

TO: Hunter Central Coast Regional Planning Panel

CC:

FROM: Gareth Simpson, Senior Development Officer (Planning)

DATE: 16 March 2021

SUBJECT: PPSHCC-50 – 625 Hunter Street Newcastle West - DA 2020/00621

In response to the emails dated 15th March 2021, please see below a response to the questions raised regarding the consideration of State Environmental Planning Policy No. 55 – Remediation of land in the assessment of DA 2020/00621 (625 Hunter Street, Newcastle West) and the consideration of the development application in light of the decision of LEC matter *Crescent Newcastle v Newcastle CC & FOKEP* in respect of owners consent and mine subsidence grouting works.

Consideration of State Environmental Planning Policy No. 55 – Remediation of land

Following an initial assessment of the development, It was considered that a preliminary contamination investigation was not required by SEPP 55 based on the following considerations;

1. The site was not known to have been used for a potentially contaminating activity based on readily available information (the ground floor of the building appears to have predominately been used for former retail type activities),
2. the ground floor use proposed is predominantly commercial with no significant exposure pathway for residents living above, and
3. a substantial part of the site is to be excavated for the basement utility area for appropriate waste classification and lawful disposal off-site.

Based on Council's interpretation of The National Environment Protection (Assessment of Site Contamination) Measure 1999 and experience with NSW EPA accredited Site Auditor advice on the matter, the key consideration for contamination exposure risk is the ground level landuse type, irrespective of landuses above, unless there is a clear potential exposure pathway present.

A minor potential exposure pathway was identified within the landscaped communal areas on the southern part of the ground level, however this was considered to be a low risk as landscape plans show these areas to be planted out with shrubs with approximately 100mm of mulch applied. These areas would also be maintained by strata appointed maintenance contractors ensuring continued cover over time.

As these ground floor landscaped areas are for communal use, it was also considered very unlikely that vegetable gardens or gardening activities resulting in extended exposure to soil would occur.

Given this, a preliminary contamination investigation was not required and the development is considered acceptable in respect of contamination.

Decision of *Crescent Newcastle v Newcastle CC & FOKEP* LEC appeal in relation to landowners' consent and mine subsidence grouting works

City of Newcastle's (CN) position in respect of this matter is that landowner's consent is not required for mine subsidence grouting works. As the appeal decision has provided no evidence to the contrary on this issue, CN are proceeding on the basis that no owners consent is required for such works until otherwise determined.

Should you require any further information on this matter please contact Gareth Simpson, Senior Development Officer (Planning) on 49742795.

Regards

Gareth Simpson
Senior Development Officer (Planning)