: none"> • <i>Executive summary:</i> <ul style="list-style-type: none"> – Scope of works and summary of key findings are not included. <p>Douglas Partners have included the scope of works and key finding in the executive summary.</p> <p>This satisfies the Auditors comment.</p> <p><i>Results:</i></p> <ul style="list-style-type: none"> • <i>A plan showing the extent of soil and ground contamination exceeding assessment criteria is not included. This includes waste classification criteria and classifications.</i> <ul style="list-style-type: none"> – <i>The Auditor notes that a figure showing the extent of fill material should be included as it is noted that fill ranged from 1.2m to 3.5m in the DSI.</i> <p>Drawing 3 has been produced by Douglas Partners which includes the maximum known depth of fill, inclusive of refusal before extent determined could be determined. The drawing also included the location of the asbestos detection and preliminary waste classification (GSW Asbestos).</p> <p>This figure satisfies the Auditors comments.</p> <p><i>Site Characterisation</i></p> <ul style="list-style-type: none"> • <i>Aesthetic issues have not been assessed.</i> <p>A summary of aesthetic conditions has been provided in Section 10.1, identifying no aesthetic issues under commercial land uses.</p> <p>This satisfies the Auditors comment.</p> <ul style="list-style-type: none"> • <i>Chemical degradation of chemicals not assessed.</i> <p>Douglas Partners have provided comment of the degradation of asbestos materials (only contaminant above SAC) in section 11.1. Stating the potential for weathering of ACM to form friable asbestos.</p> <p>The Auditor is satisfied with this amendment.</p> <p><i>Additional comments</i></p> <ul style="list-style-type: none"> • <i>The twelve locations satisfy the minimum sampling density for the Site area of 0.4159ha, which requires a minimum 11 sampling locations. However, the total sampled locations was only ten locations, meaning further investigations may be required.</i> <p>The Auditor is satisfied that this has been addressed in Section 12 of the report, identifying the requirement for additional investigations post demolition.</p> <ul style="list-style-type: none"> • <i>Site assessment criteria selection should be justified according to the land use and sources listed in Section 9 of the report. Detailed tabulation of the criteria be presented as current in Appendix C.</i> <p>A summary of the justification for site assessment criteria is provided in Appendix F and the has been tabulated in Appendix C.</p> <p>This satisfies the Auditors comment.</p>

Key information from the Douglas Partners (2022) Remedial Action Plan (RAP) regarding the remediation and validation procedure are summarised in previous letter of Interim Advice (IA_03) has not been included in this summary.

As summarised in Letter of Interim advice 03, the following comments required addressing prior to the Auditor's approval:

- *Remediation Criteria*
 - Rationale for selection of criteria not provided.

Section 12.1 of the report has been updated to include the rational for criteria selection.
This satisfies the Auditor's comment.

- *Results*
 - Site plans showing areas of extent of remediation and waste pre-classification not included.
 - The Auditor notes that the pre-classified waste areas should be displayed on a figure. Including the location of the asbestos detection and the extend of pre-classification.

Drawing 3 as per the updated DSI has been included in the RAP, which identifies the known extent of fill and pre-classified waste area.

This satisfies the Auditor's comment.

- *Remediation assessment:*
 - Schedule and hours of remediation not included (currently only states will be conducted within the days and hours specified in the development consent)
 - Names and numbers of appropriate contacts for Site personnel to contact during remediation currently listed as "TBC" .

Douglas Partners have noted that the schedule and hours of remediation and site contacts cannot be included within the RAP until Council provide consent for the development.

The Auditor agrees with this determination by Douglas Partners. This statement is suitable for the RAP and DA consent by Council.

Further comment on this is provided in section of this letter.

- *Waste Classification*
 - Reporting requirements of waste classification reporting are not included.
 - Currently no plan for waste tracking is provided, only a statement that it will be tracked.

Section 14 of the RAP has been updated to include relevant waste classification guidelines and sampling density directly outlined in the text. This section also includes the statement requiring all materials to be tracked from "cradle to grave" with all consignment notes / receipts to be kept for racking purposes.

The Auditor is satisfied with the amendment.

- *Conclusion and recommendations*
 - A summary of the activities and site changes proposed for the site is not included.

A summary of the site activities and site changes has been included in Section 11 of the report.

The Auditor is satisfied with this amendment.

- *Additional to the comments above, the Auditor notes the following issues:*
 - A figure showing the extent of fill material should be included as it is noted that fill ranged from 1.2m to 3.5m in the DSI.

Drawing 3 has been included and **satisfies the Auditor's comment.**

- An estimation of the volume for excavated of materials from the cell and general site area (fill and natural) should be included in Section 9.

Douglas Partner have outlined the general areas for remediation based on the current sampling location and data, they then state that the "actual extent" of the remediation will be established subsequent to the results of the data gap investigation.

The Auditor is satisfied with the justification provided by Douglas Partners.

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- *The source for the remediation acceptance criteria is not provided in Section 12.1. The RAP must be able to read as a stand-alone document and not rely on references to a previous report. A reference to EPA endorsed guidelines and Appendix H should be included.*

Section 12.1 has been updated and **meets the Auditor's requirements.**

4. CONCLUSIONS

Post demolition data gap investigations are still required for the Remedial Action Plan (RAP) to define the actual extent of remediation required. However, this is amendment to the RAP cannot be undertaken until consent is provided for the demolition of the Site. Additionally, subsequent to the approval of development and provision of development controls, the RAP can be updated include the schedule of works, hours of operation and Site contact details. Following demolition and data gap investigations a final revision of the RAP should be provided to Auditor for review and approval of the 'final' remediation areas.

In summary, the Auditor concludes that the Detailed Environmental Site Investigation (DESI) and Remediation Action Plan (RAP) are appropriate and practicable for the Site and development application at this stage of development and is in accordance with Item 9. of the City of Sydney Submission and the DPE request item 44.

Yours Sincerely



Rod Harwood

NSW EPA Accredited Contaminated Sites Auditor (Accreditation No. 03-04.)

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