



DOC22/475874-7

12 July 2022

Ms Renah Givney
Senior Environmental Assessment Officer
Department of Planning and Environment

Via Major Projects Portal

Dear Ms Givney

State Significant Development – Powerhouse Ultimo Renewal (SSD-32927319)

I am writing in response to your request seeking comment on the above development application received by the Environment Protection Authority (EPA) on 15 June 2022.

The EPA advised in its response on the Draft Secretary's Environmental Assessment Requirements (SEARs) on the 17 December 2020 (our Ref. DOC21/1087431-3) that while the development does not require an environment protection licence under the *Protection of the Environmental Operations Act 1997* (POEO Act), the EPA will be the appropriate regulatory authority for matters under the POEO Act. The EPA had also advised that it had no further comment regarding this development and recommended further consultation with the City of Sydney Council.

However, since our initial advice, the EPA has received the "*Report on Preliminary Site Investigation (Contamination), Powerhouse Ultimo Renewal*" (Douglas Partners, May 2022) which identified elevated concentrations of polycyclic aromatic hydrocarbons, total recoverable hydrocarbons, metals, and organochlorine pesticides which are above the assessment criteria in the *National Environment Protection Council, National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended 2013* (NEPC, 2013). The report also identified elevated concentrations of ammonia in groundwater in one onsite sample. The report further recommends that remediation or management of contamination will be required for site development and that the extent of remediation/ management will likely depend on the layout of future site uses as well as the results of additional investigation/s.

The EPA concurs with the consultant's recommendation that a detailed site investigation should be undertaken at the site and recommends the following consent conditions if the project is approved:

1. A detailed site investigation (DSI) must be prepared to determine the nature and extent of soil and groundwater contamination at the proposed development site. The DSI must:
 - be prepared, or reviewed and approved, by consultants certified under either the *Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme* (CEnvP(SC)) or the *Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management scheme* (CPSS CSAM); and
 - be prepared in accordance with *Consultants Reporting on Contaminated Land: Contaminated Land Guidelines* (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.

2. If the findings of the DSI indicate that a Remedial Action Plan (RAP) is required to address the contamination to ensure the site is suitable for the proposed use, the Applicant must prepare a RAP and submit to the consent authority as part of the development application. The RAP must:
 - be prepared, or reviewed and approved, by consultants certified under either the *Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC))* or the *Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management scheme (CPSS CSAM)*; and
 - be prepared in accordance with *Consultants Reporting on Contaminated Land: Contaminated Land Guidelines* (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.

If a RAP is required, then prior to implementation of the RAP, an interim audit advice or a Section B Site Audit Statement prepared by an NSW EPA Accredited Site Auditor must be provided to the consent authority to certify the site can be made suitable for the proposed use if remediated according to the RAP.

3. The Applicant must engage a NSW EPA accredited Site Auditor throughout the duration of the works to ensure that any work required in relation to soil and groundwater contamination is appropriately managed. 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 from an NSW EPA accredited Site Auditor a Section A1 Site Audit Statement or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan prepared by a certified consultant. The Section A site audit statement certifying suitability of the land for the proposed use will be prepared and submitted as part of consent conditions.
5. The Applicant must ensure the proposed development does not result in a change of risk in relation to any pre-existing contamination on the site so as to result in significant contamination [Note, that this would render the Applicant the 'person responsible' for the contamination under section 6(2) of Contaminated Land Management Act (CLM Act)].

DPE should remind the Applicant of their obligations to notify the EPA under section 60 of the CLM Act for any contamination identified which meets the triggers in the *Guidelines for the Duty to Report Contamination*. Further information is available here:
www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf

The EPA recommends use of "certified consultants". Please note that the EPA's Contaminated Land Consultant Certification Policy (<https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/clm/18520-contaminated-land-consultant-certification-policy.pdf?la=en&hash=D56233C4833022719BCE0F40F870C19DC273A1F7>) 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.

Should you require any further information, please contact Paul Wearne on (02) 4224 4100 or via email environmentprotection.planning@epa.nsw.gov.au

Yours sincerely

MITCHELL BENNETT
Unit Head – Statutory Planning