



***EXPERT WITNESS STATEMENT TO PANEL,
AMENDMENT C164 - BRUNSWICK ACTIVITY CENTRE
RE: No. 6 & No. 8 ANN STREET, BRUNSWICK, VICTORIA***

Prepared for:

*Planning Panels Victoria
On Behalf of Submitter No. 77 & No. 130*

*Project Ref.: 1608B Brunswick
Date: 25 May 2018*

Table of Contents

DECLARATION OF EXPERT WITNESS.....	1
1 INTRODUCTION	3
1.1 Ministerial Direction No. 1 'Potentially Contaminated Land'	3
1.2 DSE General Practice Note 'Potentially Contaminated Land'	4
2 SKM – ENVIRONMENTAL AUDIT OVERLAY ASSESSMENT	5
3 GOLDER – ASSESSMENT OF POTENTIAL FOR CONTAMINATION.....	6
4 SITE SETTING & INSPECTION.....	8
4.1 Site Setting.....	8
4.2 Site Inspection.....	9
5 CONCLUSION & EXPERT OPINION	10

Appendices

- Curriculum Vitae for Rory McPhillips
- Golder (2018) property Reports:
 - 6 Ann St, Brunswick
 - 8 Ann St, Brunswick
 - 150-152 Victoria St, Brunswick
 - 140 Victoria St, Brunswick
 - 35 Trafford St, Brunswick
 - 36 Trafford St, Brunswick
 - 38 Trafford St, Brunswick
- Figure 1. Examples of Conflicting Recommendations
- Site Inspection Photographs

DECLARATION OF EXPERT WITNESS

Details of Author

This statement has been prepared by Mr. Rory McPhillips, Director of Atma Environmental Pty Ltd, 56 William St, Abbotsford, Victoria.

The views expressed in this statement are my own.

Qualifications & Experience

I hold a Bachelor of Science in Environmental Science (with Hons) from Lancaster University in England (2006). I am a Senior Environmental Scientist and Director of Atma Environmental Pty Ltd, a specialist contaminated land consultancy.

I have over 10 years' direct experience in the identification, assessment, management and remediation of contaminated land in Melbourne. I have expertise in preparing environmental assessments for purposes of statutory s53X Environmental Audits (refer to CV attached).

Instructions

I was engaged by Submitters No. 130 & No. 77, to provide advice on the proposed application of an Environmental Audit Overlay (EAO) to their properties located at No. 6 and No. 8 Ann Street, Brunswick respectively (herein referred to as 'the sites').

References

In making this report, I have made reference to and relied upon the following documents:

- Department of Sustainability and Environment (DSE) General Practice Note "Potentially Contaminated Land" June 2005
- Golder Associates (Golder) "Amendment C164 – Brunswick Moreland Industrial Land Strategy (MILS) Rezoning - Assessment of Potential for Contamination", 21 March 2018
- Ministerial Direction No. 1 "Potentially Contaminated Land" 1987, amended 2001
- Sinclair Knight Merz (SKM) "Brunswick Major Activity Centre, Environmental Audit Overlay Assessment" 15 December 2011
- Various Environmental Audit Reports – EPA Victoria online portal.

Summary of Opinions

My opinions with respect to the proposed Environmental Audit Overlay at No. 6 & No. 8 Ann St, Brunswick, can be summarised as follows.

- Application of an EAO to the sites at No. 6 & No. 8 Ann Street, Brunswick (and potentially other sites subject to the proposed planning amendment) is not

appropriate.

- The current and historical residential use of the sites at No. 6 & No. 8 Ann Street, Brunswick, does not define the land as 'Potentially Contaminated Land' in accordance with the definition under Ministerial Direction No. 1 ("*Potentially Contaminated Land*") and thus application of an EAO to the sites is not in accordance with the Direction.
- The "*potential*" for migrating groundwater contamination from the adjacent mechanics at 150-152 Victoria St, which is "*possibly*" upgradient of the sites, is at best likely to pose a medium potential for contamination at the sites and is unlikely to represent a 'high potential' for contamination which would significantly and adversely affect use of the land for sensitive uses. In accordance with the DSE General Practice Note on Potentially Contaminated Land (June 2005), an Environmental Audit (or application of an EAO) is required only when land (intended for a sensitive use) presents a 'high potential' for contamination (and not a medium or low potential for contamination). Golder (2018) did not comment on whether (in their expert opinion) the potential for migrating contamination presented a high or medium potential for contamination.
- The March 2018 report by Golder (used to inform the proposed Amendment), relies upon a highly conservative position – namely that where there is any uncertainty regarding the status of a site the EAO should be applied. This approach is inappropriate and is not consistent with the DSE General Practice Note, which states that "*the EAO is not simply a means of identifying land that is, or **might be** contaminated and should not be used for that purpose*" and that "*planning authorities should be **careful** in applying the overlay*" to land already used for sensitive purposes.
- The methodology used to determine which sites are 'potentially contaminated' and require an EAO, should be reviewed and further considered with direct reference to Ministerial Direction No. 1 ("*Potentially Contaminated Land*") and the DSE General Practice Note on Potentially Contaminated Land (June 2005), particularly for those sites which are currently used for sensitive uses. Golder (2018) acknowledges that MCC should give further consideration in this regard and the Direction provides an exemption to the requirements for an Environmental Audit/EAO in such circumstances.

Declaration

I declare that I have made all inquiries which I believe are desirable and appropriate and that no matters of significance which I regard as relevant, have to my knowledge been withheld from the Panel.



Rory McPhillips, B.Sc. (Hons.), Env.Sci.
Environmental Scientist

1 INTRODUCTION

Currently zoned 'Industrial 3 Zone', the sites at No. 6 & No. 8 Ann Street, Brunswick, are subject to Planning Scheme Amendment C164, which proposes to rezone the land to 'Mixed Use Zone', which would permit future sensitive use (which includes residential, child care, pre-school and primary school).

Despite the current zoning, the sites are and have historically been (based on Golder March 2018) used for residential purposes (i.e. a sensitive use).

1.1 Ministerial Direction No. 1 'Potentially Contaminated Land'

Ministerial Direction No. 1 'Potentially Contaminated Land', 1987, amended 2001 ('the Direction') aims to *"ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination"*.

The Direction requires that, *"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"*.

The Direction defines 'Potentially Contaminated Land' as land used or known to have been used for:

- a) industry,
- b) mining, or
- c) the storage of chemicals, gas, wastes or liquid fuel (if not ancillary to another use of the land).

The Direction requires a planning authority to satisfy itself in one of two ways if an amendment proposes to allow a sensitive use on 'potentially contaminated land':

- **Option 1** - Before a notice or copy of the amendment is given, a certificate or statement of environmental audit must be issued for the land by an environmental auditor appointed under the Environment Protection Act 1970, confirming that the land is suitable for the proposed sensitive use,
- **Option 2** - If testing of land before a notice or copy of the amendment is given is difficult or inappropriate (e.g. where the amendment affecting all (or large parts) of the municipality) a planning authority may alternatively require a certificate or an auditor's statement at a later date.

The Environmental Audit Overlay (EAO) is the mechanism provided in the *Victoria Planning Provisions* and planning schemes to defer the requirements of the Direction for an

environmental audit until the site is to be developed for a sensitive use.

When an amendment affects a large part of the municipality, the Direction states that it is reasonable to seek an exemption from the requirements of the Direction. A ground for exemption may be that the potentially contaminated land is already used for sensitive uses. An exemption may also be appropriate if the form of (for example) prior industry use of the land was particularly benign and extremely unlikely to result in any contamination.

Given the current and historic residential use (confirmed by Golder March 2018), **the sites do not meet the definition of ‘potentially contaminated land’ in accordance with the Direction.**

1.2 DSE General Practice Note ‘Potentially Contaminated Land’

The (former) Department of Sustainability and Environment (DSE) General Practice Note on Potentially Contaminated Land (June 2005) was designed to provide guidance for planners and applicants about:

- how to identify if land is potentially contaminated
- the appropriate level of assessment of contamination for a planning scheme amendment or planning permit application
- appropriate conditions on planning permits
- circumstances where the Environmental Audit Overlay should be applied or removed.

In addition to land defined as potentially contaminated by the Direction, the General Practice Note also deals with land that may have been contaminated by other means such as by ancillary activities, contamination from surrounding land (*“for example, an adjacent service station **known to be** causing off-site contamination”*), fill using contaminated soil or agricultural uses.

The General Practice Note uses an assessment matrix to determine the level of environmental assessment necessary for a planning scheme amendment or planning permit application, based on the determined potential for contamination (i.e. high, medium or low). In this regard, **an Environmental Audit (or application of an EAO) is only recommended on land considered to present a ‘high potential’ for contamination (and not medium or low potential for contamination).**

Pertinent excerpts from the General Practice Note [with my comments] include:

- “By applying the overlay, the planning authority has made an assessment that **the land is potentially contaminated land** [*not might be*], and **is unlikely to be suitable for a sensitive use without more detailed assessment and remediation works or management**

- “The EAO is not simply a means of identifying land that is **or might be** contaminated and should not be used for that purpose” [*i.e. a conservative approach is not appropriate*].
- “Planning authorities should be careful in applying the overlay. All buildings and works associated with a sensitive use (irrespective of how minor) will trigger the need to undertake an environmental audit” [*an Environmental Audit of No. 6 & No. 8 Ann St is unlikely to be completed for under \$50,000 per site – and will be required for any building permit, no matter how minor, e.g. alterations to existing building*].
- “Where sensitive uses already exist on a site [*as is the case for No. 6 & No. 8 Ann St*] the planning authority, before applying an EAO, should satisfy itself that these sites are potentially contaminated (through site history records)”.

In summary, application of an EAO is only required where land intended for sensitive use is assessed as posing a **‘High’** potential for contamination; and - before applying an EAO to land already used for a sensitive use, the General Practice Note requires the responsible authority to be confident that the land **is** ‘Potentially Contaminated’ (not might be) and “is **unlikely** to be suitable for a sensitive use without more detailed assessment and remediation works or management”.

2 SKM – ENVIRONMENTAL AUDIT OVERLAY ASSESSMENT

Reference: Sinclair Knight Merz (SKM) “Brunswick Major Activity Centre, Environmental Audit Overlay Assessment” 15 December 2011.

Sinclair Knight Merz (SKM) was engaged by the Department of Planning and Community Development (DPCD) and Moreland City Council (MCC) to undertake an assessment of the potential for contamination of land within the Brunswick Major Activity Centre (MAC). The purpose of the engagement was to determine which properties an Environmental Audit Overlay (EAO) should be applied to as part of the rezoning exercise.

In April 2010, DPCD in consultation with the Environment Protection Authority (EPA), agreed on a methodology by which those properties which are unlikely to have any potential for contamination (and should therefore be excluded from an EAO) could be identified. The methodology was an interpretation of *Ministerial Direction No. 1 – Potentially Contaminated Land* and the *General Practice Note Potentially Contaminated Land* and was used by SKM to undertake the assessment of the Brunswick MAC study area.

SKM adopted the following three stage methodology:

- **Stage 1** – Determine the potential for contamination based on the **current land use**;
 For No. 6 & No. 8 Ann St SKM determined a low potential for contamination based on the current land uses and progressed to Stage 2.
- **Stage 2** – Determine the potential for contamination based on **the past land uses**;
 For No. 6 & No. 8 Ann St SKM determined a low potential for contamination

based on the past land uses and progressed to Stage 3.

- **Stage 3** – Determine the potential for contamination from **off-site sources**;
For No. 6 & No. 8 Ann St SKM determined a low potential for contamination from off-site land uses and recommended that an EAO was not applied.

In the case of Stage 3, the potential for contamination from off-site sources was categorised as low, medium or high; this categorisation was determined by SKM and was based on their experience in undertaking contaminated land assessments.

In summary, SKM determined that **application of an EAO was not appropriate** for the sites at No. 6 & No. 8 Ann Street, Brunswick.

3 **GOLDER – ASSESSMENT OF POTENTIAL FOR CONTAMINATION**

Reference: Golder Associates (Golder) “Amendment C164 – Brunswick Moreland Industrial Land Strategy (MILS) Rezoning - Assessment of Potential for Contamination”, 21 March 2018

MCC engaged Golder Associates Pty Ltd (Golder) to provide consultancy services to support Amendment C164 – Brunswick Moreland Industrial Land Strategy (MILS) Rezoning. The primary purpose of the assessment was to identify land within the defined study area, based on the potential for contamination, which should be included in or excluded from the Environmental Audit Overlay (EAO) as part of Planning Scheme Amendment C164 to rezone multiple industrial precincts within the Brunswick Activity Centre (BAC), which would allow for sensitive uses.

The process adopted by Golder “generally is aligned with the methodology established by the Department of Planning and Community Development (DPCD) with Moreland City Council as part of the DPCD Brunswick Industrial Land Rezoning Project (MILUS Pilot Project) in 2010”; i.e. the Golder approach is generally the same as the SKM approach, but not quite.

Golder stated that “Council decisions regarding the boundaries of an EAO based on this methodology [i.e. the DPCD methodology adopted by SKM] were considered at the time as being the **correct interpretation and application of the guidelines** outlined in Ministerial Direction No. 1 and the General Practice Note on Potentially Contaminated Land (Department of Sustainability and Environment, June 2005); this begs the questions: why was a further assessment completed?; why does the approach adopted by Golder only ‘generally’ align with the previous approach?; and why do the conclusions between SKM and Golder vary for 12 properties?

Step 4 of the Golder methodology was to “consider the potential for sub-soil / groundwater contaminants from adjoining properties and the risk of the contamination impacting upon the property”. However, the Golder report provides no discussion or interpretation of the anticipated geology and hydrogeology of the study area, including anticipated groundwater depth and flow direction; this information is critical to determining the potential for sub-

surface / groundwater contamination to have occurred, the likelihood of contaminant migration (including flow direction) and the potential for migrating contamination to have a significant impact on nearby properties.

The Golder review identified the sites at No. 6 & No. 8 Ann Street, Brunswick, as “Currently residential, with an apparent residential historic use” (and hence posing a low potential for contamination); however, Golder recommended the application of an EAO to the sites due to a “*potential*” for groundwater contamination as a result of the adjacent car mechanic (150-152 Victoria St), which is “*possibly*” upgradient of the sites.

With respect to the adjacent mechanics at 150-152 Victoria St, Golder recommended applying an EAO due to the current building being of a commercial/industrial use; the property report prepared by Golder (attached) wrongly indicates that commercial/industrial use of the land had not been identified and makes no mention of potential contamination (including groundwater contamination) as a result of the mechanics use.

Golder did not identify the presence of underground fuel tanks at 150-152 Victoria St, which if present, may present a high potential for groundwater contamination. A review of Google Street View suggests that the mechanics has been present since at least 2009 (before the date of the SKM report) but Sands & McDougall occupancy directory records reviewed by Golder, suggest the land at 150-152 Victoria St was residential (until at least c.1965 and possibly c.1974).

Pertinent points from the Golder report are provided below:

- Golder defined ‘potentially contaminated’ (and thus land requiring an EAO) as land identified as presenting either a **high or medium** risk of contamination; however, in Section 3 of their report, Golder identified that filling presents a potential for contamination and that “*most sites are filled*”, but that specific areas of quarrying and filling present a higher risk of contamination (i.e. Golder acknowledges the difference between a high and medium potential for contamination as a result of filling, but not as a result of other potential contamination sources, such as migrating contamination).
 - It is worth noting here that the DSE General Practice Note assessment matrix does differentiate between a medium and high potential for contamination and recommends an Environmental Audit (or application of an EAO) only when land intended for sensitive use presents a ‘high potential’ for contamination (and not a medium potential for contamination).
- Golder notes that “*where there is uncertainty regarding the status of the site and there is some evidence to indicate that the site could be affected by an offsite source of contamination in particular, in discussion with MCC, a conservative position regarding the application of the EAO has been taken*”.

- This approach is not consistent with the DSE General Practice Note, which states that *“the EAO is not simply a means of identifying land that is, **or might be** contaminated and should not be used for that purpose”* and that *“planning authorities should be **careful** in applying the overlay”* to land already used for sensitive purposes.
- Golder noted that *“ultimately it will be MCC’s obligation as the Responsible Planning Authority to satisfy itself regarding the suitability of the contamination status of the site should the site be redeveloped for a sensitive use”* and that *“some sites that are already used for a sensitive (residential) use, are recommended for application of an EAO. Management of the implications of such an outcome is beyond the scope of this assessment but require further consideration by MCC”*
 - i.e. MCC should not solely rely on the Golder conclusions and should provide further consideration to the application of an EAO, particularly to sites which are already used for sensitive (residential) use.

Furthermore, the approach as applied to the sites at No. 6 & No. 8 Ann St was not consistently applied across the proposed rezoning area; for example:

- Golder did not recommend the application of an EAO to No. 36 Trafford St, Brunswick, which has a current and apparent historical residential use, however, is directly adjacent (west of) a commercial/industrial use site which was occupied by “42 Australian textile printing Co P/L” in 1974 (38 Trafford St – EAO recommended by Golder) and is directly opposite (south of) an active auto repairs, mechanics and motor engineers (35 Trafford St – EAO recommended by Golder). Using the Golder methodology, No. 36 Trafford St (and arguably most land in the rezoning area) is “potentially” affected by migrating groundwater contamination.
- Golder did not recommend the application of an EAO to No. 140 Victoria St, Brunswick, which has a current and apparent historical residential use, however, is directly opposite (south of) an active mechanics at 341 Lygon St (which is outside of the MILs area). Using the Golder methodology, No. 140 Victoria St (and arguably most land in the rezoning area) is “potentially” affected by migrating groundwater contamination.

The appended figure illustrates the above examples.

4 SITE SETTING & INSPECTION

4.1 Site Setting

The 1:63,360 Melbourne Geological Map (Geological Survey of Victoria) indicates the surface geology in the area of the site is the Quaternary Age basalts of the Newer Volcanics formation.

A review of Environmental Audits completed nearby the sites (available on the EPA website) has yielded the following information with respect to the regional hydrogeology:

- The environmental audit at 129 Albert St, Brunswick (~184 m west/southwest of the sites) completed by IT Environmental in 2003 (with Atma Environmental being the assessor) identified approximately 5 m of clay overlying variably weathered basalt, with groundwater present at ~9.5 m below ground. The auditor expected groundwater to flow towards the east. (EPA Ref: CARMS No. 52068-1).
- The environmental audit at 380 Lygon St, Brunswick (~177 m north east of the sites) completed by AEC Environmental in 2008 (with Atma Environmental being the assessor) identified newer volcanics geology and based on surrounding data, inferred groundwater to be at approximately 8 m depth below ground and flowing to the east / north east. (EPA Ref: CARMS No. 63350-1).
- The environmental audit at 127 Blyth St, Brunswick (~243 m north east of the sites) completed by Coffey Environments in 2014, identified newer volcanics geology and based on surrounding data, indicated that groundwater is likely encountered at depths ranging from approximately 7.5 to 8.5 m below the ground-surface and interpreted to flow in a south-easterly direction. (EPA Ref: CARMS No. 71407-2).
- The environmental audit at 92-96 Albert St, Brunswick East (240 m south east of the sites) completed by Douglas Partners in 2015, identified clay overlying basalt and groundwater at approximately 7-10 metres below ground level, with the local flow direction inferred to be north westerly. (EPA Ref: CARMS No. 72796-1).
- The environmental audit at 22 French Ave Brunswick East (285 m south east of the sites) completed by Coffey Environments in 2007, identified newer volcanics geology and a groundwater depth ranging from 8.4 m to 10.9 m below ground, with the inferred groundwater flow direction being towards the south-southeast. (EPA Ref: CARMS No. 57084-1).
- The environmental audit at 191-197 Lygon St, Brunswick (~300 m south of the sites) completed by Environmental & Earth Sciences in 2001, identified groundwater at 12.7 m below ground and concluded that the groundwater flow is oriented towards the north / northeast. (EPA Ref: CARMS No. 43063-1).

The findings of nearby audits suggest a groundwater depth of greater than 7 m below ground with a variable flow direction; although only two of the above audits inferred a southerly/south-easterly flow direction.

The depth to groundwater reduces the potential for contamination as a result of the mechanics at 150-152 Victoria St and suggests that sites may not be hydraulically down-gradient of the mechanics.

4.2 Site Inspection

On 25th May 2018, Rory McPhillips completed a fence-line (external) inspection of the sites and surrounding areas. Pertinent observations from the inspection are noted below and

photographs are attached:

- No. 6 & No. 8 Ann St consist of residential properties.
- A council laneway separates the sites and the mechanics at 150-152 Victoria St (i.e. the sites are not ‘adjacent’ the mechanics as noted by Golder (March 2018)).
- There was no evidence of underground storage tanks (e.g. fill/dip points, vent lines etc.) associated with the mechanics at 150-152 Victoria St.
- Two small above ground storage tanks were noted at the rear (south) of the mechanics at 150-152 Victoria St; one appeared disused and the other was likely used for waste oil storage. There was no evidence of leakage or spillage from the tanks on the concrete and these features are considered unlikely sources of groundwater contamination.
- There was no evidence of leaks or spills from the mechanics workshop and the entirety of 150-152 Victoria St appears to be concrete sealed (minimising the potential for sub-surface contamination).

5 CONCLUSION & EXPERT OPINION

Based on the current and past residential land use and considering the potential for migrating contamination, SKM (2011) assessed the sites at No. 6 & No. 8 Ann St, Brunswick as posing a low potential for contamination and did not recommend the application of an EAO.

A later report by Golder (2018) acknowledged that the methodology adopted by SKM (which was developed by the DPCD and EPA) was considered at the time as being the correct interpretation and application of the guidelines outlined in Ministerial Direction No.1 and the General Practice Note on Potentially Contaminated Land.

However, the approach adopted by Golder (which ‘generally’ aligned with the previous approach) resulted in the recommendation that an EAO be applied to the sites at No. 6 & No. 8 Ann Street, Brunswick, due to a “*potential*” for groundwater contamination as a result of the ‘adjacent’ car mechanic (150-152 Victoria St), which is “*possibly*” upgradient of the sites.

Golder did not distinguish whether the potential for migrating groundwater contamination posed a high or medium potential for contamination and their approach with respect to the potential for migrating contamination has been shown to be inconsistent, with other current and historical residential sites in close proximity to active mechanics not being recommended for an EAO.

By recommending an EAO, Golder has made a conclusion that the sites at No. 6 & No. 8 Ann St, Brunswick, are potentially contaminated to the point where the potential contamination could significantly and adversely affect a sensitive use of the land (per the Direction) and that the sites are unlikely to be suitable for a sensitive use without more

detailed assessment and remediation works, or management (per DSE General Practice Note).

However, Golder acknowledged that where there was uncertainty regarding the status of the site (and there is some evidence to indicate that the site could be affected by an offsite source of contamination), a conservative position regarding the application of the EAO was taken.

Golder also noted that *“ultimately it will be MCC’s obligation as the Responsible Planning Authority to satisfy itself regarding the suitability of the contamination status of the site should the site be redeveloped for a sensitive use”* and that *“some sites that are already used for a sensitive (residential) use, are recommended for application of an EAO. Management of the implications of such an outcome is beyond the scope of this assessment but require further consideration by MCC”* (i.e. MCC should not solely rely on the Golder conclusions and should provide further consideration to the application of an EAO, particularly to sites which are already used for sensitive (residential) use).

The conservative approach taken is not consistent with the requirements of the General Practice Note, which states that *“Planning authorities should be careful in applying the overlay”*. All buildings and works associated with a sensitive use (irrespective of how minor) will in future trigger the need to undertake a statutory environmental audit - unlikely to be completed for under \$50,000 per site and as a result of the proposed EAO, will be required for any building permit, no matter how minor (e.g. alterations to existing building).

Based on my expert opinion, I am of the view that:

- Application of an EAO to the sites at No. 6 & No. 8 Ann Street, Brunswick (and potentially other sites subject to the proposed planning amendment) is not appropriate.
- The current and historical residential use of the sites at No. 6 & No. 8 Ann Street, Brunswick, does not define the land as ‘Potentially Contaminated Land’ in accordance with the definition under Ministerial Direction No. 1 (*“Potentially Contaminated Land”*) and thus application of an EAO to the sites is not in accordance with the Direction.
- The *“potential”* for migrating groundwater contamination from the adjacent mechanics at 150-152 Victoria St, which is *“possibly”* upgradient of the sites, is at best likely to pose a medium potential for contamination at the sites and is unlikely to represent a ‘high potential’ for contamination which would significantly and adversely affect use of the land for sensitive uses. In accordance with the DSE General Practice Note on Potentially Contaminated Land (June 2005), an Environmental Audit (or application of an EAO) is required only when land (intended for a sensitive use) presents a ‘high potential’ for contamination (and not a medium or low potential for contamination). Golder (2018) did not comment on whether (in their expert opinion) the potential for migrating contamination

presented a high or medium potential for contamination.

- The March 2018 report by Golder (used to inform the proposed Amendment), relies upon a highly conservative position – namely that where there is any uncertainty regarding the status of a site the EAO should be applied. This approach is inappropriate and is not consistent with the DSE General Practice Note, which states that *“the EAO is not simply a means of identifying land that is, or **might be** contaminated and should not be used for that purpose”* and that *“planning authorities should be **careful** in applying the overlay”* to land already used for sensitive purposes.
- The methodology used to determine which sites are ‘potentially contaminated’ and require an EAO, should be reviewed and further considered with direct reference to Ministerial Direction No. 1 (*“Potentially Contaminated Land”*) and the DSE General Practice Note on Potentially Contaminated Land (June 2005), particularly for those sites which are currently used for sensitive uses. Golder (2018) acknowledges that MCC should give further consideration in this regard and the Direction provides an exemption to the requirements for an Environmental Audit/EAO in such circumstances.

Resume: RORY McPHILLIPS,
B.Sc.(Hons) Environmental Science
Director | Senior Environmental Scientist

ENVIRONMENTAL WORK EXPERIENCE:

ATMA ENVIRONMENTAL PTY. LTD. - Melbourne, Australia

**March 2008 – Current
& Jan 2007 – Sept 2007**

Director | Senior Environmental Scientist (2014-Current)

Expanded duties of below including:

- Company ownership
- HR management

Operations Manager | Senior Environmental Scientist (2012-2014)

Expanded duties of below including:

- Management of all Project Managers and projects
- Business Development
- OH&S management, including review of all SWMS
- Provision of technical support
- Completion of internal peer reviews

Senior Environmental Scientist (2008-2012)

Expanded duties of below including:

- Project scoping and quotation
- Start to finish Project Management of Preliminary and Detailed Site Investigations on a wide variety of potentially contaminated sites in Victoria and interstate.
- Design and implementation of soil, groundwater, surface water, landfill gas and vapour investigations.
- Development of Conceptual Site Models, Remedial Action Plans and Site Contamination Management Plans.
- Undertaking qualitative risk assessments and review of quantitative risk assessments.
- Special expertise with undertaking Environmental Site Assessments for Statutory Environmental Audit and managing site decontamination works.

Environmental Scientist (2007)

Involved in most aspects of the assessment/remediation of contaminated sites, including:

- Gathering and interpretation of data for Phase 1 site history reviews.
- Site investigation, site reconnaissance & preparation of Sampling & Analysis Plans.
- Soil sampling including: borehole logging, driller supervision, preparation of all associated data and quality control documentation.
- Groundwater sampling and bore installation supervision (various methods), bore development and sampling using various types of specialist equipment etc.
- Report writing for preliminary and detailed assessments, editing, preparation of all supporting calculations, figures & appendices, including scaled drawings.

WHITEFORD GEOSERVICES – Northern Ireland

**Nov 2007 – Feb 2008
& July 2006 – Oct 2006**

Environmental Engineer

Duties here involved managing environmental, geotechnical and geophysical site operations on various large-scale projects, including investigations of proposed windfarms in Scotland, a proposed major road bypass in southern Ireland and an active power station in Northern Ireland. As well as supervising teams of up to 10 employees from various backgrounds and specialties, I gained experience using various geophysical equipment (including Electro Magnetism, Electrical Resistivity and Sonar) and I performed geological ground investigations, including test pitting, soil logging, cable percussion and rotary drilling, and down-hole logging.

EDUCATION : B.Sc. Hons (1st Class). Environmental Science, Lancaster University, 2006

AFFILIATIONS: Corporate Member: Australian Contaminated Land Consultants Association (ACLCA)
Member: Australasian Land & Groundwater Association (ALGA)
Member: Australian Remediation Industry Cluster (ARIC)

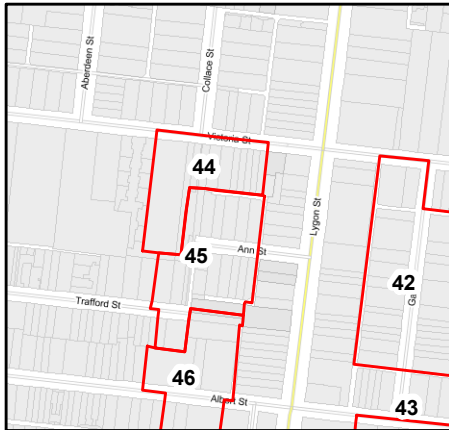
INDUSTRY TRAINING COURSES:

- ACLCA 3 Day OH&S Awareness Course for Contaminated Land Professionals – March 2009
- ACLCA Course: Introduction to Monitored Natural Attenuation and Enhanced Bioremediation (1 Day Course) – October 2009
- ACLCA Technical Workshop - Landfill and Ground Gas Investigation, Risk Assessment and Remediation (4 Day Course) – September 2010
- ACLCA 1 Day Occupational Health & Safety Update Course – July 2011
- ACLCA Continuing Professional Development: Introduction to Environ Site Assessment (Module 6 - Risk Assessment) – August 2014
- ACLCA Course: Groundwater Screening Assessment – May 2016
- ARIC: Characterisation of Sites Impacted By Petroleum Hydrocarbons - August 2010
- AUSTRALIAN INSTITUTE OF PETROLEUM - Work Clearance for Contractors – 2008, 2010 & 2012
- AZCOR Course: Asbestos Awareness Training (Half-Day) – July 2012
- CRC CARE Course: Health-Based Screening Levels for Petroleum Hydrocarbons Workshop (1 Day Course) – November 2011
- CRC CARE Course: Assessment of Site Contamination NEPM Workshop (2 Day Course) - May 2013
- CRC CARE Course: Human Health Risk Assessment Workshop (1 Day) – March 2017

OTHER RELEVANT TRAINING:

- Numerous Industry Presentations, Seminars & Conferences.
- Construction Industry 'Red Card' Training
- First Aid, Level 2 (Apply First Aid) – updated regularly as required
- Rail Track Safety Awareness, Level 1 (GoTrain, Skilled & Metro)
- Onsite Track Easy (Pegasus Rail Safe Industry Worker)

OVERVIEW MILS No. 45



LEGEND

- Property
- MILS Boundary

6 ANN STREET BRUNSWICK 3056



Property Area (m2)
361.711905505533

MILS Category
3

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Transition-Residential
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Vacant

SANDS-MACDOUGALL 1942: Harbour. Thos

SANDS-MACDOUGALL 1965: Belli, Antonio

SANDS-MACDOUGALL 1974: Belli, Antonio

CURRENT USE: Residential

ZONING 1956: Industrial, light

ZONING 1968: Industrial - Light

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL :Residential

BUILDING TYPE - CURRENT AERIAL/VISUAL: Residential

SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
NO

BUILDING PHOTO



EAO RECOMMENDATION:

APPLY EAO

EAO COMMENTS: Currently residential, with an apparent residential historic use, however adjacent to car mechanic (150-152 Victoria St) which is possibly upgradient with potential for groundwater contamination.

**AMENDMENT C164 – BRUNSWICK MORELAND
INDUSTRIAL LAND STRATEGY (MILS) REZONINGS**

MORELAND CITY COUNCIL

PROPERTY:
6 ANN STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Nearmap
(23-Dec-2016)

0 4 8 16 24 32 40 metres

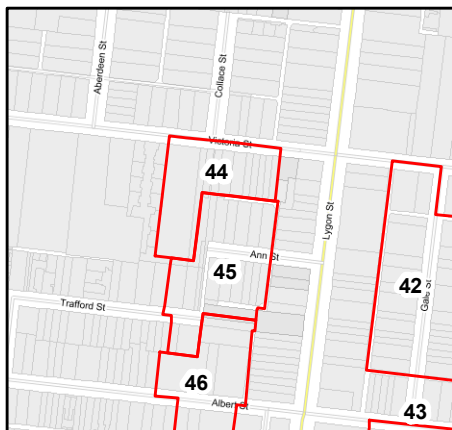
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

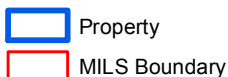
FIGURE 87



OVERVIEW MILS No. 45



LEGEND



8 ANN STREET BRUNSWICK 3056



Property Area (m2)
251.205641207435

MILS Category
3

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Transition-Residential
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Vacant

SANDS-MACDOUGALL 1942: Farrands, Neville D.

SANDS-MACDOUGALL 1965: Bonito, G.

SANDS-MACDOUGALL 1974: Bonito, G.

CURRENT USE: Residential

ZONING 1956: Industrial, light

ZONING 1968: Industrial - Light

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL :Residential

BUILDING TYPE - CURRENT AERIAL/VISUAL: Residential

BUILDING PHOTO



EAO RECOMMENDATION:

APPLY EAO

EAO COMMENTS: Currently residential, with an apparent residential historic use, however adjacent to car mechanic (150-152 Victoria St) which is possibly upgradient with potential for groundwater contamination.

SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
NO

**AMENDMENT C164 – BRUNSWICK MORELAND
INDUSTRIAL LAND STRATEGY (MILS) REZONINGS**

MORELAND CITY COUNCIL

PROPERTY:
8 ANN STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Neamap
(23-Dec-2016)

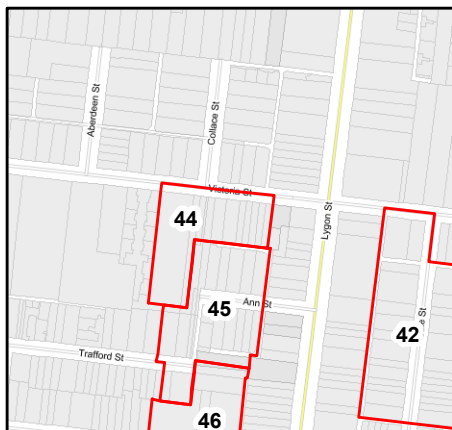
0 4 8 16 24 32 40 metres
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

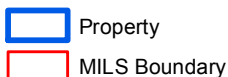
FIGURE 89



OVERVIEW MILS No. 44



LEGEND



150-152 VICTORIA STREET BRUNSWICK 3056



Property Area (m2)
353.740335302544

MILS Category
2

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Employment Priority
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Building present - likely demolished

SANDS-MACDOUGALL 1942: 158 Donald, William, C. 160 Denman,

SANDS-MACDOUGALL 1965: 150 Bates, Frank. 152 Fuller, C. G.

SANDS-MACDOUGALL 1974: Laroom JA

CURRENT USE: Mondiale Motors'. Mechanics and Motor Engineer

ZONING 1956: Industrial, light

ZONING 1968: Industrial - Light

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL :Commercial/Industrial

BUILDING TYPE - CURRENT AERIAL/VISUAL: Commercial/Industrial

BUILDING PHOTO



SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
YES

EAO RECOMMENDATION:

APPLY EAO

EAO COMMENTS: Current building is of a commercial/industrial nature

AMENDMENT C164 – BRUNSWICK MORELAND INDUSTRIAL LAND STRATEGY (MILS) REZONINGS

MORELAND CITY COUNCIL

PROPERTY:
150-152 VICTORIA STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Neamap
(23-Dec-2016)

0 3.75 7.5 15 22.5 30 37.5 metres

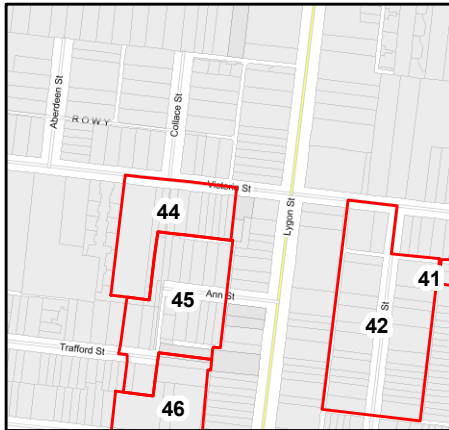
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

FIGURE 74



OVERVIEW MILS No. 44



LEGEND

- Property
- MILS Boundary

140 VICTORIA STREET BRUNSWICK 3056



Property Area (m2)
208.259345740115

MILS Category
2

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Employment Priority
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Residential Building present - similar to current

SANDS-MACDOUGALL 1942: Ellis, Edward, T.

SANDS-MACDOUGALL 1965: Christoforou, A.

SANDS-MACDOUGALL 1974: French, A.

CURRENT USE: Residential

ZONING 1956: Industrial, light

ZONING 1968: Business, local

ZONING 1984: Business - Local business - B3

BUILDING TYPE - 1984 AERIAL :Residential

BUILDING TYPE - CURRENT AERIAL/VISUAL: Residential

SUMMARY

RESIDENTIAL SINCE 1904-06
YES

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
NO

BUILDING PHOTO



EAO RECOMMENDATION:

DO NOT APPLY EAO

EAO COMMENTS: Property has been residential since 1905/6, low risk for contamination

AMENDMENT C164 – BRUNSWICK MORELAND INDUSTRIAL LAND STRATEGY (MILS) REZONINGS

MORELAND CITY COUNCIL

PROPERTY:
140 VICTORIA STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Nearmap
(23-Dec-2016)

0 3.75 7.5 15 22.5 30 37.5 metres

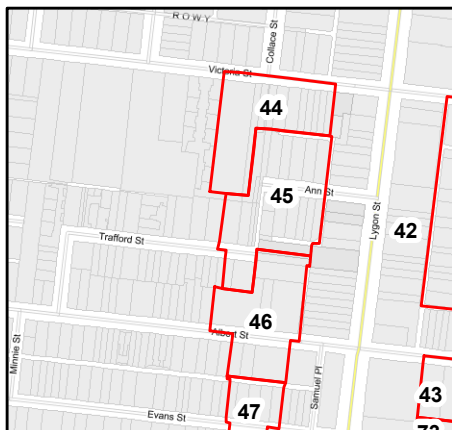
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

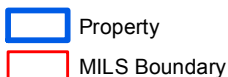
FIGURE 69



OVERVIEW MILS No. 45



LEGEND



35 TRAFFORD STREET BRUNSWICK 3056



Property Area (m2)
435.793624305676

MILS Category
3

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Transition-Residential
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Vacant

SANDS-MACDOUGALL 1942: Blackie, Theodore D.

SANDS-MACDOUGALL 1965: Apartments

SANDS-MACDOUGALL 1974: Apartments

CURRENT USE: Barchis Auto Repairs'. Mechanics and Motor Engineers

ZONING 1956: Industrial, light

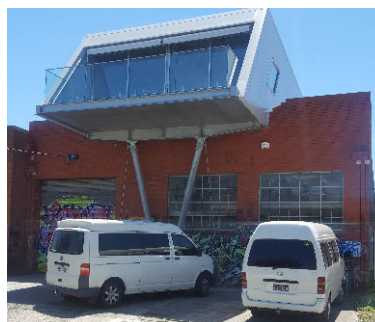
ZONING 1968: Industrial - Light

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL :Commercial/Industrial

BUILDING TYPE - CURRENT AERIAL/VISUAL: Commercial/Industrial

BUILDING PHOTO



EAO RECOMMENDATION:

APPLY EAO

EAO COMMENTS: Current building is of a commercial/industrial nature

SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
YES

**AMENDMENT C164 – BRUNSWICK MORELAND
INDUSTRIAL LAND STRATEGY (MILS) REZONINGS**

MORELAND CITY COUNCIL

PROPERTY:
35 TRAFFORD STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Nearmap
(23-Dec-2016)

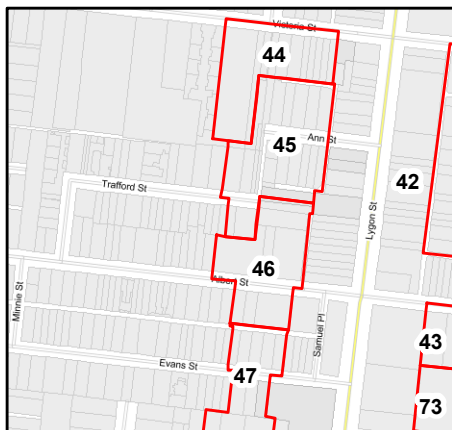
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

FIGURE 82



OVERVIEW MILS No. 45



LEGEND

- Property
- MILS Boundary

36 TRAFFORD STREET BRUNSWICK 3056



Property Area (m2)
149.131273185737

MILS Category
3

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Transition-Residential
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Vacant

SANDS-MACDOUGALL 1942: Anstee, Leonard. J.

SANDS-MACDOUGALL 1965: Jones, Jason

SANDS-MACDOUGALL 1974: 38 Nash W

CURRENT USE: Residential

ZONING 1956: Industrial, light

ZONING 1968: Industrial - Light/Residential C

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL :Residential

BUILDING TYPE - CURRENT AERIAL/VISUAL: Residential

BUILDING PHOTO



SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
NO

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
NO

EAO RECOMMENDATION:

DO NOT APPLY EAO

EAO COMMENTS: Currently residential, with an apparent residential historic use

**AMENDMENT C164 – BRUNSWICK MORELAND
INDUSTRIAL LAND STRATEGY (MILS) REZONINGS**

MORELAND CITY COUNCIL

PROPERTY:
36 TRAFFORD STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Nearmap
(23-Dec-2016)

0 4 8 16 24 32 40 metres

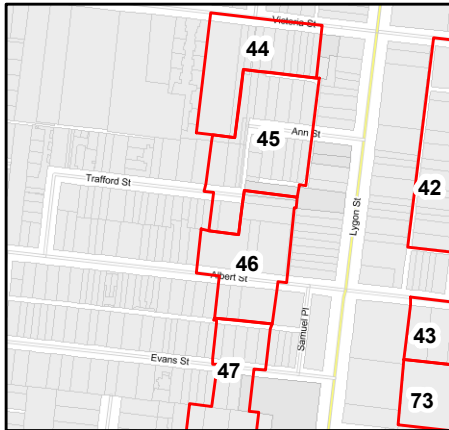
SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

FIGURE 83



OVERVIEW MILS No. 45



LEGEND

- Property
- MILS Boundary

38 TRAFFORD STREET BRUNSWICK 3056



Property Area (m2)
421.021340739018

MILS Category
3

Precinct Name
Victoria
Street/Glenlyon Road

Category Description
Transition-Residential
Areas

Current Zoning
INDUSTRIAL 3 ZONE

MMBW 1904-06 STATUS: Building present - likely demolished

SANDS-MACDOUGALL 1942: Wenzel, Albert

SANDS-MACDOUGALL 1965: Rhodes, Mrs M.

SANDS-MACDOUGALL 1974: 42 Australian textile printing Co P/L textile

CURRENT USE: Unknown

ZONING 1956: Industrial, light

ZONING 1968: Industrial - Light

ZONING 1984: Industrial - Light Industrial - IN1

BUILDING TYPE - 1984 AERIAL : Commercial/Industrial

BUILDING TYPE - CURRENT AERIAL/VISUAL: Commercial/Industrial

BUILDING PHOTO



EAO RECOMMENDATION:

APPLY EAO

EAO COMMENTS: Current building is of a commercial/industrial nature

SUMMARY

RESIDENTIAL SINCE 1904-06
NO

COMM/ INDUST USE IDENTIFIED
YES

FORMER QUARRY IDENTIFIED
NO

COMM / INDUST BLD IDENTIFIED
YES

**AMENDMENT C164 – BRUNSWICK MORELAND
INDUSTRIAL LAND STRATEGY (MILS) REZONINGS**

MORELAND CITY COUNCIL

PROPERTY:
38 TRAFFORD STREET BRUNSWICK 3056

NOTES

* indicates property may have a directly adjacent site with potential for off-site contamination to groundwater

COPYRIGHT

Imagery copyright Nearmap
(23-Dec-2016)

0 4 8 16 24 32 40 metres

SCALE (at A4) (PROPERTY MAP) 1:1,000
DATUM GDA 94, PROJECTION MGA Zone 55

PROJECT: 1772122
DATE: 22 MAR 2018
DRAWN: SHA
CHECKED: IMK

FIGURE 84





Atma Environmental

Project: #1608B Brunswick - Expert Witness Statement

Drawn by: RMP Dated: 19/05/2018 Status: Final

Figure 1. Examples of Conflicting Recommendations



1. View of Ann St looking northwest



2. View of 6 & 8 Ann St looking northeast



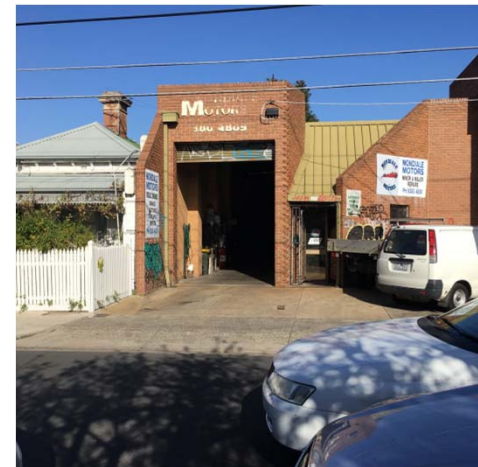
3. Storage tanks at rear (south) of 150-152 Victoria St



4. Laneway between 6 - 8 Ann St & 150-152 Victoria St



5. Laneway between 6 - 8 Ann St & 150-152 Victoria St



6. Front (north) side of 150-152 Victoria St