

Your Ref : 31/14369/125317
Our Ref: D2006/0020-0626

Peter Nadebaum
Environmental Auditor
GHD Pty Ltd.
Level 8 180 Lonsdale Street
MELBOURNE VIC 3000

Dear Peter

Thank you for your letter of 28 November 2006 in which you seek clarification from the Environmental Protection Agency (EPA) Program on the proposed approach you intend to take in preparation of an audit report for the Darwin Waterfront site. This letter puts forward a (hopefully) clear response to your request for clarification on certain issues. I have set out the response in the form of a brief commentary under a copy of each of the proposals put forward in bold-highlight in your letter.

"We are proceeding on the basis that these beneficial uses need to be protected."

This proposal is in respect of the land at the site and relates to the area being made fit for the intended purpose and is in accord with the site Development Permit issued by the Development Consent Authority. The NT EPA Program agree that public health and aesthetic values need to be protected.

"We are proceeding on the basis that these beneficial uses do not require protection."

This proposal relates to the potential uses of groundwater at the site. No statutory declaration has been made relating to groundwater at this site and there is no intention to declare that groundwater from this site will be used for any particular beneficial use.

For clarification, Schedule B (6) of the National Environmental Protection Measures (Assessment of Site Contamination) refers to "current and realistic future uses" for groundwater as a basis for the risk assessment process and

directs that the most sensitive receptor in each exposure scenario be considered – that is, it moves the emphasis away from the particular impacts on the beneficial use of the groundwater to the potential for (contaminated) groundwater to impact on a range of sensitive receptors.

“...we are proceeding on the basis that URS and the auditor will assess the risk associated with the residual NAPL and, assuming this appears to be satisfactory, the auditor will refer this documentation to the EPA so that EPA can confirm that it is in agreement with the proposed course of action.”

The EPA Program has the expectation that a risk assessment document will be prepared by URS Consultancy that it will be subject to the scrutiny of the independent auditor, and that the EPA Program will then have the opportunity to comment on the merit of the document.

“ we are proceeding on the assumption that this will also be required by the NT EPA.”

Victorian EPA Publication #840 is noted, in particular Appendix 2 of that document. It is noted, furthermore, that you go on to state that *“irrespective of whether a CUTEPA is required by EPA, we expect to assess the basis for the remediation using these principles and include this reasoning in the audit report.”* The general format for such a submission as outlined in Appendix 2 is entirely appropriate given the particular circumstances and sensitivities associated with this site. The ‘rigour’ that might apply to such an approach will be subject to a range of factors and I am not aware of how the Victorian EPA might assess whether a satisfactory degree of rigour has been met for any particular situation. It will be problematic for us to make such a judgement given the lack of experience and expertise in this area and I do not anticipate that Victorian EPA staff will be engaged to act on our behalf. Clearly we can expect such a submission from you and we will scrutinise and comment on it upon receipt as our resources allow.

Finally, in relation to the view you put forward at section 11 of your letter, it is anticipated that any contamination that may remain within the groundwater will be clearly described in a statement of audit and that this description will be used to record formal notification of this contamination on the land title. This procedure is in accord with current practice in the NT.

Yours sincerely



Michael Lawton
Director Environmental Management
13 December 2006