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EPA Reference: PDI 217

26 July 2022

Ben Scholes
State Planning Commission
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Adelaide

Email: Benjamin.Scholes@sa.gov.au

Dear Ben,

EPA Development Application Referral Response

Development Application Number	21042343
Applicant	JWDT Land Pty Ltd (as Trustee for JWDT Land Unit Trust), C-/ Future Urban
Location	207-209 Pulteney Street, Adelaide
Proposal	Change of use of the subject land and construction of a fifty-five (55) mixed use development incorporating three hundred and twenty-two (322) dwellings, three (3) restaurants, tourist accommodation incorporating one hundred and sixty (160) rooms and associated car parking.

This application was referred to the Environment Protection Authority (EPA) by the XX in accordance with section 122 of the *Planning, Development and Infrastructure Act 2016* ('PDI Act'), Schedule 9(3)(9A) of the *Planning, Development and Infrastructure (General) Regulations 2017* and Part 9.1 of the *Planning and Design Code*.

The following response is provided in accordance with section 122(5)(b)(ii) of the PDI Act.

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PROPOSAL

The application proposes a change in the use of land to a more sensitive use as the relevant authority has determined the former land use is commercial (categorised as a commercial class 1 land use, being Item 5 of the Land Use Sensitivity Hierarchy of the [State Planning Commission Practice Direction 14 \(Site Contamination Assessment\) 2021](#) ('Practice Direction 14')) and the proposed use is mixed use residential (categorised as class 1 being Item 1 of the Land Use Sensitivity Hierarchy). Dwellings are also defined by Practice Direction 14 to be a 'sensitive use'.

The Site Contamination Declaration Form submitted with the development application (prepared by Stuart Taylor of Aurecon and dated 15 December 2021) identifies site contamination exists or may exist as a result of:

on-site

- Wood preservation works
- Service stations
- Metal coating, finishing and spray painting
- Rubber manufacturing or processing

and on adjacent land

- Motor vehicle repair or maintenance

SITE CONTAMINATION ASSESSMENT

The purpose of this referral is to ensure that an appropriate and proportionate assessment of site contamination occurs to ensure land is suitable, or can be made suitable, for the proposed use. Through the referral, the EPA provides direction to the relevant authority on whether they must consider the advice of either a site contamination consultant or a site contamination auditor regarding site suitability.

The EPA's [Site contamination referral decision-making framework](#) describes how the EPA makes decisions on referred development applications and outlines the preconditions which must exist for a site contamination audit ('audit').

The EPA has considered the following reports and documents lodged with the development application:

- *Pulteney Street - Preliminary Site Investigation (site history)* prepared by Aurecon and dated 15 December 2021 ('the PSI Report')

The following reports were subsequently provided in response to the EPA's requests for information:

- *JWDT Land Pty Ltd 207-209 Pulteney Street Detailed Site Investigation* prepared by Fyfe Pty Ltd and dated 10 June 2022 ('the DSI Report')
- *207-209 Pulteney Street, Adelaide, South Australia Construction Environment Management Plan*

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prepared by Fyfe Pty Ltd and dated 1 July 2022 ('the CEMP').

The EPA has reviewed and considered the above reports taking into account the relevant guidance provided in the *National Environment Protection (Assessment of site contamination) Measure 1999* and the [EPA publication Guidelines for the assessment and remediation of site contamination](#).

The site is located in the Adelaide CBD, is 1910 m² in area and is rectangular in shape. The site is largely asphalt car parking with a multi-storey commercial premises located in the south-west corner of the site.

The proposed development entails the construction of a 55-storey tower at the site. The proposed tower would largely consist of residential apartment space but will also include commercial (hospitality/retail) and hotel facilities. The ground floor is proposed for a commercial land use. A multi-storey basement will be present to a depth of 7.5 metres below ground level. The entirety of the site would be occupied by the building footprint.

The proposal appears to involve a change to a more sensitive land use from commercial class 1 to residential Class 1. It is noted that the site contamination who prepared the PSI Report has provided the opinion that they believe that as the ground floor of the building will be commercial, there is no material change in land use. As the DA has been referred to the EPA, it is assumed that the planning authority is of the opinion that a change in land use has occurred, and the EPA's assessment proceeded on this basis.

The site history undertaken indicates that the site has undergone multiple land uses and redevelopments. Given the site's locality in the CBD, it is expected that the site has been used dating back to the founding of Adelaide. Records indicate that the site has been used largely for commercial and light industrial activities. The Class 1 activities as identified above are associated with activities predating 1979 with the current site layout (i.e. carpark and multi-storey commercial building) being present since at least 1979.

The EPA requested a DSI report to address a number of data gaps identified during the review of the PSI, with the additional reports concluding that:

- soil impacts identified should not present a potentially unacceptable risk to human health for the proposed development of the site for residential and commercial purposes
- groundwater was identified at the site at approximately 14 metres below ground level. Boron was identified at levels exceeding livestock, irrigation, drinking water and freshwater ecosystem criteria
- impacted groundwater may be encountered during the development of the site, however any risks from exposure can be mitigated through site management and a CEMP for the development.

CONCLUSION

Having regard to the available information, it is considered sufficient information has been provided which demonstrates the site can be made suitable for the proposed use, subject to a statement of site suitability, using the form required by Practice Direction 14, by an appropriate practitioner.

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The EPA is satisfied that it has been demonstrated that the preconditions for audit have not been met based on the proposed land use as site contamination has been determined not to exist and realistic human exposure pathways have not been identified.

Potential exposure pathways may be present during the proposed development and therefore management of the residual contamination on the site is required to manage any potential risk to human health and the environment from exposure to these chemical substances. A CEMP is an appropriate management plan to ensure compliance with the general environmental duty and mitigate any potential environmental impacts and/or nuisances during development. As noted above, boron has been identified in groundwater above relevant criteria. Adherence to the CEMP will reduce this risk and is therefore considered to be a necessary form of remediation.

As per the directed conditions below, a site contamination consultant is considered the most appropriate practitioner to oversee the required remediation (ie CEMP) and to issue a statement of site suitability.

DIRECTION

The relevant authority is directed to attach the following conditions to any approval:

1. Remediation works must be undertaken in accordance with *207-209 Pulteney Street, Adelaide, South Australia Construction Environment Management Plan* prepared by Fyfe Pty Ltd and dated 1 July 2022 and must be overseen by a suitably qualified and experienced site contamination consultant.
2. A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.
3. For the purposes of the above condition and regulation 3(6) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the statement of site suitability must be issued by a site contamination consultant

The following note provides important information in relation to the development and is requested to be included in any approval:

- The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

If you have any questions about this response, please contact Sophie Gordon on 08 8204 2078 or email Sophie.Gordon@sa.gov.au.

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Yours faithfully

Hayley Riggs
Delegate
ENVIRONMENT PROTECTION AUTHORITY