

VOLUNTARY MANAGEMENT PROPOSAL UNDER THE CONTAMINATED LAND MANAGEMENT ACT 1997

Part 1

Preliminary Details

1. Proponent's Details

(a) Name and contact details

If a registered company, company name:
Trading as: Department of Planning and Environment
ABN: 20 770 707 468

If not a registered company, your full name(s):
Trading as:
ABN: 20 770 707 468

Phone: 02 4937 9300
Fax: N/A
Email: maitland.crownlands@crowmland.nsw.gov.au
Postal address: PO Box 2215 DANGAR NSW 2309
Postcode: 2320
EPA licence number (if applicable): N/A

(b) Who the EPA should contact with technical enquiries about the proposal

Primary contact:

Name: Julie Richards
Employer/Company: NSW Department of Planning and Environment – Crown Lands
Position title: Group Leader Landscape Services Centre
Type of business: State Government Agency
Phone (business): (02) 6883 5431 or 0437 581 795
Email: julie.richards@crowmland.nsw.gov.au

Secondary contact:

Name: Mark Grace
Employer/Company: NSW Department of Planning and Environment – Crown Lands
Position title: Natural Resource Management Project Officer
Type of business: State Government Agency
Phone (business): (02) 4937 9331 or 0474 803 462
Email: mark.grace@crowmland.nsw.gov.au

Proponent: Department of Planning and Environment - Crown Lands

Site: Former Empire Bay Marina

Proposal Date: 5 December 2022

2. Site to which proposal applies

The site to which the proposal applies (“the site”) is the former Empire Bay Marina and adjacent lands at 16B Sorrento Road, Empire Bay NSW 2257.

The Regulated Area (being land subject to this VMP) comprises the whole of Lot 486 in Deposited Plan (DP) 727270, part of Lot 7036 in DP 1058756 and part of Brisbane Water (Cockle Channel). The site is irregular in shape with an approximate area of 2,050 m² and includes both onshore and overwater areas. The current zoning is a combination of RE1 Public Recreation and W2 Recreational Waterways, under the Central Coast Local Environment Plan 2022. The location and approximate site area is identified in Figure 1 (attached).

3. The contamination

On Thursday 5 May 2022 the NSW Environment Protection Agency (EPA) declared that site (soil and groundwater) and the adjoining waterways are believed to be contaminated with substances and the contamination is significant enough to warrant regulation under the *Contaminated Land Management Act 1997*. The substances of concern (“the contaminants”) are:

- Tributyltin (TBT);
- Total Recoverable Hydrocarbons (TRH C₁₀-C₄₀);
- Metals (copper, lead, nickel, zinc and mercury); and
- Asbestos-Containing-Material (ACM) fragments.

4. The management proposal

The management proposal (“the proposal”) comprises:

- a) the information set out above;
- b) the actions, works and other components set out in the following documents:
 - i. Report on Detailed Site Investigation (Contamination), Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay (Ref: 202478.00.R.001.Rev1, dated July 2021).
 - ii. Sampling Analysis and Quality Plan for a Supplementary Contamination Investigation, Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay (Ref: 202478.01.R.001.Rev0, dated April 2022).

Stage 1 - Works

- iii. Remedial Action Plan (RAP) for the Removal and Validation Assessment of Underground Petroleum Storage System (UPSS) Infrastructure, Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay – Not Prepared.
- iv. Structural Report for Empire Bay Marine Structure for Crown Lands, (Ref: NL221807, dated 5 September 2022).

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- v. Development Application for the Stage 1 Rehabilitation of Empire Bay Marina to be submitted to Central Coast Council – Not Submitted.
- vi. Removal of Underground Petroleum Storage System (UPSS) Infrastructure, Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay – Not Completed.
- vii. Report on Remediation and Validation Assessment of Underground Petroleum Storage System (UPSS) Infrastructure, Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay – Not Prepared.

Stage 2 – Works

- viii. Report on Supplementary Contamination Investigation, Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay – Not Prepared.
 - ix. Human Health and Ecological Risk Assessment (HHERA), Rehabilitation of Empire Bay Marina, 16B Sorrento Road, Empire Bay – Not Prepared.
 - x. Remedial Action Plan (RAP), Rehabilitation of Empire Bay Marina (Remnant Contamination Issues), 16B Sorrento Road, Empire Bay – Not Prepared.
 - xi. Development Application for the Stage 2 Rehabilitation of Empire Bay Marina to be submitted to Central Coast Council – Not Submitted.
 - xii. Remediation Works, Rehabilitation of Empire Bay Marina (remnant contamination issues), 16B Sorrento Road, Empire Bay – Not Completed.
 - xiii. Remediation and Validation Assessment, Rehabilitation of Empire Bay Marina (remnant contamination issues), 16B Sorrento Road, Empire Bay – Not Prepared.
- c) the undertakings set out in Part 2 of this document; and
- d) the performance schedule set out in Part 3 of this document.

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Part 2

Undertakings Included in Voluntary Management Proposal

Explanatory Note:

Before the EPA can approve a voluntary management proposal under section 17 of the Contaminated Land Management Act 1997, it has a statutory obligation to satisfy itself that the terms of the proposal (as modified by any conditions to be imposed by the EPA) submitted to it under section 17 are appropriate. In addition to including an appropriate investigation plan, remedial action plan or other plan of management, to be acceptable to the EPA a proposal would usually include the undertakings set out below. These undertakings are important and will form part of the terms of the proposal. If the proposal is approved, they must be complied with in order for the EPA to be satisfied that the terms of the proposal have been carried out.

THE PROPOSAL INCLUDES THE FOLLOWING UNDERTAKINGS:

General

1. All works or activities carried out in connection with the proposal, including sampling and preparation of associated reports (“the activities”), will be carried out in accordance with applicable provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021* and any requirements imposed under it in relation to the activities.
2. All matters listed as relevant to a remediation action plan by the EPA’s *Consultants reporting on contaminated land: Contaminated Land Guidelines (2020)* will be taken into account in the carrying out of the activities.
3. All the activities will be carried out consistently with guidelines made or approved under section 105 of the CLM Act.
(See www.epa.nsw.gov.au/clm/guidelines.htm)
4. All the activities will be carried out in compliance with applicable NSW environmental legislation, and in particular:
 - i) All the activities, including:
 - (1) the processing, handling, movement and storage of materials and substances used to carry out the activities; and
 - (2) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activitieswill be carried out in a competent manner;
 - ii) All plant and equipment installed at the site or used in connection with the activities:
 - (1) will be maintained in a proper and efficient condition; and
 - (2) will be operated in a proper and efficient manner.
5. All the activities at the site will be carried out in a manner that prevents or minimises the emission of dust, odour and noise from the site.
6. Waste generated or stored at the Site will be assessed and classified in accordance with the EPA’s *Waste Classification Guidelines Part 1: Classifying Waste*.
(See www.epa.nsw.gov.au/wasteregulation/classify-guidelines.htm)

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7. All waste transported from the Site that is required by the *Protection of the Environment Operations (Waste) Regulation 2014* to be tracked must be tracked using the EPA's on-line tracking system or an alternative tracking system approved in writing by the EPA.

(See www.epa.nsw.gov.au/owt/aboutowt.htm)

8. The proponent will make this voluntary management proposal available to the public free of charge and consents to the EPA placing this proposal on its public website.
9. The proponent will make all documents referred to in, and required to be prepared under, this voluntary management proposal available to the public free of charge, unless the proponent identifies commercial-in-confidence or private/personal information (including information relating to a third party) within those documents. In these cases, the proponent will remove such information from the documents to make the documents suitable for public release.
10. The proponent will:
 - i) prior to the implementation of the proposal provide for the EPA's approval a strategy for communicating about that implementation, particularly the actual management works, with members of the public who are likely to have a real interest in or be affected by that implementation; and
 - ii) implement the strategy as approved in writing by the EPA.

Monitoring, Record Keeping & Reporting

11. At least until the EPA has notified the proponent that the EPA no longer considers that the contamination is significant enough to warrant regulation under the *Contaminated Land Management Act 1997*, record and retain all monitoring data and information and provide this record to the EPA at any reasonable time if so requested by the EPA and as specifically provided under the proposal.
12. The EPA will be informed in writing within 7 days of the proponent becoming aware of information or data indicating a material change:
 - a) in conditions at the site, or
 - b) in its surrounding environment,which could adversely affect the prospects of successful management of the site or result in harm to the environment.
13. The EPA will be informed in writing within 7 days of the proponent becoming aware of any failure, either by the proponent or any other person, to comply with any term of the proposal.
14. If the proponent becomes aware that they will not meet a key milestone or reporting requirement, they must notify the EPA in writing at least 21 days before the specified deadline. The notification must include:
 - a) detailed reasons for not meeting the milestone or requirement,
 - b) a revised time period within which the milestone or requirement will be met, and
 - c) a statement explaining why compliance action should not be taken.

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15. The EPA will be informed in writing as soon as practicable of any notification by the proponent, its employees or its agents to an appropriate regulatory authority other than the EPA of any pollution incident at the site within the meaning of the *Protection of the Environment Operations Act 1997*.

(See <http://www.epa.nsw.gov.au/licensing/dutytonotify.htm>)

Performance Schedule

16. The performance schedule which is in Part 3 of this document will be adhered to.

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Part 3

Performance Schedule

Explanatory Notes:

The performance schedule required must provide a clear and concise list of:

- key milestones and dates by which they are to be achieved and
- the objectives and principal features of the investigation or remedial action plan.

The performance schedule is very important because it provides a concise set of performance indicators which will be used, along with an evaluation of compliance with the terms in Part 2 of this document, to assess whether or not the terms of the proposal have been carried out.

To be acceptable to the EPA, the performance schedule **must** include precise, measurable and time-bounded performance indicators. Where it is appropriate for the investigation or other management to be done in stages, performance measures for each stage must be provided. EPA approval of later stages will be dependent on the completion and/or performance of earlier stages being demonstrated to the EPA's satisfaction.

The performance schedule should adhere to the structure set out in the following table.

PART 3 - PERFORMANCE SCHEDULE	
The schedule should concisely set out:	
1. Objectives of the proposal	
2. Principal features of the proposal	
	a. <u>Capital works</u>
	b. <u>Investigation and remediation</u>
	c. <u>Monitoring</u>
3. Reporting requirements and timeframes for submission of reports	
4. Key milestones and deadlines for investigation or remediation activities	

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PERFORMANCE SCHEDULE

1. Objectives of the proposal

The objectives of the proposal are to:

- O1. Develop and maintain relations and communications with stakeholders and the EPA.
- O2. Define the extent of the impact of soil, sediment, groundwater and surface water contamination at the site and the wider environment.
- O3. Collect sufficient data to allow for the assessment of future remedial strategies/actions.
- O4. Undertake remedial works and other management activities to address the site contamination.
- O5. Engage a Site Auditor accredited under the CLM Act to certify that:
 - a. The nature and extent of contamination has been appropriately determined;
 - b. The remedial strategy specified in the Remedial Action Plan is appropriate for the UPSS removal and validation;
 - c. The UPSS remediation and validation is completed in accordance with the Remedial Action Plan; and
 - d. The terms of the approved VMP have been complied with.

It is proposed to stage the implementation of the VMP:

Stage1 (this document) will:

- Develop a RAP to guide the decommissioning (removal) of the abandoned UPSS.
- Obtain necessary planning approvals.
- Remove unsafe and derelict structures to enable safe sampling and remediation.
- Decommission (remove) the UPSS infrastructure, site assessment and reporting in accordance with AS 4976-2008 *The removal and Disposal of Underground Petroleum Storage Tanks* and the Australian Institute of Petroleum Code of Practice CP4 *The Design, Installation and Operation of Underground Petroleum Storage Systems (UPSS)*.

Stage 2 of the VMP will:

- Establish a suitable level of site characterisation through the investigation of data gaps identified in the Detailed Site Investigation (Douglas Partners 2021).
- Assess the risks of the contamination to human health and the environment.
- Develop a RAP to guide site remediation.
- Obtain necessary planning approvals.
- Remediate the site in accordance with the approved RAP.

This Schedule relates only to Stage 1. Stage 2 will be implemented upon completion of Stage 1 to the satisfaction of the EPA.

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The main objectives of Stage 1 are to achieve the following outcomes within the timeframes specified in the proposal:

2. Principal features of the proposal

The principal features of Stage 1 include, but are not limited to:

a. Capital works

- P1. Demolition and removal of unsafe structures, concrete hardstand and slipway.
- P2. Remove and dispose of the UPSS infrastructure (i.e., tanks, fuel lines and vents). This will include the removal of any contaminated soil to the extent practicable. Void to be filled with virgin excavated natural material (VENM).

b. Remediation

- P3. Excavation, stockpiling and management of suspected contaminated soils in the locality of the UPSS to the extent practicable. The spoil stockpiles will be assessed for their suitability for on-site reuse and/or offsite disposal at a licensed facility.
- P4. Validation sampling from the base and walls to assess the remnant contamination status of soils in the remediation excavations. Sampling any accumulated water in the base of the remnant excavations.

c. Monitoring

- P5. Complete monitoring and sampling of the three existing groundwater monitoring wells to assess groundwater contamination conditions in the locality of the removed UPSS.

3. Key milestones for investigation, remediation and other actions

All works set out in the proposal must be completed by the deadlines specified below:

Works	Deadline
T1. Stage 1 - Complete Detailed Site Investigation.	Completed
T2. Stage 1 - Submit RAP for infrastructure demolition and UPSS removal for Site Auditor review.	28 April 2023
T3. Prepare UPSS removal planning assessment documents and obtain planning approval.	1 July 2023
T3. Stage 1 - Demolition and removal of unsafe structures, concrete hardstand and slipway.	1 August 2023
T4. Stage 1 - Decommission (remove) UPSS and soil remediation works.	1 August 2023
T5. Stage 1 – Submission of Report on Remediation and Validation Assessment of Underground Petroleum Storage System (UPSS) Infrastructure for Site Auditor review.	1 September 2023
T6. Provide interim audit advice (RAP, UPSS remedial validation report)	1 October 2023
<i>T6. Stage 2 – Submit supplementary contamination investigation (SCI) report for Site Auditor review.</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T7. Stage 2 – Submission of Report on HHERA for Site Auditor review</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T8. Stage 2 – Submit RAP for site remediation for Site Auditor review</i>	<i>TBA – subject to Stage 2 VMP</i>

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<i>T9. Prepare planning assessment documents and lodge Development Application with Central Coast Council</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T10. Stage 2 - Commence site remediation</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T11. Stage 2 – Practical completion of remedial works on site</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T12. Submit remedial validation report for Site Auditor review.</i>	<i>TBA – subject to Stage 2 VMP</i>
<i>T13. Submit Site Audit Report and Site Audit Statement</i>	<i>TBA – subject to Stage 2 VMP</i>

Investigation and planning for Stage 1 has commenced and on ground remediation will be undertaken between July 2023 to December 2024, or earlier dependent on development consent determination timeframes.

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4. Reporting requirements and timeframe for submission of reports

The EPA must be provided with the following reports by the deadlines specified below:

<i>Report</i>	<i>Deadline</i>
R1. RAP – Stage 1	28 May 2023
R2. Remediation and Validation Assessment – Stage 1	1 Nov 2023

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Signature of proponent


This application for approval of this voluntary management proposal may only be signed by a person(s) with the legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in the categories below.

Please tick (✓) the box next to the category that describes how this application is being signed.

If the proponent is:		The application must be signed and certified by one of the following:
an individual	<input type="checkbox"/>	the individual.
a company	<input type="checkbox"/> the common seal being affixed in accordance with the <i>Corporations Act 2001</i> , or <input type="checkbox"/> two directors, or <input type="checkbox"/> a director and a company secretary, or <input type="checkbox"/> if a proprietary company that has a sole director who is also the sole company secretary – by that director.	
a public authority other than a council	<input type="checkbox"/> the chief executive officer of the public authority, or <input checked="" type="checkbox"/> by a person delegated to sign on the public authority's behalf in accordance with its legislation (Please note: a copy of the relevant instrument of delegation must be attached to this application).	
a local council	<input type="checkbox"/> the general manager in accordance with s.377 of the <i>Local Government Act 1993</i> ('LG Act'), or <input type="checkbox"/> the seal of the council being affixed in a manner authorised under the LG Act.	

I/We (the proponent):

- ***apply for approval of the voluntary management proposal set out in this proposal and in any documents referred to in Part 1.4 of this proposal***
- ***declare that the information in this proposal form (including any attachment or document referred to in Part 1.4 of this proposal) is not false or misleading.***

Signature	
Name (printed)	Tim Deverell
Position	Director Regional Operations East, Land and Asset Management Department of Planning and Environment – Crown Lands
Date	5 December 2022

Seal (if signing under seal):

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