

BLOCK VOTE**Baker/Novak****That the following Items be adopted:**

14.015/17	15.030/17	16.002/17
14.017/17	15.031/17	16.003/17
14.019/17	15.032/17	16.004/17
14.021/17	15.033/17	
14.022/17	15.034/17	
14.023/17	15.036/17	
14.024/17	15.037/17	
14.025/17	15.038/17	
	15.039/17	
	15.040/17	
	15.041/17	
	15.042/17	
	15.043/17	
	15.044/17	
	15.045/17	
	15.046/17	
	15.048/17	
	15.050/17	
	15.051/17	
	15.052/17	
	15.053/17	
	15.054/17	

Voting recorded as follows:**For: Simmons, Lysaught, Baker, Clancy, Novak, Williamson, Toms, Ellem****Against: Nil**

DEPUTATIONS

Item 14.014/17 - DA2016/0648 – Regrading Works for Abandoned Quarry Site Lot 131 DP1208345, Parklands Drive, Gulmarrad

- Stephen Hawke (Owner)

Item 14.016/17 - Planning Proposal – Grafton District Golf Club, 425 Bent Street, South Grafton (REZ2016/0003)

- Kerry Hughes
- Andrew Fletcher (Proponent)

Item 14.017/17 - Planning Proposal REZ2010/0002 – Proposed Amendment to Create Residential R1 Zone and Revised Minimum Lot Size for Large Lot Residential R5 Zoned Land – 40 Fairway Drive, South Grafton

- Andrew Fletcher (Applicant)

ITEM	14.017/17	PLANNING PROPOSAL REZ2010/0002 – PROPOSED AMENDMENT TO CREATE RESIDENTIAL R1 ZONE AND REVISED MINIMUM LOT SIZE FOR LARGE LOT RESIDENTIAL R5 ZONED LAND – 40 FAIRWAY DRIVE, SOUTH GRAFTON
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Meeting	Environment, Planning & Community Committee	14 March 2017
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Strategic & Economic Planning (David Morrison)	
Attachment	Yes	

SUMMARY

Applicant	A Fletcher & Associates
Owner	Ken W Robson Holdings Pty Ltd
Address	40 Fairway Drive, South Grafton
Submissions	N/A

Council is requested to consider whether to request a Gateway Determination for a planning proposal seeking to amend land use zoning, minimum lot size and height of buildings maps under the *Clarence Valley Local Environmental Plan 2011*. The proposal is consistent with regional and local strategic plans 'in principle' subject to consideration of some specific issues. The subject land has potential to be contaminated due to past land use and a determination of whether the site assessment completed to date is satisfactory for decision-making purposes is a key issue for Council. Council staff believe the planning proposal has merit and recommend referral to the Gateway as well as further review of the contaminated land aspect and other minor amendments to the proposal documentation before the planning proposal is placed on public exhibition. Council and the applicant have not been able to agree at this time as to whether the site contamination assessment submitted complies with SEPP 55 requirements and relevant guidelines. The best way to resolve this matter is to have an independent review following a Gateway Determination.

OFFICER RECOMMENDATION

That Council, as the relevant planning authority:

1. Refer the revised planning proposal (dated 20 January 2017) to the NSW Department of Planning and Environment seeking a Gateway Determination;
2. Advise the applicant that should a Gateway Determination be received, a site audit statement from an EPA accredited site auditor be provided prior to commencement of any public exhibition;
3. Inform the Department that more detailed maps associated with the proposed amendment, being land zoning, lot size and height of buildings maps, a project timeline and a more complete site history in consideration of SEPP 55 will be added to the planning proposal prior to exhibition;
4. Accept any plan making delegations offered as part of a Gateway Determination.

MOTION

Williamson/Ellem

That the Officer Recommendation be adopted.

AMENDMENT TO MOTION

Baker/Simmons

That Council, as the relevant planning authority:

1. Refer the revised planning proposal (dated 20 January 2017) to the NSW Department of Planning and Environment seeking a Gateway Determination;
2. Advise the applicant that should a Gateway Determination be received that either:
 - a) a site auditor statement from an EPA accredited site auditor be provided;
 - or
 - b) further site sampling and testing be carried out over the site in accordance with the relevant planning guidelines and by agreement with Council officers; prior to commencement of any public exhibition."
3. Inform the Department that more detailed maps associated with the proposed amendment, being land zoning, lot size and height of buildings maps, a project timeline and a more complete site history in consideration of SEPP 55 will be added to the planning proposal prior to exhibition;
4. Accept any plan making delegations offered as part of a Gateway Determination.

Voting recorded as follows:

For: Baker, Clancy, Ellem, Simmons, Williamson

Against: Nil

The Amendment to Motion was put and declared CARRIED. The Amendment became the Committee Recommendation.

COMMITTEE RECOMMENDATION

Williamson/Ellem

That Council, as the relevant planning authority:

1. Refer the revised planning proposal (dated 20 January 2017) to the NSW Department of Planning and Environment seeking a Gateway Determination;
2. Advise the applicant that should a Gateway Determination be received that either:
 - a) a site auditor statement from an EPA accredited site auditor be provided;
 - or
 - b) further site sampling and testing be carried out over the site in accordance with the relevant planning guidelines and by agreement with Council officers; prior to commencement of any public exhibition."
3. Inform the Department that more detailed maps associated with the proposed amendment, being land

zoning, lot size and height of buildings maps, a project timeline and a more complete site history in consideration of SEPP 55 will be added to the planning proposal prior to exhibition;

4. Accept any plan making delegations offered as part of a Gateway Determination.

Voting recorded as follows:

For: Baker, Clancy, Ellem, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 14.017/17

Baker/Novak

That Council, as the relevant planning authority:

1. Refer the revised planning proposal (dated 20 January 2017) to the NSW Department of Planning and Environment seeking a Gateway Determination;
2. Advise the applicant that should a Gateway Determination be received that either:
 - a) a site auditor statement from an EPA accredited site auditor be provided;
 - or
 - b) further site sampling and testing be carried out over the site in accordance with the relevant planning guidelines and by agreement with Council officers; prior to commencement of any public exhibition.
3. Inform the Department that more detailed maps associated with the proposed amendment, being land zoning, lot size and height of buildings maps, a project timeline and a more complete site history in consideration of SEPP 55 will be added to the planning proposal prior to exhibition;
4. Accept any plan making delegations offered as part of a Gateway Determination.

Voting recorded as follows:

For: Simmons, Baker, Clancy, Ellem, Novak, Lysaught, Williamson, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Our Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Provide open, accountable and transparent decision making for the community

BACKGROUND

Council received this application for rezoning in late-2010. The application was not made in the appropriate planning proposal format as required by the *Environmental Planning and Assessment Act 1979* and relevant Department of Planning and Environment guidelines and the Applicant was requested to consider provisions of the South Grafton Heights Precinct Strategy (SGHPS) and issues relating to buffers between proposed urban residential/rural-residential zones, open space, stormwater management, pedestrian/cycle access and location of zone boundary. The landowner decided to defer further action on this proposal until late-2014 and a fresh planning proposal was submitted to Council in mid-2015. Council staff requested further information and attention to particular matters called up through the SGHPS, such as consideration

of social and community impacts, potential for land contamination and location of the proposed zone boundary. The revised planning proposal was lodged in January 2017.

The SGHPS identified the subject land (refer to location of the site on Figure 1) as being suited to urban residential on the higher, less sloping section and large-lot residential on the steeper, western aspect. The Strategy also highlighted the need for rezoning applications to address certain specific matters such as potential for contaminated land, provision of open space, social and community impacts in relation to the Clarence Valley Social Plan and others.



Figure 1 – Location of the site of the proposed LEP amendment to land use zoning, lot size and height of buildings maps.

KEY ISSUES

Strategic context – The proposed amendments to create additional urban residential and large-lot residential land is consistent with the Mid North Coast Regional Plan, the Clarence Valley Settlement Strategy and the SGHPS provided details around issues such as potential for land contamination are satisfactorily resolved.

Compliance with planning proposal guidelines – The planning proposal has been reviewed against NSW Department of Planning and Environment (DPE) and Council guidelines for preparing planning proposals.

The planning proposal generally contains sufficient explanation of intent for the proposed amendment including alterations to land zoning, lot size and height of buildings maps. The quality and clarity of the maps to show details of the proposed amendments should be upgraded prior to exhibition. Some particular topics relevant to justification of the planning proposal are highlighted later in the 'Key Issues'.

The planning proposal does not currently include a project timeline. The Planning Gateway provides a timeframe for completion of the LEP amendment when it provides support for a planning proposal. The particular planning proposal requires Council and the DPE to be satisfied as to certain matters, such as land contamination, and hence until such time as such matters are addressed to a satisfactory standard certainty of a project timeline cannot be provided. From the time a planning proposal such as this is placed on public exhibition it is reasonable that the matter would be finalised within 6 months. It is submitted that preparation of a project timeline and inclusion into the planning proposal is not practical until after Council receives a Gateway Determination in support of this matter and any pre-public exhibition requirements of the Gateway are satisfied. Once this point has been reached then a project timeline can be incorporated into the planning proposal document.

Potential Contaminated Land – The subject land has potential to be contaminated with chemical residues as a result of past land uses. This potential combined with the proposed change in zoning triggers the requirement for Council to not rezone the land (as proposed) unless it has obtained and had 'regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines' (clause 6(2) of *State Environmental Planning Policy No 55 – Remediation of Land*). This is the minimum requirement and more detailed information may be required in some cases.

Consistent with SEPP 55 the first aim of this investigation in regard to the planning proposal before Council is to determine whether the land is contaminated. Secondly, if the land is contaminated Council needs to be satisfied the land is suitable for residential and other permitted uses in its contaminated state (or will be suitable after remediation), and thirdly, if the land requires remediation to be suitable for such uses then Council is satisfied that the land will be so remediated before the land is used for that purpose.

Where remediation is necessary Council or the planning authority may need to include certain provisions in the environmental planning instrument or amendment to the *Clarence Valley Local Environmental Plan 2011* (the CVLEP). The assessment of SEPP 55 in Table 1 (page 10) of the planning proposal is silent on the nature of land uses that existed prior to 1976 and are deemed to have potential to have contaminated the subject land. Additional information should be included in the planning proposal prior to any public exhibition to identify the specific nature of past land uses as they relate to potential land contamination.

The Applicant has submitted a Site Contamination Assessment report to satisfy the requirements of SEPP 55. Council officers have assessed the report and conclude that it has not been completed in accordance with the Contaminated Land Planning Guidelines (DUAP/EPA 1998). These Guidelines call up or cross-reference a number of other relevant guidelines and technical resources and are specified in SEPP 55 as the relevant guideline to follow.

Section 145B of the *Environmental Planning and Assessment Act 1979* provides Council with exemption from liability, including in its role with preparing or making an amendment to the CVLEP, '*in respect of anything done or omitted to be done in good faith by the authority in duly exercising any planning function of the authority to which this section applies in so far as it relates to contaminated land (including the likelihood of land being contaminated land) or to the nature or extent of contamination of land*' [s 145B(1)]. Where Council acts substantially in accordance with these Guidelines then the Act states that, unless the contrary is proved, Council (or the planning authority) is taken to have acted on good faith. Hence, adherence to the Guidelines is prudent.

Section 4.1.1 of the Guidelines states that for spot rezonings where a specific development or use is associated with the proposal '*it would not be appropriate to proceed with the rezoning unless the land was proven suitable for that development or it could be demonstrated that the land can, and will be, remediated to make the land suitable. This would be particularly important if the land was proposed to be developed for residential, educational, recreational or childcare purposes, as the risk to health is higher under those uses than most other uses. Under these circumstances, the rezoning should be treated like a development application in considering contamination issues. It may even be necessary for a detailed investigation to be carried out at the rezoning stage.*' In this case the Applicant has submitted a detailed residential subdivision layout incorporating urban residential, large lot residential and recreational/open space uses, hence the risk to health is deemed to warrant a higher threshold of assessment.

The consultants report and subsequent submissions on the contaminated land issue at this site does not adequately determine whether the land is contaminated or not. The Assessment does not satisfy various aspects of relevant NSW Environment Protection Authority Guidelines, including sampling density, sampling pattern and justification for the methodology used. Council staff presented feedback on the Assessment to the Applicant in August 2016. For example, across the 20-hectare site a total of 20 soil samples were taken and ten (10) or 50% of these were subject to soil analysis for various contaminants. The EPA Sampling Design Guidelines suggest that a 5-hectare site would be subject to 55 soil samples/analysis.

This is page 50 of the Minutes of the Ordinary Council Meeting of Clarence Valley Council held on 21 March 2017.

Even if the sampling density suggested in the Guidelines was only applied to the higher risk (where a former airstrip, superphosphate loading/unloading facility and coal truck depot operated – as mentioned in correspondence from Andrew Fletcher, dated 24 December 2001 and 26 February 2002 in relation to a separate rezoning application) portion of the site, being 1.5-2 hectares, the EPA guidelines suggest sampling sites between 25 and 30 in order to detect contamination hot spot/s at 95% confidence. Further, given the potential for contamination on this part of the site, the fact that only five (5) of the tested soil samples come from this part of the site further reduces confidence in the consultants conclusion that the land is not contaminated and suitable for the proposed residential development. The consultant's justification for the sampling pattern and sampling density is not accepted in the circumstances.

The consultant who prepared the contaminated land assessment, Regional Geotechnical Solutions (RGS), wrote to Council in November 2016 to respond to a number of specific concerns in Council's August 2016 feedback and RGS concluded as follows:

The site has been 'assessed to have a low risk of contamination resulting from past and present land use activities. The testing has not encountered any contamination that exceeds the adopted threshold levels as outlined in NEPM for the intended residential land use. On this basis, no further sampling and testing is considered necessary.' However, the correspondence from RGS in November 2016 recognises that the issue of asbestos contamination associated with building materials has not been addressed to date.

In response, Council officers reviewed the submission and concluded that the consultant does not appear open to revising their report. Consequently, Council staff wrote to the Applicant and advised that in the circumstances a site audit statement prepared by an EPA accredited site auditor would be required. The Applicant has subsequently written to Council in January 2017 providing a case for no further testing. Key aspects of the Applicant's request are the RGS report and conclusions that 'no further sampling and testing is considered necessary' as well as reference to the level of assessment on the contaminated land issue applied for a separate rezoning on nearby land in 2001/02. In the latter case, Council requested a site history that identified that the area subject to that rezoning was only used for cattle grazing. However, the site history submitted to Council at the time by A Fletcher and Associates identified that the part of the site now subject to the current planning proposal was also used for additional uses that have potential to contaminate land. These uses include a former airstrip, superphosphate loading/unloading facility and small coal truck depot. Hence, the additional level of assessment at the current site that has been requested is warranted in the opinion of Council officers.

Further, the Applicant has requested that *'if Councillors decide that further testing is required we request Councils assurance that it will accept the consultant's findings and not request even more testing.'* Council reserves the right to find a consultants report unacceptable and hence, it is unreasonable for Council to provide such an assurance. Notwithstanding that, if an EPA accredited site auditor is engaged and they conclude that the current methodology, justification and reporting is adequate then Council would have 'good faith' grounds to provide such an assurance. The NSW Government established the site auditor scheme to enable Applicants and/or decision makers to obtain independent and professional advice on land contamination issues, including review of another consultant's work, to provide greater certainty about the information on which the planning authority is basing its decision.

There would appear to be a continuing and clear intent not to comply with Council's requests in regard to the contaminated land issue. This is a choice the Applicant can make. Further, the Applicant has requested that resolution of this issue not delay consideration of the planning proposal by Council and the Planning Gateway. However, despite the fact that the land has been identified in a CVC-adopted Strategy as being suitable in terms of location and landform for higher density residential development, the requirements of SEPP 55 place an obligation on Council not to proceed with making the proposal without adequate confidence on the contaminated land issue.

The planning proposal process provides further opportunity/s to check in on this issue prior to any decision to make the plan. Hence, given that the land has been identified 'in principle' as having potential for urban

residential development, subject to addressing issues such as potential contamination, it is considered that this proposal can be referred to the Planning Gateway to seek a determination subject to the planning proposal not being placed on public exhibition until such time as Council receives an acceptable contamination assessment or the current assessment is found to be acceptable following review by an accredited site auditor.

Section 3.6.1 of the Contaminated Land Planning Guidelines states that *'As a general principle, a site audit is only necessary when the planning authority:*

- *believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete*
- *wishes to verify the information provided by the proponent adheres to appropriate standards, procedures and guidelines*
- *does not have the internal resources to conduct its own technical review.'*

Council staff and the Applicant cannot agree on these points. Hence, the logical step to allow the proposal to move forward is to seek an independent review – ie a site auditor.

The relevant Guidelines (Section 3.6.1) add that *'If a planning authority considers that it needs a site audit in order to make its planning decision, the cost should be borne by the proponent and not the planning authority.'*

Council's Contaminated Land Policy is consistent with the legislation and guiding documents referred to in the above discussion.

Public open space and crime prevention – The proposal indicates that the future subdivision will contain a 1.762 hectare public reserve. The South Grafton Heights Precinct Strategy recognises the need to provide adequate open space for public use, environmental management and amenity in association with new residential development. The concept of providing a contiguous, single space, with linkage to an existing open space corridor in an adjacent residential subdivision that is capable of providing for multiple uses is supported. Other buffer areas between existing rural-residential land and proposed higher density residential development is proposed to be maintained in private ownership in an attempt to reduce the burden for Council to maintain disconnected and lower value open space.

Local Planning Direction 6.2 – Reserving Land for Public Purposes requires that a public authority, in this case Council, agree to the creation of a public reserve where the authority is designated under section 27 of the *Environmental Planning and Assessment Act 1979* as the authority required to acquire the land. However, whilst the future subdivision layout shows provision for the public reserve it is not proposed to include that part of the subject land in an open space or recreation land use zone under the planning proposal. Hence, acquisition is not relevant to the proposed public reserve at this stage. After any future subdivision is completed the land use zoning of the public reserve would be amended through a housekeeping LEP to recognise the recreation or open space purpose.

The layout of the proposed public reserve area was subject to consultation with Safer By Design experts in the NSW Police Service in 2015 and removal of a number of allotments fronting adjoining streets to remove surveillance blind spots was suggested in order to improve casual and passive surveillance from adjacent streets. The indicative subdivision layout provided in the 2017 revised planning proposal has removed those allotments and increased direct road frontage of the public reserve. NSW Police have recently reviewed the proposal and find the changes to be an improvement. The need to consider the location and design of any future infrastructure on the reserve, as well as the type of fencing for properties adjoining the reserve, to deter anti-social behaviour and vandalism is noted. Such details will be considered at later stages of any development.

Stormwater Management – Planning for stormwater management in large developments of the type envisaged in the planning proposal has significant implications on detailed design and layout. This planning proposal incorporates a proposal to include part of the subject land in the R1 General Residential zone and maintain the balance of the site in R5 Large Lot Residential zoning albeit with a reduced lot size compared to existing. To improve confidence that the proposed R1-R5 zone boundary was optimally positioned Council officers have suggested to the Applicant that more detailed consideration of stormwater management would be advantageous to reduce the risk of future alterations to the zone boundary position being required to provide optimal subdivision layout. Such alterations would if required cost the Applicant and their client time in finalising development of the land. The Applicant has advised that they believe an adequate level of assessment has been undertaken and have requested the planning proposal be considered by Council. In the circumstances, given that the Applicant has had some regard to stormwater management in preparing the subdivision layout no further information will be insisted upon at this stage. Additional detail will be required at any future development application stage.

New Road Intersection with Rushforth Road – The former Grafton City Council and Local Traffic Committee considered the potential for rezoning of the subject land in 1995 and presented no objection in principle on the basis that the future subdivision provide for bus stopping points within the subdivision and turning movements at any new intersection with Rushforth Rd.

The future subdivision layout plan included with the planning proposal shows a bus stopping bay on the western side of Fairway Drive directly adjacent to the proposed public reserve. Further, the future intersection of Fairway Drive and Rushforth Rd has been selected to maximise sight distances and provide adequate safety for turning vehicles. Council's Development Engineers consider the future detailed design of the new intersection may require modification to existing road conditions to ensure satisfactory sight distances in both directions are achieved. This is considered to be readily achievable and can be determined at a future development application stage.

OPTIONS

1. Support for the planning proposal would typically result in Council resolving to refer this matter to the NSW Department of Planning and Environment Gateway for a determination. The Planning Gateway, as this part of the planning proposal process is known, is a checking mechanism to ensure that a proposal is consistent with adopted planning strategies or otherwise has merit and that any significant issues have been appropriately identified and considered. This report has highlighted the key issues related to the planning proposal. Consideration of key issues creates sub-options for Council that include the following:
 - (a) Indicate to the Planning Gateway that Council recommends the Applicant supplement the Site Contamination Assessment, dated 9 June 2016 (Report Ref: RGS30861.1 – AB), undertaken by Regional Geotechnical Solutions (RGS), and supplementary correspondence from RGS dated 15 November 2016 (Ref RGS30966.1 – AC), with an independent review or audit undertaken by an EPA accredited site auditor, prior to public exhibition of the planning proposal. Where such an audit finds that the assessment is acceptable then public exhibition proceed. Alternatively, Council recommends that public exhibition be delayed until the Site Contamination Assessment is completed in accordance with relevant recommendations of the audit. In addition, an updated site history, proposed mapping amendments and a project timeline be included in a revised planning proposal prior to any public exhibition; or
 - (b) That Council refer the planning proposal to the Planning Gateway with no specific reference to the potential land contamination issue and Site Contamination Assessment. This is not recommended as Council staff conclude that the current Assessment is inadequate in the circumstances; or
 - (c) That Council refer the planning proposal to the Planning Gateway with either sub-option (a) or (b) and highlight another issue/s that Council wishes the Gateway to specifically consider. Choosing

this option would require Council to expressly state what issue/s needs specific consideration by the Gateway.

2. That Council not choose to support the planning proposal and advise the Applicant that it rejects the proposal. Such a decision should be supported by reasons that Council determines are appropriate in the circumstances.

In this case, Council staff recommend that Options 1 and 1 (a) are taken consistent with the discussion in 'Key Issues' earlier.

COUNCIL IMPLICATIONS

Budget/Financial

The applicable fees for consideration of the planning proposal have been submitted with the original 2010 application. Assessment and processing of the planning proposal will occur utilising recurrent and capital advertising budgets as applicable.

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

State Environmental Planning Policy No 55 – Remediation of Land

Clarence Valley Local Environmental Plan 2011

Contaminated Land Planning Guidelines (DUAP & EPA 1998)

South Grafton Heights Precinct Strategy (2011)

CVC Contaminated Land Policy (August 2015)

Consultation

CVC technical staff have been consulted on a range of matters since this proposal was first submitted to Council. These issues include potential contaminated land, stormwater management, road layout and intersection design, crime prevention and open space design, social and community effects. The NSW Police have been consulted for input on design of the public reserve from a 'Safer By Design' or crime prevention perspective.

No formal public or agency consultation on the planning proposal as a whole is applicable at this stage. Support for the planning proposal by the Planning Gateway would involve direction to Council with regard to public and agency consultation requirements.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Social & Cultural Services (and NSW Police)	Community and Social Impact Assessment – The revised planning proposal has improved consideration of social impacts and implications for community facilities following consultation with Council's Social & Cultural Services staff. No objection to the proposed amendments are made. Notwithstanding that, the Social & Cultural Services team would like to be involved in discussions prior to a future development application being prepared. These discussions would include street layout and design, public accessibility and how local stakeholders should be consulted to ameliorate social impacts in this precinct. Public Reserve – CVC staff have referred this matter to the NSW Police (Safer By Design team) for consideration of crime reduction and public safety issues primarily associated with public spaces in the future residential subdivision. The revised future subdivision layout, particularly the public reserve, is deemed to be acceptable (refer to 'Key Issues' for more detailed comment).

Environment, Development & Regulatory Services	Contaminated Land Assessment – Council staff are not satisfied that the Site Contamination Assessment report (June 2016) and additional correspondence (November 2016) from the geotechnical consultant, Regional Geotechnical Solutions, adequately assesses the land contamination potential in relation to this land and development. Council has advised the Applicant that a site auditor should be engaged to provide a Site Audit Statement. The Applicant has since written to Council stating that such a requirement is not necessary in their opinion. Assurances that the Applicant has sought can only be given by Council if an EPA accredited site auditor is engaged to independently review the assessment completed to date.
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Legal and Risk Management

The proponent has the right to request a review if the Council do not support the planning proposal or don't consider the proposal within a reasonable period. Further, a decision of the Planning Gateway may be reviewed at the request of either the Applicant or Council in circumstances when the Gateway does not support the proposal, requires resubmission or seeks to alter the planning proposal. No review can be sought if the planning proposal is supported without amendment by the Planning Gateway.

Council has legal obligations under *State Environmental Planning Policy No. 55 – Remediation of Land* with regard to assessment of potential land contamination issues at rezoning or planning proposal stage. Council has exemption from liability under the *Environmental Planning and Assessment Act 1979*, including in its role with preparing or making an amendment to the CVLEP, where it acts in 'good faith' in exercising any planning function in relation to contaminated land matters of the authority. These aspects are discussed in more detail in 'Key Issues' earlier.

Prepared by	Scott Lenton, Environmental Planning Coordinator
Attachment	1. Planning Proposal (to be tabled) 2. Applicant's letter (dated 20/1/17) regarding land contamination issue. 3. Plan of proposed rezoning