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3 September 2020

Mr Andrew Kyriacou
Avenor Pty Ltd
by email

INTERIM ADVICE 04: REVIEW OF RESPONSES TO INTERIM ADVICE 03, 8-10 LEE STREET, SYDNEY NSW

Dear Andrew,

1. INTRODUCTION

1.1. Background

Avenor 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 8-10 Lee Street, Sydney NSW.

The final outcome of this engagement is to prepare a Site Audit Statement (SAS) and associated Site Audit Report (SAR), indicating the suitability of the Site for the proposed residential development of the Site in accordance with the Guidelines for the NSW Site Auditor Scheme (3rd Edition), 2017.

The proposed development involves the construction of a forty-storey commercial building known as the 'Tech Central Development' with two to three levels of basement. The building and basement footprints of the proposed development will cover most of the eastern portion of the site. The design of the basement levels requires an excavation depth of up to 15.4 m bgl.

City of Sydney Council are likely to require a Site Audit Statement prepared by an NSW EPA accredited site auditor is to be submitted to Council and the principal certifying authority on the completion of remediation and validation works. The Audit is therefore considered to be Statutory.

Whereas 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.

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:

- 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:
- 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 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
- 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:

- the provisions of the CLM Act and the CLM Regulations;
- the provisions of any environmental planning instruments applying to the site; and
- 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:

- specify that the Interim Advice does not constitute a Site Audit Report or Statement;
- ensure the Interim Advice is consistent with NSW EPA guidelines and policy;
- not pre-empt the conclusion to be drawn at the end of the Site Audit process;
- clarify that a Site Audit Statement will be issued at the end of the Audit process; and
- 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:

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

not have a conflict of interest in relation to the audit as defined by the CLM Act

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

finalise the site audit report before signing the site audit statement

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.

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

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

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

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

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

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

state in the audit report the scope and findings of any previous audits

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

Interim Advice 03 comprises a review of the following documents:

- Douglas Partners (September 2020) Remediation Action Plan, 8-10 Lee Street, Haymarket (Ref: 86767.03_R.002.DftB).

Previous Auditor Comments


Interim Advice 01	Douglas Partners Response	Interim Advice 02	Interim Advice 03
<ul style="list-style-type: none"> Section 3.2 (Environmental Setting) states the groundwater is expected to flow in a north-westerly direction. This data should be available from the works completed at the site; the actual flow direction should be included here 	<p>Please see track changes in Section 3.2.</p>	<p>There are no track changes in the revised RAP. The groundwater is inferred to flow north/northwest – reference to the contours is the DSI is not made.</p> <p>Comment closed</p>	<p>--</p>
<ul style="list-style-type: none"> The RAP contains a data gap investigation, which indicates the lateral and vertical extent of contamination has not been delineated. These data gaps should be closed out before the RAP is finalised. 	<p>Agree. Please see track changes in Section 8.</p>	<p>The revised RAP states the data gap investigation will be completed following demolition. It should be further noted that the RAP will be revised based on the findings of the data gap investigation.</p>	<p>Sections 7.2 and 8.3 of the RAP added "It should be noted that the RAP will be revised based on the findings of the data gap investigations outlined in Table 5B and Sections 8.1-8.3."</p> <p>Comment closed</p>
<ul style="list-style-type: none"> The Auditor requires Douglas to demonstrate why additional delineation of TRH and B(a)P in soil is required when it will be excavated for offsite disposal. 	<p>Delineation of TRH and B(a)P in soil aims to refine the classification of contaminated waste vs. non-contaminated waste, and ultimately reduces the handling and disposal costs of contaminated waste.</p>	<p>Comment closed</p>	<p>--</p>
<ul style="list-style-type: none"> Similarly, Douglas need to demonstrate why additional groundwater characterisation is required to inform the groundwater management plan. 	<p>Additional groundwater sampling and testing is required prior to stormwater/sewer discharge as part of the dewatering programme. The groundwater management plan can be incorporated as part of the dewatering management plan.</p>	<p>It is not clear why addition sampling of groundwater is required if site conditions have not changed since the previous GME. What is the rationale for further groundwater characterisation?</p>	<p>No further groundwater characterisation is required from a contamination point-of-view. The groundwater sampling/testing is only required should pre-treatment of groundwater be required as part the dewatering programme.</p> <p>Comment closed</p>
<ul style="list-style-type: none"> More details on the anticipated depth of dewatering and the extent required, will be necessary. 	<p>This is outside of the RAP scope and will be incorporated as part of the dewatering management plan.</p>	<p>Details of depth of excavation and anticipated dewatering requirements (if any) should be provided in the RAP. If water treatment/remediation is required, then it should be discussed in the RAP.</p>	<p>A conceptual water treatment design has been provided.</p> <p>Comment closed</p>
<ul style="list-style-type: none"> The proposed data gap investigation locations should be marked on a figure. 	<p>Please refer to Drawing 4 in Appendix A.</p>	<p>Noted – however this figure does not include all the existing bore holes. These should be include for completeness.</p>	<p>Revised figure provided.</p> <p>Comment closed</p>

Interim Advice 01	Douglas Partners Response	Interim Advice 02	Interim Advice 03
<ul style="list-style-type: none"> - The RAP should include a figure showing the remedial areas. 	<p>Please refer to Drawing 3 in Appendix A.</p>	<p>An additional "Figure 3" was provided to the Auditor on 20 August 2020 – this figure does not include the proposed additional sampling locations.</p> <p>The remedial areas are not defined on this figure or the revised figure provided on 20/8/2020</p>	<p>Revised figure provided.</p> <p>Comment closed</p>
<ul style="list-style-type: none"> - The RAP notes the potential for an EMP to address residual contaminants in the vicinity of BH6. This location is in a roadway/carpark – it needs to be confirmed if this area will be a public road in the future, if so, Council may object to having an EMP on public land. 	<p>The latest version of the proposed basement plan indicates that the boundary of the basement will extend beyond the vicinity of BH6 as depicted on Drawing 1. The EMP is, therefore, no longer required. Please see track changes in Section 8 and Section 14.4 of the RAP.</p>	<p>Noted – track changes not in text. Section 14.4 is not included in the RAP.</p> <p>Drawing 1 has been amended to show BH6 being included in the excavation area.</p> <p>Comment closed</p>	<p>--</p>

3. CONCLUSIONS

The comments from previous Interim Advice letters have been appropriately addressed. Based on the above, pending the findings of the additional data gap investigations, the site can be made suitable so as the RAP (DP, September 2020) is followed.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Rod Harwood', is enclosed in a thin black rectangular border.

Rod Harwood

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

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