

12 March 2021

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Balmoral Quay Pty Ltd

Attention: [REDACTED]

Dear [REDACTED]

**Compliance with Conditions in the Statement of Environmental Audit
Stage 5, Balmoral Quay Development
Liverpool Street, Balmoral, VIC**

1 Introduction

I am writing as the Environment Protection Authority of Victoria (EPA) appointed Environmental Auditor having issued a Statement of Environmental Audit (SoEA) under s53X of the Environment Protection Act (EP Act) 1970 for a site (formerly known as Rippleside Quay and Shipyard) located at 43 Liverpool Street, Rippleside, Victoria 3215 (**Figure 1**). Note the boundary of the audit area shown in red in Figure 1. The SoEA was issued in September 2008 to the owner at the time, Trendcorp Pty Ltd.



Figure 1 Boundary of Site Audit (red line). *Image source: Google Earth 2008 Imagery.*

The current site owner and developer is Balmoral Quay Pty Ltd and the development is known as Balmoral Quay. The development has 5 stages for high density residential use; Stage 1 to 2 has been developed and approval is being sought to amend the current site zoning (i.e. Comprehensive Development Zone) to allow a taller residential building to be built on Stage 5. The City of Greater Geelong (CoGG) has requested information on the status of the audit process to support the planning approval application, presumably in compliance with Ministers Direction No. 19.

I have been engaged to

- Review the status of and compliance with Statement of Environmental Audit (Ref: Lane Piper, 2008)
- Review of compliance with planning requirements set out in CoGG correspondence (Ref: CoGG, 2009); and
- Provide advice on whether the planning permit requirements for the development have been satisfied in relation to the site audit process.

2 The Environmental Audit Report and Statement

I completed an Environmental Audit Report for Rippleside Quay and issued a SoEA on 5 September 2008 (see SoEA and Audit Site Plan in Attachment A). The Site condition in terms of contamination, at the time of completing the Audit, was considered suitable for the following land uses (subject to conditions described below):

- Sensitive use (high density residential)
- Recreational/open space
- Commercial; and
- Industrial.

The following conditions were specified in the SoEA to ensure the site remained suitable for the specified land uses identified above:

- **Condition 1:** Soil / fill remaining on site in Area A (Slipway) and Area B (Building E) shall be covered by permanent barriers such as concrete slabs and / or pavement constructed during site development. Such barriers shall be maintained at all times, otherwise replaced with equivalent barriers.
- **Condition 2:** Any activities (such as excavations for underground services) which may expose contaminated soil shall be conducted in accordance with a health, safety and environment management plan (HS&E Plan) to minimise human exposure to contaminants in the soil and manage waste soil in accordance with current regulatory requirements. Such plans must be prepared by an appropriately qualified professional practitioner and be endorsed by a person appointed as an Environment Auditor under Part IXD of the Environment Protection Act 1970.
- **Condition 3:** All groundwater monitoring bores remaining on site should be decommissioned in accordance with EPA guidelines.
- **Condition 4:** The groundwater is contaminated and unsuitable for stock watering uses. Consequently, no groundwater shall be extracted at this such for such uses.

I also specified the conditions that need to be complied with before a Certificate of Environmental Audit (CoEA) may be issued. The report explains that this language is mandated by EPA as part of a SoEA although it can be confusing as the SoEA certifies the site suitable for the specified uses making the attainment of a CoEA unnecessary. The conditions to be satisfied if and only if a CoEA was requested by the owner, were:

- Groundwater and soil has been cleaned up such that the protection of all protected beneficial uses is restored
- Following clean-up of soil and groundwater, a further audit would be required if a CoEA is to be issued.

Again, I reiterate that a CoEA is not needed for the site in order to allow on-going development.

The SoEA also includes "Other Relevant Information" which states in part that "*The HS&E Plan presented in Appendix K of the Audit Report prepared with the Statement is considered an appropriate plan complying with condition 2, and is endorsed by this Auditor.*" This plan includes protocols for managing excavations into contaminated soil in terms of OHS and compliance with environmental regulations including disposal of waste soil that may classify as a prescribed industrial waste including containing asbestos cement material (Douglas Partners, 2008).

3 The Development at the Site

3.1 Stage 1 to 2

The Stage 1 to 2 development which is already completed consists of 43 townhouses (**Figure 2**). I note that a seawall has been constructed diagonally from the northern end of the original seaward wall towards the land north of the audit area to enclose a tidal pool which will become a park or open space which is outside the land covered by the SoEA.



Figure 2 Balmoral Quay - Stages 1 and 2 development completed. *Image source: Nearmap 2021 Imagery.*

3.2 Stage 3 and 4

The Master Plan Landscape Plan for Stage 3 and 4 High Density Residential Development (Balmoral Quay – Stages 3 and 4, 319-0153-00-L-02-R 001; dated 26 August 2020) is shown in **Figure 3** below.



Figure 3 Balmoral Quay - Stages 3 and 4 High Density Development

As illustrated in Figure 3, Stages 3 & 4 development comprises 6 multi-storey buildings (A to F) and a parkland in the northern triangular portion of the development. The parkland area is located outside the boundary of the site subject to the 2008 Environmental Audit certified in the SoEA.

I understand from our discussions, the developer proposes to reclaim the seabed land in the triangular tidal pool for development of the park. This is planned to be achieved by using a combination of surplus soil from the construction activities in Stages 3 and 4, in addition to imported fill. The auditor's advice herein does not address those works as the subject land (triangular park) is outside the audit site.

4 Compliance with Statement of Environmental Audit Conditions

Based on the discussions with Gersh Development Services Pty Ltd (Development Manager) and HUB Property Group (Project Manager) and information provided, I have reviewed the degree of compliance by the owner/developer with the conditions in the 2008 SoEA (Attachment A). My understanding of the status of compliance to date is:

- **Compliance with Condition 1 – movement and covering of contaminated soil.** With respect to the residue contamination in Area A (Slipway) and Area B (Building E), I understand that this work will not be conducted because this spillway area was filled with basalt boulders and the remaining area covered by concrete pavements or buildings. In my view, the condition has effectively been complied with to the extent that the desired outcome of covering the site with buildings and hard pavements has occurred which provide minimal access by people to underlying contaminated soil. The contaminated soil/fill in Area B (specified in the audit report) is assumed to remain in-situ and will be covered by buildings and pavements.

- **Compliance with Condition 2 – implement the HS&E Plan** - Based on my inquiries with Balmoral Quay in relation to the HS&E Plan, there is no auditable evidence that the plan was implemented, as it is understood that the original development builder (no longer trading) was contracted to comply with all relevant requirements including the management of residual contamination at this site. The compliance status for this condition cannot be determined. Current and future development works on the audit site must comply with the EHS-MP issued with the SoEA (or an auditor-approved alternative plan).
- **Condition 3 – Decommissioning of bores.** I am not aware of any auditable information on the status and/or condition of the registered groundwater monitoring bores at the site. The developer indicated that the bores are no longer visible and may have been covered or destroyed during development. Consequently, compliance with this condition cannot be determined. Assuming the bores were not decommissioned, the likelihood of any consequential environmental harm at this site would be negligible, in my view, due to the hydrogeological setting.
- **Condition 4 – do not extract contaminated groundwater.** There is no plan to extract groundwater at the site. Thus, the condition is complied with.

These conditions equally apply to Stage 5 and must be complied with and auditable evidence provided, to the extent practicable.

5 Planning Authority requirements

I noted that the letter from CoGG dated 28 July 2009 to Trendcorp in relation to the planning permit (No. 647/2004/A) stated that “*Condition 8 – Certificate of Environmental Audit to be submitted before development commences*”. In my opinion, based on my 25 years’ experience of the application of the site environmental audit system to land use planning and development in Victoria, there is no need for the issue of a Certificate of Environmental Audit (CoEA) for this site for the following reasons:

- The SoEA already issue by me in 2008 is sufficient as it finds the site suitable for uses including those within the proposed development, subject to conditions.
- Council’s request for CoEA could arise from the wording in the SoEA in relation to “terms and conditions” to enable a CoEA to be issued. As noted above, the audit report explains that this language is a mandatory part of a SoEA to explain the gap between the condition of the current (in 2008) condition of the site and that needed to allow issue of a CoEA if requested or required. However, the SoEA makes a CoEA redundant for the purpose of certifying the site as suitable for the proposed high-density residential development.

I also refer to the letter from CoGG dated 24 September 2009 which requested Trendcorp to provide Council with a copy of the relevant “SoEA CARMS No. 60418-2”. This is the reference number assigned by EPA to the site audit file on commencement. It is also used as the identifier on the file names assigned to the audit report at EPA which have also posted on their website portal where they can be accessed at: <https://www.epa.vic.gov.au/for-business/find-a-topic/environmental-auditing/access-environmental-audit-reports>.

The Environmental Audit Report and the SoEA were issued by me to the Council on the same day (most probably on a CD-ROM) as the report was issued to EPA in 2008. The SoEA and appended audit site plan is also provided here in Attachment A.

The CoGG letter of 24 September 2009 also stated that Condition 8 of the planning permit had been met, thus verifying my position stated above.

In summary, based on the information provided to me by Gersh Development Services Pty Ltd on behalf of Balmoral Quay Pty Ltd, the availability of evidence of compliance with the four conditions in the SoEA is variable, and I note that, in respect of Stage 1 and 2 of the development, some aspects of some conditions have not been complied with or the evidence of compliance is no longer available; in the case of Stage 1, the previous developer/builder ceased trading. Notwithstanding, I consider that the Stage 1 and 2 have effectively achieved compliance with Conditions 1, 2 and 4; or the consequence of non-compliance is negligible as for Condition 3. Going forward, it will be necessary for works on the remaining stages to comply with the conditions, to the degree practicable, and in particular the application of the EHS-MP issued with the SoEA (or an auditor-approved alternative plan).

I would be pleased to clarify any aspects of this correspondence at your convenience.

Yours sincerely



Environmental Auditor
(appointed pursuant to the Environment Protection Act 1970)

Checked/
Authorised by: APL

Attachment A

Statement of Environmental Audit and audit site plan

ENVIRONMENT PROTECTION ACT 1970

STATEMENT OF ENVIRONMENTAL AUDIT

I, *Anthony P. Lane* of *Lane Piper Pty Ltd, Building 2, 154 Highbury Rd, Burwood, Victoria*, a person appointed by the Environment Protection Authority ("the Authority") under the *Environment Protection Act 1970* ("the Act") as an environmental auditor for the purposes of the Act, having:

1. been requested by *James Ramsey* to issue a Certificate of Environmental Audit in relation to the site located at *Rippleside Development, Liverpool St, Geelong as shown in Certificates of Title Allotment 60A TP 73266L, Allotment 60B TP 829950L and Lots 1 to 4 TP 006249Q* ("the site") which was previously occupied by *Port of Geelong as a boat slipway and maintenance depot* (see attached audit site plan).
2. had regard to, among other things,
 - (i) guidelines issued by the Authority for the purposes of Part IXD of the Act;
 - (ii) the beneficial uses that may be made of the site; and
 - (iii) relevant State environment protection policies/industrial waste management policies, namely:
 - *SEPP Groundwaters of Victoria*
 - *SEPP Waters of Victoria*
 - *SEPP Prevention and Management of Contamination of Land*
 - *IWMP Waste Acid Sulphate Soils*
 - *IWMP Prescribed Industrial Waste*

in making a total assessment of the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to, any beneficial use made of the site by any industrial processes or activity, waste or substance (including any chemical substance); and
3. completed an environmental audit report in accordance with Section 53X of the Act, a copy of which has been sent to the Authority and the relevant planning and responsible authority.

HEREBY STATE that I am of the opinion that the site is suitable for the beneficial uses associates with:

- *Sensitive Use (High Density Residential)*
- *Recreation/Open Space*
- *Commercial*
- *Industrial*

subject to the following conditions attached thereto:

- Condition 1* Soil / fill remaining on site in Area A (slipway) and Area B (Building E) shall be covered by permanent barriers such as concrete slabs and / or pavement constructed during site development. Such barriers shall be maintained at all times, otherwise replaced with equivalent barriers.
- Condition 2* Any activities (such as excavations for underground services) which may expose contaminated soil shall be conducted in accordance with a health, safety and environment management plan (HS&E Plan) to minimise human exposure to contaminants in the soil. Such plans must be prepared by an appropriately qualified professional practitioner and be endorsed by a person

appointed as an Environmental Auditor under Part IXD of the Environment Protection Act 1970.

Condition 3 All groundwater monitoring bores remaining on site should be decommissioned in accordance with EPA guidelines.

Condition 4 The groundwater is contaminated and unsuitable for stock watering uses. Consequently, no groundwater shall be extracted at this site for such uses.

The condition of the site is detrimental or potentially detrimental to any (one or more) beneficial uses of the site.

Accordingly, I have not issued a Certificate of Environmental Audit for the site in its current condition, the reasons for which are presented in the environmental audit report. The terms and conditions that need to be complied with before a Certificate of Environmental Audit may be issued are set out as follows:

- *Groundwater and soil has been cleaned up such that the protection of all protected beneficial uses is restored.*
- *Following clean-up of soil and groundwater, a further audit would be required if a Certificate of Environmental Audit is to be issued.*

Other related information:

- *The HS&E Plan presented in Appendix K of the Audit Report prepared with this Statement is considered an appropriate plan complying with condition 2, and is endorsed by this Auditor.*
- *The groundwater quality is suitable for limited industrial and primary contact recreation extractive uses.*
- *The groundwater has been cleaned up to the extent practicable.*

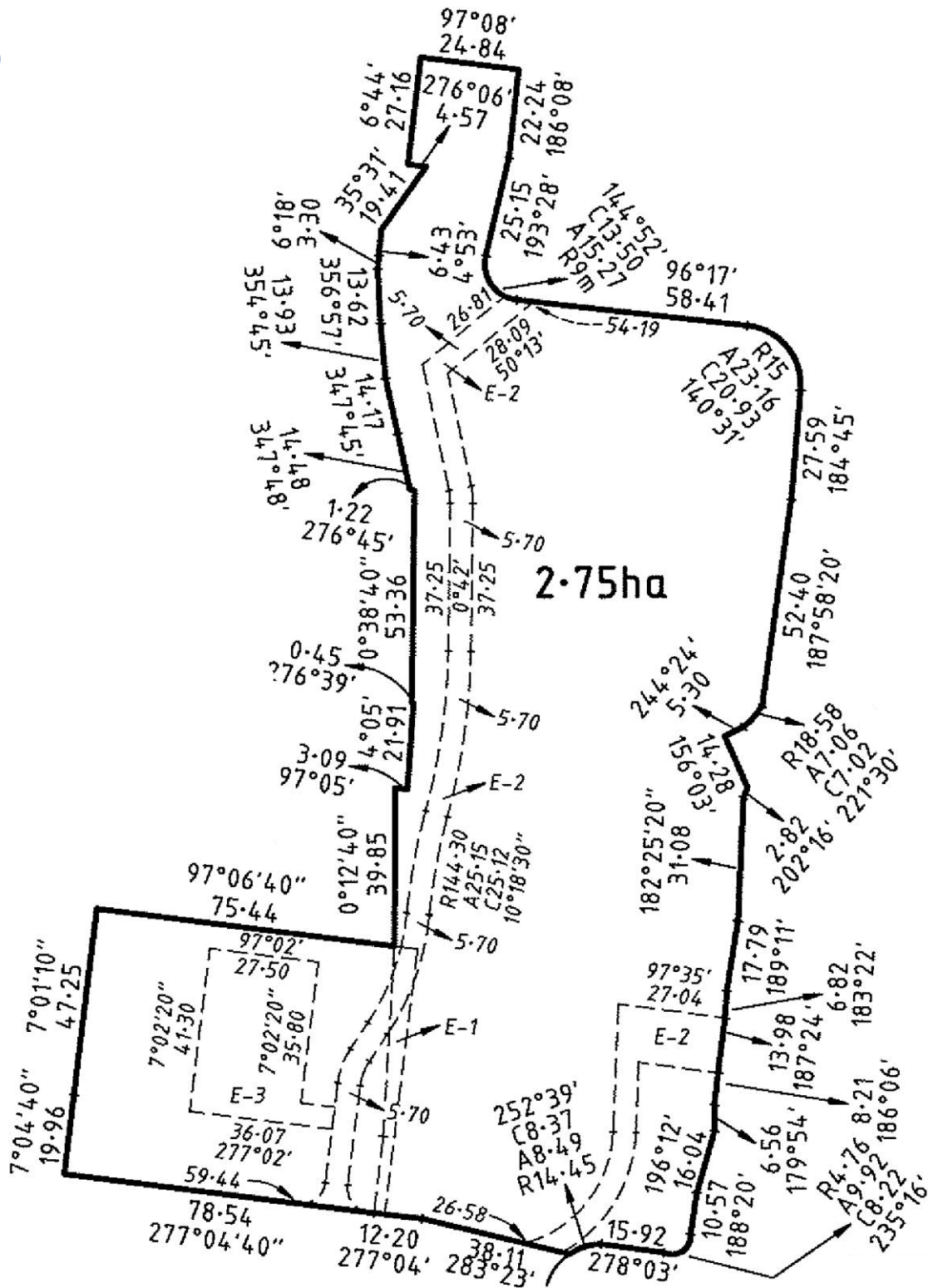
This statement forms part of the environmental audit report (Environmental Audit Report, Rippleside Quay, North Geelong, Vic, September 2008 - Lane Piper, Doc. Ref. 0879Report01.1). Further details regarding the conditions of the site may be found in the Environmental Audit Report.

Dated: 5 SEP 2008

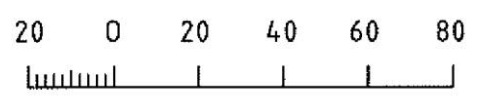
Signed:



Environmental Auditor



2.75ha



After TGM Ref. GE-1551-01-S0 Ver 2

LENGTHS ARE IN METRES

LanePiper

Lane Piper Pty Ltd

A.C.N. 120 109 935
www.lanepiper.com.au

PROJECT: s53X RIPPLESIDE QUAY
GEELONG

TITLE: AUDIT SITE BOUNDARY

SCALE(A4) :As above

DRAWN:FN

DATE:27 AUG 2008

JOB No:0879

REF:Figure 2.cdr

REV No.:0

FIG. NO.2