



Moreland City Council

6 June 2018

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Part B - Submission by the Planning Authority Moreland City Council

Application of the Environmental Audit Overlay

**Planning Scheme Amendment C164
Brunswick Activity Centre Industrial Land Rezoning**



Moreland City Council

TRIM: D18/196481

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Proposed Application of the EAO

1. Amendment C164 proposes to apply the Environmental Audit Overlay (**EAO**) to land identified as being potentially contaminated. The basis as to whether an EAO should be applied or not relies on two reports. One produced by Sinclair Knight Merz (**SKM**) in 2011 and one produced by Golder Pty Ltd (**Golder**) in 2017.
2. Ministerial Direction 1 requires the Planning Authority to satisfy itself that the environmental conditions of that land are or will be suitable for that use and be satisfied that potentially contaminated land is suitable for a sensitive use to occur.
3. Council is also guided in the application of the EAO by General Practice Note – Potentially Contaminated Land prepared by the former Department of Sustainability & Environment June 2005.
4. The application of the EAO is an appropriate response for Council to satisfy itself that land that has been identified as potentially contaminated is earmarked for further assessment or remediation.

SKM 2011 Report

5. In 2011 as part of background work for Amendment C134, which implemented the Brunswick Structure Plan into the Moreland Planning Scheme, an assessment of potentially contaminated land was conducted by SKM. This investigation culminated in the *Brunswick Major Activity Centre – Environmental Audit Overlay Assessment*, 15 December 2011 report. This report made recommendations regarding whether the EAO should be applied to land which was rezoned to allow for sensitive uses.
6. Part of these investigations included assessment of land which ultimately wasn't rezoned through the C134 process. Where sites were identified through this process as requiring an EAO but ultimately not applied, this was considered to be sufficient justification for this process to apply the EAO.
7. Additionally there were some sites which were recommended to be excluded from the EAO as part of this process. Given the passage of time and an absence of understanding as what may have occurred on the sites since the 2011 report was conducted and the possibility of new information being available, it is appropriate that these sites were re-assessed for Amendment C164. Furthermore, we note that SKM no longer operates and as such we are unable to confer with them.

Golder 2017 Report

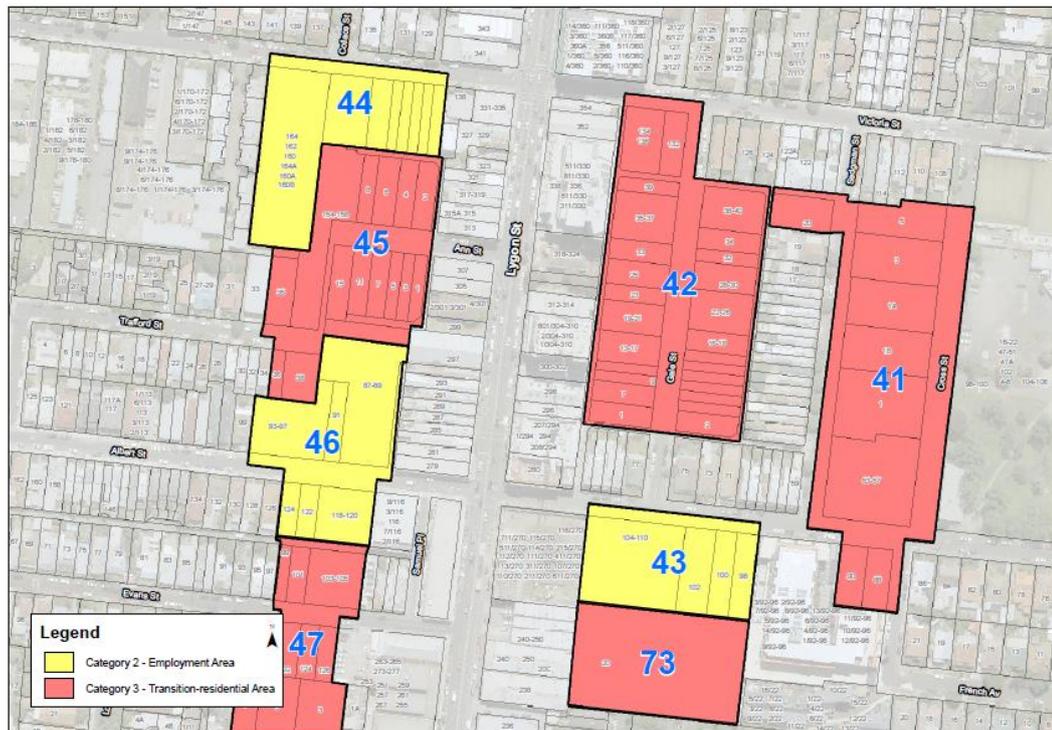
8. In preparing Amendment C164, Moreland City Council engaged Golder Associates to conduct a detailed investigation of 16 industrial areas (approximately 138 properties). This investigation was required to determine which of those areas would be recommended to be included in an EAO as part of any rezoning which would allow for sensitive uses.
9. Included in the Golder assessment were properties considered by SKM in the 2011 report that were not recommended to be included in the EAO but were ultimately not rezoned through the C134 process.

Response to submissions

10. Three submissions queried the application of the EAO and questioned the accuracy of the contamination assessment provided by Golder (environmental remediation consultants). The submitters also disputed the application of the EAO on their respective properties.

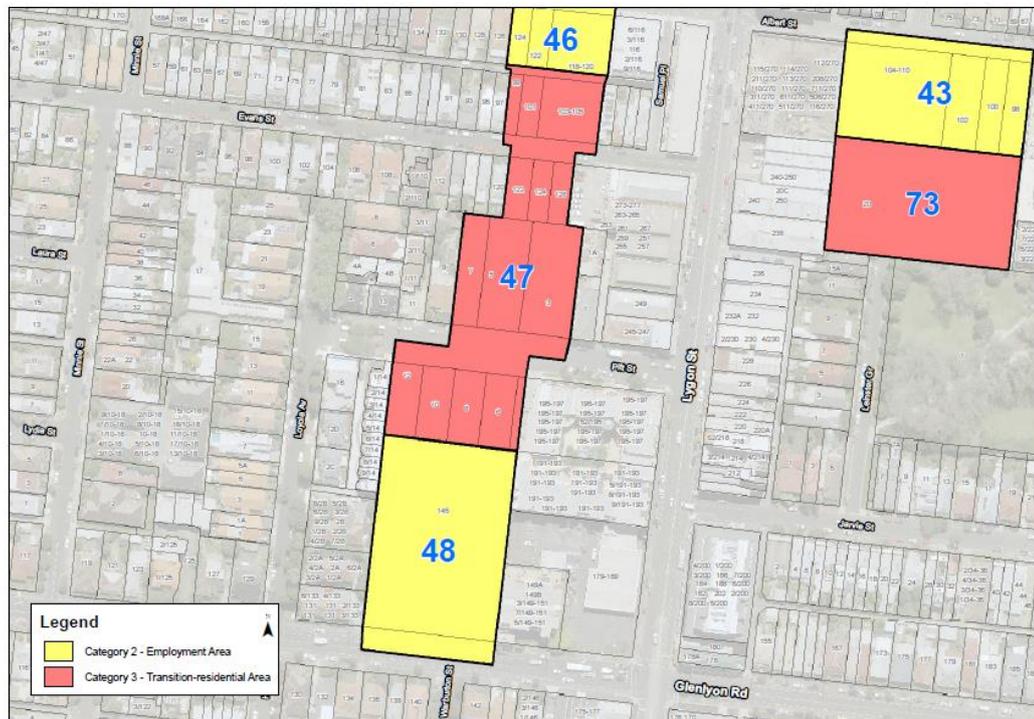
11. **MILS Area 45**

Relevant submission 77 and 130



MILS Area 47

Relevant submission 97



12. In response to the submissions, further clarification was sought relating to the application of the EAO to properties adjoining potentially contaminated land. Officers referred these submissions to Golder for further comment. Golder has provided a response to each of the submissions, which will be addressed through expert witness evidence.
13. Golder has advised that these adjoining properties are also proposed to be included in the EAO due to the upgradient of ground water flow in these locations which represents evidence of potential contamination.
14. Following receipt of submissions, Council requested that Golder further clarify the methodology used to assess potential contamination. This refinement also rectified an incorrect street reference as identified in a submission.
15. Golder has not proposed any changes to recommendations regarding the application of the EAO.
16. Council does not propose any changes to the proposed application of the EAO.

Response to expert evidence

17. Two expert evidence reports have been circulated:
- Mr Ian Kluckow – Golder Pty Ltd – Contamination Assessment
 - Mr Rory McPhillips – Atma Environmental – Contamination Assessment.
18. Mr Kluckow's report will be addressed through his presentation.
19. In response to the evidence provided by Mr McPhillips of Atma Environmental Council would like to re-iterate several points.
20. Several references are made in relation to the findings of the SKM 2011 report with respect to the assessments of 6 and 8 Ann Street. The SKM report is not the basis for the recommendation of the application of the EAO to these properties, the Golder report 2017 (revised 2018) is the basis for the recommendations of amendment C164.
21. Further, SKM no longer exist as a company and therefore no questions can be put to them regarding their recommendations for these two properties. The Golder report identifies evidence which concludes a potential for contamination exists for these sites, which justifies the application of the EAO.
22. We note that the Golder report was updated in response to submissions (post exhibition) to further clarify the methodology and reasoning behind their recommendations. No changes to the recommendations were made.
23. Mr McPhillips evidence implies that only land categorised as 'high potential' according to the practice note, should be included in the EAO. We dispute this. The Ministerial Direction¹ Potentially Contaminated land states that:
- Requirement to be met*
- 4. In preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, **a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use** (Emphasis added)*
24. Council has two choices in this matter, either do not apply the EAO, if they are satisfied that the land is suitable for sensitive uses or apply the EAO if it is not satisfied. As an assessment is required to determine whether or not an audit is

appropriate, in the absence of a detailed assessment application of the EAO is appropriate.

Expert Witness

25. Council would now ask Mr Ian Kluckow of Golder Pty Ltd to present his expert witness evidence.

Ian Kluckow of Golder Pty Ltd

26. This completes the Part B Submission for Council.

Richard Tolliday
Senior Strategic Planner
MORELAND CITY COUNCIL

List of Attachments

- 1 Expert Evidence Statement – Ian Kluckow of Golder Pty Ltd.