

## **Additional information**

The following is additional information relating to the consideration and assessment of the proposed development against the provisions of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55).

SEPP 55 identifies that the following is to be considered in determining a development application:

### ***Contamination and remediation to be considered in determining development application***

#### ***7 Contamination and remediation to be considered in determining development application***

- (1) A consent authority must not consent to the carrying out of any development on land unless:
  - (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.**
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) The land concerned is:
  - (a) land that is within an investigation area,*
  - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land:
    - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).***

The provisions of SEPP 55 require the consent authority to determine if the land the subject of the application is contaminated, and whether it is appropriate for the proposed development having regard to subclause (4).

The subject site contains a three storey building with an excavated lower ground floor area. The development is built to the boundaries of the site. The site has been used for retail and commercial purposes for decades. A search of Council's records has been undertaken and the recorded uses of the site relate to retail and commercial uses.

Table 1 of the *Contaminated Land Planning Guidelines* identifies contaminating uses that would trigger the preparation of a preliminary site investigation plan to determine if and the extent of any contamination. The recorded uses of the site shown in Council's records do not show any uses identified in Table 1. Council's records also do not show any action or information relating to contamination being identified on the site.

Having regard to subclause (4) it can be concluded that the site is not within an investigation area given there is no recorded incidence or investigation of contamination, the land has not been used, and is not currently being used for purposes identified in Table 1, and the proposed development does not include specific uses relating to *residential, educational, recreational or child care purposes, or for the purposes of a hospital-land*.

Based on this information it is considered that contamination and remediation has been considered in the assessment of the development application such that it has been concluded that a physical investigation of the site for contamination is not required at the development assessment stage.

Notwithstanding this, the applicant has submitted the following statement in support of the application:

*With regards to our property at 282-290 Forest Road, Hurstville, we confirm that the site has continually been used for retail purposes since the current building was built circa 1920s or 1930s. At this stage, because the current building is built to the boundaries and is fully occupied by tenants, it is unfeasible and impractical to undertake any detailed investigative ground works. We confirm that Hibbs & Associates have been engaged to undertake over the next month a detailed hazardous building materials survey for the current building.*

*Our proposed development requires the full excavation of the site up to all boundaries and to an average depth of 18m which is into rock. As such, even in the unlikely event that contaminated ground material is encountered during excavation, all of it will be classified, removed, and disposed at an approved waste facility in accordance with all applicable environmental obligations.*

A condition has been provided in the recommendation which requires that the Principal Certifying Authority is satisfied that the site is suitable with regards to contamination prior to a construction certificate being issued. This captures the requirement for remediation in the event that contamination is identified on the site.