

11 September 2018

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Re: Overseas Passenger Terminal, Shade structures to Tenancy 5 (SSD 9334) - Contamination Preliminary Investigation

Dear James,

1 Introduction

Jimmy's On The Mall Pty Ltd is developing an approved restaurant, bar and micro-brewery at Terminal 5 of the Overseas Passenger Terminal (OPT) (the development area), Circular Quay West in The Rocks NSW. The development approval, granted in August 2017, excluded external suncreening to the northern outdoor area. It is now proposed to erect shade structures on the northern side of the development.

EMM Consulting Pty Limited (EMM) has been engaged by Mantle Group Hospitality on behalf of Jimmy's On The Mall to assess whether the construction of these shade structures will comply with the requirements of State Environmental Planning Policy No 55 – Remediation of Land (2014) (SEPP 55) in accordance with the Secretary's Environmental Assessment Requirements (SSD 9334) issued on 4 June 2018.

2 Previous preliminary investigation (2016)

EMM Consulting Pty Limited (EMM) previously prepared a contamination preliminary investigation (PI) for the approved development of the restaurant, bar and micro-brewery (*EMM 2016, Overseas Passenger Terminal - Tenancy 5, Contamination Preliminary Investigation, 7 November*).

2.1 Statutory context

The previous PI (EMM 2016) considered SEPP 55 which provides a state-wide planning approach to the management and remediation of contaminated land, and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human and environmental health.

When carrying out planning functions under the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning authority must consider the possibility that a previous land use has caused contamination of the project area, and the potential risks to human and environmental health from that contamination.

Clause 7(4b) of SEPP 55 specifies categories of land that have the potential to be contaminated via reference to Table 1 of the contaminated land planning guideline, *Managing Land Contamination Planning Guidelines: SEPP 55 – Remediation of Land* (Department of Urban Affairs and Planning 1998) (*Managing Land Contamination Planning Guidelines*).

Clause 7(3) of SEPP 55 requires the applicant to carry out an investigation and report for the planning authority. The main objective of the investigation is to identify any past or present potentially contaminating activities, providing a preliminary assessment of any project area contamination activities.

The PI (EMM 2016) was undertaken in accordance with the Managing Contaminated Land Planning Guidelines.

2.2 Project description

The PI (EMM 2016) considered the following development of Tenancy 5 as an indoor and outdoor restaurant and bar (incorporating a micro-brewery) as detailed below:

- fitout, alterations and additions of Levels 1 & 2 for use as a restaurant and bar;

External amendments to the OPT building including:

- replacement of existing glazing on the northern and eastern elevations, with new window and door openings;
- new Level 1 balcony on the western elevation;
- new outdoor decks on Level 1 on the east and north elevations and within the tower drum providing additional outdoor seating;
- new retractable awning/sun shading structure to proposed outdoor seating areas;
- landscaping of outdoor areas; and
- new micro-brewery within a pod structure located outside the OPT building.

The PI assumed that there would be minor excavations in the area surrounding the OPT as part of the development, including for the sun shading structure to proposed outdoor seating areas.

We understand that subsequent to the preparation of PI, the awnings for the outdoor seating areas were not approved as part of the application.

2.3 Previous conclusion

The PI (EMM 2016) concluded:

This PI concludes there are a range of potential contaminants. However, given there will only be minor excavations, the site is suitable for the proposed development under SEPP 55. This is evident as other restaurants in the OPT have been able to operate without issue.

3 Current proposal

Development approval is now sought for the following shade structures:

- two free-standing shade structures in the outside area immediately north of the OPT building; and
- two retractable awnings fixed to the OPT building.

The two free-standing shade structures will be rectangular steel frames (8.6 m x 5 m and 7.1 m x 7.0 m) with retractable fabric sunscreening. The awnings will have steel legs which will extend into, or be connected to, footings. Minor excavation will be required for the footings.

The previous PI (EMM 2016) assessed minor excavations for shade structures so the PI remains applicable for the current application (SSD 9334).

There are no potential contamination issues associated with the two retractable awnings fixed to the building.

4 Conclusion

As previously concluded (EMM 2016), given there will only be minor excavations for the shade structures, the site is suitable for the proposed development under SEPP 55.

As previously recommended, it is recommended that a construction environmental management plan (CEMP) is prepared for the development of the site, which should include an unexpected finds protocol to ensure that as yet undiscovered contamination, including asbestos containing material, can be appropriately managed. If evidence of contamination is encountered during the construction phase of works (for example, stained or odorous soil or evidence of demolition debris in particular cement sheeting fragments or white putty), advice should be sought from an appropriately qualified environmental consultant. In addition, the construction phase of works should ensure no contamination is introduced to the site.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'PTowler', with a long horizontal flourish extending to the right.

Philip Towler
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