

Contaminated land

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Part A – Overview

1. Purpose

The purpose of the policy is to provide an integrated approach for the management of contaminated land in the Clarence Valley. This policy has been prepared for the management of contaminated land and land suspected of being contaminated through past or present land use or fill.

2. Definitions

Contaminated Land is defined under Part 7A of the EP&A Act 1979 as:

Contaminated land means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Investigation Area is defined as:

Land declared to be an investigation area by a declaration in force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

The EPA may declare land to be an investigation area if it has reasonable grounds to believe that the land is contaminated with a substance in such a way as to present a significant risk of harm (Contaminated Lands Management Act 1997).

3. Background/legislative requirements

Council is required under SEPP 55 to always consider whether land that is the subject of a development application, subdivision or rezoning is contaminated, and if so, whether remediation of the land is required. The policy also outlines the information that should be recorded on a Section 149(2) Certificates to adequately inform the buyer of land subject to any contamination issues.

The EPA will intervene in a situation where contaminated land poses a significant risk of harm to public health or the environment (refer to Section 7 *Contaminated Land Management Act 1997*). Council will deal with sites not posing a significant risk of harm under the provisions of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, the above documents and this policy.

Part 7A of the *EP&A Act* provides that a council who acts substantially in accordance with the Planning Guidelines when carrying out specified planning functions are taken to have acted in good faith and receive statutory protection under Sections 145(b) and 145(c) of that Act.

The policy aims to take a precautionary approach and will allow land contamination issues to be identified and dealt with at an early stage of the planning and development process in order to prevent harm and reduce delays and costs.

4. Scope

The policy applies to all lands within the Clarence Valley Local Government Area and is based on guidelines prepared by the Department of Urban Affairs and Planning (DUAP) and the NSW Environmental Protection Authority (EPA), titled *Managing Land Contamination- Planning Guidelines SEPP 55 – Remediation of Land*.

It also includes requirements as stated in *State Environmental Planning Policy No. 55- Remediation of Land (SEPP 55)* and the *Contaminated Lands Management Act 1997*. These documents should be used in conjunction with this policy when dealing with contaminated lands.

5. Policy, protocol or procedure statement

The objectives of the policy are -

- To define Council's role in land contamination issues.
- To advise owners or applicants of Council's requirements when dealing with contaminated or potentially contaminated land.
- To ensure an appropriate standard for a site assessment.
- To provide guidance on the standard of information and reports required by the Council in an assessment report.
- To ensure the appropriate management of contaminated sites and their remediation if practicable and encourage best use of land.
- To protect the amenity of an area.
- To ensure the protection of the environment and public health.

5.1 Principle of Policy

Council has the responsibility to manage the development of land, particularly when a change in land use is proposed, to a more sensitive land use. In making these decisions Council must not expose the community or environment to an increased risk from land contamination.

In consideration of development applications or rezoning, Council will require a level of assessment necessary to demonstrate that the site is suitable for the intended use and will not expose future occupants, or the environment, to unacceptable risk from land contamination. The onus to demonstrate the suitability of the land for the proposed land use is with the applicant.

An assessment of past land use history, and if necessary, more detailed investigations utilising duly qualified persons experienced in assessing contaminated sites, is fundamental to this process.

Decisions made by Council in accordance with this policy shall have this principle as its underlying basis.

5.2 Statutory Framework and Relevant Policies

The relevant legislation and policies for the administrative framework for the management of contaminated land are:

- The Contaminated Land Management Act, 1997
- State Environmental Planning Policy 55 (SEPP 55) – Remediation of Land
- Planning Guidelines for Contaminated Land (DUAP and EPA, 1998)

There are also a number of publications that may be useful. These are:

- *Australian Drinking Water Guidelines*, NHMRC & Natural Resource Management Ministerial Council of Australia and New Zealand, 2004
- *Contaminated Sites: Guidelines for Assessing Service Station Sites*, December 1994.
- *Guidelines for implementing the POEO (Underground Petroleum Storage Systems) Regulation 2008*
- *Contaminated Sites: Guidelines for the vertical mixing of soil on former broad-acre agricultural land*, January 1995.
- *Contaminated Sites: Sampling Design Guidelines*, September 1995.
- *Contaminated Sites: Guidelines for Assessing Banana Plantation Sites*, October 1997.
- *Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites*, November 1997.
- *Contaminated Sites: Guidelines for the NSW Site Auditor Scheme*, June 1998.
- *Contaminated Sites: Guidelines on Significant Risk of Harm from Contaminated Land and the Duty to Report*, April 1999.
- *Contaminated Sites: Guidelines for Assessing Former Orchards and Market Gardens*, June 2005.
- *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*, published by Australian and New Zealand Environment and Conservation Council (ANZECC) and the National Health and Medical Research Council (NHMRC), January 1992.
- *Australian and New Zealand Guidelines for Fresh and Marine Water Quality*, Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000.
- *Composite Sampling*, by Lock, W. H., National Environmental Health Forum Monographs, Soil Series No.3, 1996, SA Health Commission, Adelaide.
- *Environmental Health Risk Assessment: Guidelines for assessing human health risks from environmental hazards*, Department of Health and Ageing and EnHealth Council, Commonwealth of Australia, June 2002.
- *National Environment Protection (Assessment of Site Contamination) Measure 1999* (April 2013), NEPC 2013, Canberra.

The goal of the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (April 2013) is to establish a nationally consistent approach to the assessment of site contamination to ensure sound environmental management practices by the community which includes regulators, site assessors, environmental auditors, landowners, developers and industry. The measure consists of a policy framework for the assessment of site contamination Schedule A (*Recommended General Process for the Assessment of Site Contamination*) refer Appendix 3 and Schedule B (*Guidelines*). Schedule B guidelines include:

- Schedule B1—Guideline on Investigation Levels for Soil and Groundwater

- Schedule B2—Guideline on Site Characterisation
- Schedule B3—Guideline on Laboratory Analysis of Potentially Contaminated Soils
- Schedule B4—Guideline on Site-Specific Health Risk Assessment Methodology
- Schedule B5a—Guideline on Ecological Risk Assessment
- Schedule B5b—Guideline on Methodology to Derive Ecological Investigation Levels in Contaminated Soils
- Schedule B5c—Guideline on Ecological Investigation Levels for Arsenic, Chromium (III), Copper, DDT, Lead, Naphthalene, Nickel and Zinc
- Schedule B6—Guideline on the Framework for Risk-Based Assessment of Groundwater Contamination
- Schedule B7—Guideline on derivation of health-based investigation levels
- Schedule B8—Guideline on Community Engagement and Risk Communication
- Schedule B9—Guideline on Competencies and Acceptance of Environmental Auditors and Related Professionals

5.3 Causes of Land Contamination

Land contamination can be caused by using contaminated fill, past practices of on-site waste disposal, application of chemicals (pesticides, herbicides, timber preservatives, or fertilisers) associated with agricultural, industrial or other land use activity, leaking underground fuel tanks, spills or accidents with certain chemicals or materials. Contaminants may move from one site to another due to natural or human induced processes.

Appendix 1 has a list of activities from the Contaminated Land Management Guidelines (DUAP and EPA, 1995), that may have caused land contamination. This list is only a guide and should not be relied upon solely to determine if a site is contaminated or not.

5.4 Common Occurrences of Contamination in the Clarence Valley Council Area

5.4.1 Cattle Tick Dip Sites

Development on Lots Containing a Dip Site or Located near a Dip Site

There are numerous unused cattle tick dip sites located within the Clarence Valley Council. When assessing development on or around dip sites a risk assessment specific to each site will need to be undertaken. Particular considerations should include a site history, site geology and hydrogeology. Council records and those of Biosecurity NSW, NSW Trade and Investment at the Wollongbar Agriculture Institute should also be consulted. The flow chart in Figure 3 should be consulted when considering a development near a dip site.
(Source: Managing Land Contamination Planning Guidelines)

5.4.2 Service Stations and Sites with Underground Petroleum Storage Systems (UPSS)

Leaking underground petroleum storage systems (UPSS) have been identified as a significant source of soil and groundwater contamination. There are numerous sites with UPSS within the Clarence Valley Council area.

To reduce the environmental risk and harm from leaking UPSS, a number of laws and policies govern the decommissioning, abandonment and removal of these systems. These include the *Occupational Health and Safety Regulation 2001*, *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* (the 'UPSS Regulation') and State Environmental Planning Policy No. 55. Industry best practice described in a number of Australian Standards must also be followed when decommissioning UPSS (NSW EPA).

The NSW EPA has developed a number of Technical Notes to assist in the management and operation of sites with UPSS. This information can be found on the EPA's website at: <http://www.epa.nsw.gov.au/clm/upss.htm> . Council can also assist with information regarding UPSS.

5.4.3 Managing Asbestos

Guidance has been developed by the NSW Heads of Asbestos Coordinating Authorities (HACA) to provide general direction on the assessment and management of asbestos in soil. Managing asbestos in soil has implications for the current and future occupants of the land and any workers employed on the site.

The guidance applies principally to the legacy of poor historical on-site management of asbestos materials and not to the illegal disposal or landfilling of waste generated off-site.

This information is available from Workcover NSW and can be accessed via the link: www.workcover.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos/heads-of-asbestos-coordination-authorities-haca.

Clarence Valley Council has developed an Asbestos Policy which should also be consulted for further information.

5.4.4 Agricultural Land

The chemicals most likely to cause contamination problems are arsenic and organochlorines, followed by organophosphates, and sometimes mercurial and lead pesticides (NSW EPA2015).

To identify potentially contaminated agricultural land the processes outlined in this policy are to be followed.

The NSW EPA has information regarding Contaminated Agricultural Land on their website at: <http://www.epa.nsw.gov.au/mao/contaminatedagriland.htm>.

Part B – Assessment Requirements

6. Council Decision Making Process

In determining all rezoning, subdivision and development applications, Council must consider the possibility of land contamination and the implications it has for any proposed or permissible future uses of the land.

6.1 Initial Evaluation

Council will conduct an initial evaluation as part of the development assessment process to determine whether contamination is an issue, and whether sufficient information is available for Council to carry out its planning functions in good faith.

The initial evaluation will be based on readily available factual information provided by the applicant and information available on Council's records.

Council may also conduct a site inspection of the subject land. Council may also charge a fee for information to be made available.

6.1.1 Details the Applicant Must Provide

- Present land use.
- Past uses/site history in accordance with the Managing Land Contamination – Planning Guidelines (DUAP and EPA, 1998).
- Details of any uses (past or present) that may involve potentially contaminating activities i.e. location, time, type of chemicals, any remediation works undertaken of which the applicant is aware. These will include uses identified in Appendix 1.
- Details of chemicals, pesticides, insecticides and fertilisers known to have been used on the site.

6.2 Council Procedures for Local Environment Plans

SEPP 55 requires Council to consider contamination issues in development and rezoning proposals (including when Council is the proponent of the rezoning). Council will not include land in a zone that would permit a change of use of the land from the existing use unless:

- Council has considered if the land is contaminated (initial evaluation)
- If the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for all the purposes for which the land in the zone concerned is permitted to be used
- If the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, Council is satisfied the land will be remediated before the land is used for that purpose i.e. satisfied by provisions of LEP or DCP that contamination issues will be suitably addressed at DA stage.

- In accordance with clause 6(4) of SEPP 55 Council will require a preliminary investigation (refer to Section 3.6.1 Preliminary Investigation) to be submitted with zoning and rezoning applications where the land concerned is:
 - a. *land that is within an investigation area.*
 - b. *land on which development for a purpose referred to in Appendix 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.*
 - c. *To the extent which it is proposed to carry out development on it for residential, educational, recreational, or child care purposes or for the purpose of hospital land:*
 - i. *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - ii. *on which it would have been unlawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Council will also require a preliminary investigation to be submitted if Council has reasonable grounds to believe the land may be contaminated due to the land's history, condition, uncontrolled fill or other information known to Council.

Council's procedure for considering land contamination issues for development or rezoning is shown in Figure 2.

6.3 General Rezoning

When Council receives a rezoning application covering more than one property or Council itself proposes rezoning, it may be difficult for Council to be satisfied that every part of the land is suitable for the permissible use(s) at the rezoning stage.

Under Clause 6(1)(b) of SEPP No 55 the following states that -
if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and..

Generally in these circumstances Council will consider the findings of a preliminary investigation, and may include provisions in the LEP or DCP to ensure that the potential for contamination and the suitability of land for any proposed use is further addressed prior to the redevelopment of the land. In some cases a more detailed investigation may be required.

6.4 Procedures for Subdivision and Development Applications

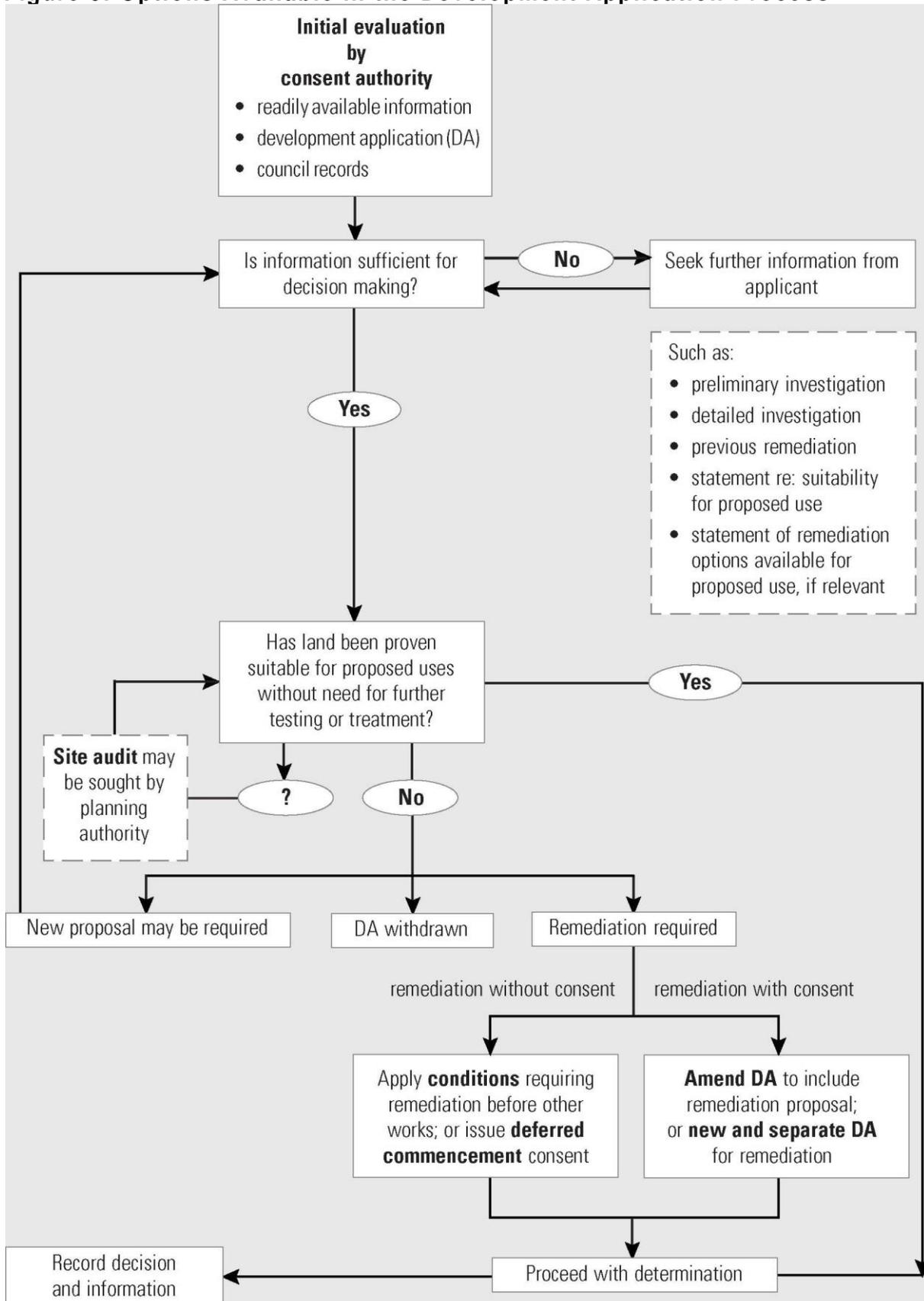
Clause 7 of SEPP 55 requires Council to not give consent to any development on land unless:

- a. *it has considered whether the land is contaminated, and*
- b. *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

- c. *if the land requires remediation to be made suitable for any purpose for which the development is proposed to be carried out. It is satisfied that the land will be remediated before the land is used for that purpose.*

The following outlines what information Council requires for subdivision and development applications in relation to site contamination. Council procedures for considering land contamination issues for development applications are shown in Figure 3.

Figure 3. Options Available in the Development Application Process



6.4.1 Information Council requires in the Decision Making Process

There are four stages that contaminated or potentially contaminated land can be investigated. At each stage it is the applicant's responsibility to provide the necessary documentation to Council and to fund the works to prepare the documents. The stages are as follows.

Stage 1 - The Preliminary Investigation

The objectives of a preliminary investigation are to identify any past or present potentially contaminating activities and to provide a preliminary assessment of site contamination. It involves a detailed appraisal of the site's history using information from historical records of land use, aerial photos, consultation with previous occupants and relevant authorities and a site inspection. Where contaminating activities are suspected to have had an impact on the land or there is limited information, sampling and analysis will most likely be required to confirm and support any conclusion reached from the site history appraisal (Planning Guidelines SEPP 55, 1998)

Where the preliminary investigation shows a history of non contaminating activities at a site and, in the absence of other contrary evidence, there will be no need for further investigation (Planning Guidelines SEPP 55, 1998).

Where the results of a preliminary investigation show the potential for or existence of contamination, a detailed investigation must be undertaken.

In accordance with SEPP 55 Council will require a preliminary investigation to be submitted with a subdivision or DA where the land is:

1. *land that is within an investigation area*
2. *land on which development for a purpose referred to in Appendix 1 is being, or is known to have been, carried out*
3. *to the extent which it is proposed to carry out development on it for residential, educational, recreational, or child care purposes or for the purpose of hospital land:*
 - i. *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in table 1 to the contaminated land planning guidelines has been carried out, and*
 - ii. *on which it would have been unlawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Council may also require a preliminary investigation if:

- Council has reasonable grounds to consider the land is contaminated
- There is insufficient information to determine if contamination is an issue
- Records indicate the site was linked to a pollution incident
- An adjoining site associated with contaminating activities may have caused the site to become contaminated i.e. through leaching, wind or soil erosion or other contaminant land transport processes.

The preliminary site investigation shall be carried out in accordance with the requirements of the relevant NSW EPA Guidelines and undertaken by a suitably qualified consultant.

If Council is satisfied the preliminary site investigation concludes that the site is suitable for the proposed use then Council will not require any further investigations to be conducted.

Stage 2 – Detailed Site Investigation

The objectives of a detailed site investigation are to:

- Define the extent and degree of contamination
- Assess the potential risk posed by the contamination to human health and the environment
- Obtain enough information to develop a remedial action plan (if required)

It must also:

- State if the site is suitable for the proposed use or if remediation is required
- If remediation is necessary it should list the feasible options available to remediate the site.

A detailed site investigation will be undertaken when the results of a preliminary site investigation demonstrate the existence or potential for contamination, which may render the land unsuitable for the proposed use. In some cases the investigation process can proceed directly to Stage 2 - detailed site investigation where the land is known to contain a potentially contaminating activity.

The investigation shall be carried out in accordance with the relevant EPA Guidelines.

The applicant is required to engage a suitably qualified consultant to undertake the detailed site investigation.

Stage 3 – Site Remedial Action Plan

Council will require a Remedial Action Plan (RAP) if the detailed investigation concludes that the land is not suitable for the proposed use in its present state.

The RAP should demonstrate how the levels of contaminants will be reduced to acceptable levels. The RAP shall be prepared by a duly qualified person/s in accordance with the relevant EPA Guidelines.

Stage 4 - Validation and Monitoring

The aim of validation is to confirm if the objectives in the RAP have been met and if any further remediation is required. Council will require a validation report to be submitted after remediation works have been completed that demonstrates that the site is suitable for its proposed or ongoing use.

6.4.2 Consent for Remediation

Clause 9 of SEPP 55 determines when consent is or is not required for remediation works. Category 1 and Category 2 works are outlined below.

Category 1 – Council development consent is required as referred to in clause 9 of SEPP 55 if the work requires consent. These works are generally on land that is critical habitat or environmentally sensitive or works which are listed as a designated development under the EP & A Act. All Category one remediation work must be advertised for 30 days as required by s. 29A of the EP&A Act.

A RAP is a compulsory requirement for all Category 1 remediation work.

If remediation works constitute Category 1 works, as defined by Clause 9 of SEPP 55, the applicant can amend their application to include a remediation proposal or lodge a new or separate development application. However if work is to be carried out in a manner which is inconsistent with Council's policies on contaminated lands, then the works become Category 1, as described above.

Category 2 - All other remediation work is Category 2 and does not require development consent. The works may be undertaken as part of the DA or independent of this process. If it is found during investigations relevant to a DA application that Category 2 remediation is required before development can proceed then Council may:

- Impose conditions on the consent requiring remediation to be undertaken and validated before work commences, or occupation, or
- Issue a deferred commencement for the use and require remediation to be undertaken and validated before works commence.

Where Category 2 works are undertaken they must be done so in accordance with EPA requirements, planning guidelines, the CLM Act and in accordance with SEPP 55 and all other relevant legislation.

Conditions of Consent for all Category 1 and 2 Works

There are conditions of Consent for Remediation Work in 'Managing Land Contamination Planning Guidelines'. These are reproduced in Appendix 2 and address issues such as Health and Safety, water quality, air quality, erosion etc. Whenever Category 1 or 2 works are undertaken they are required to comply with these conditions. However Category 1 works require consent and may have further conditions imposed.

SEPP 55 also requires the Council to be notified 30 days prior to Category 2 works being undertaken to allow Council to verify that the works are actually Category 2. Also a notice of completion must be issued to the Council after all remediation work for both Category 1 and 2.

6.4.3 Ancillary Development

The Planning guidelines SEPP 55 Remediation of Land state that:

'Remediation is often carried out in conjunction with other development, to make the land suitable for that development. The SEPP contains the following rules for remediation as ancillary development.'

Remediation may be considered as Category 2 instead of Category 1 if the only reason it is Category 1 is that it is ancillary to designated development.

Remediation work that meets the criteria for Category 1 work may not be treated as Category 2 just because it is ancillary to development without consent.

If Category 1 remediation is carried out ancillary to development without consent, this does not result in a requirement for consent for that development.

If remediation work is designated development under Schedule 3 of the EP&A Act Regulation or the provisions of a planning instrument, this does not mean that any associated development is also designated.

6.4.4 Site Auditors Scheme

Site auditors are experts accredited by the EPA who can provide an independent review of a consultant's work for all types of contamination sites. Only an accredited auditor may undertake an independent review or site audit. A list of accredited auditors is on the EPA's website at www.epa.nsw.gov.au.

Council may request a site audit at any or all stages in the site investigation process if Council:

- believes on reasonable grounds the information provided by the applicant is incorrect or incomplete.
- wishes to verify if the information provided by the proponent is being adhered to and appropriate standards are being complied with.
- does not have the internal resources to conduct its own technical review.

Council will decide if a site auditor is required after reviewing contamination reports and other associated documents. The proponent is responsible for engaging a NSW EPA accredited site auditor and all costs borne in engaging the auditor.

There are EPA Guidelines which determine exactly what is to be included in a site audit. These are titled Guidelines for the NSW Site Auditors Scheme.

Part C – Information and Advice

7. Council Records

Council has an important role to provide information to the public regarding land use history and contamination issues. There is also a statutory responsibility under Section 59 of the Contaminated Land Management Act to include information provided to Council by the EPA or accredited auditors on Planning Certificates.

The process of gathering information on contaminated sites is progressive and ongoing. As more information on contaminated sites is received it will be added to Council's property information system and GIS. Details may include information listed at Section 5.2 of the Contaminated Land Planning Guidelines (DUAP & EPA, 1998) and more specifically the location of:

- known dip sites
- service stations
- rubbish tips
- investigations areas
- remediation sites
- site audit records, and
- other known contaminated sites.

7.1 Planning Certificates (Section 149)

7.1.1 Section 149(2) Certificates

Under Section 149 of the *Environmental Planning and Assessment Act 1979*, a person may request from Council a planning certificate regarding advice on matters about land that are described in the Regulation. One such prescribed matter is the existence of a Council Policy to restrict the use of land. This is taken to include restrictions on the use of land due to risks from contamination.

A planning certificate does not, in itself, restrict the use of land. It is simply the mechanism for recording the fact that a Council policy applies which may restrict the use of land.

Notification of Council's Contaminated Land Policy

All planning certificates will contain the following notation about the existence of a Council Policy to restrict the use of land.

Any Other Risk – Contaminated Land

Council has adopted a policy on contaminated land. This policy will restrict development of land which is affected by contamination, which has been used for certain purposes, in respect of which there is not sufficient information about contamination, which is proposed to be used for certain purposes, or in other circumstances outlined in the policy.

[Note: Additional information regarding the potential for the subject land to be contaminated may be provided on a certificate issued by Council under section 149(5). Refer to Section 7.1.2 of Councils Contaminated Land Policy for further guidance in this regard.]

Notification of certain matters under the *Contaminated Land Management Act 1997*

Planning certificates are required to contain advice as to whether the land to which the certificate relates is the subject of certain determinations under the Contaminated Land Management Act 1997 at the date when the certificate is issued. These matters listed in section 59(2) of the *Contaminated Land Management Act 1997* include whether the land is significantly contaminated land, subject to a management order, subject of an approved voluntary management proposal, subject to an ongoing maintenance order, subject of a site audit statement. Council will not provide copies of these determinations with planning certificates. *[Note: Where the relevant legislation is amended to vary from the content of this Policy then the legislation will prevail].*

Notification of land occupied by a cattle tick dip site

Where land is recorded as having been occupied by a cattle tick dip site Council's notation on a Section 149(2) certificate will be -

A cattle tick dip site is known to have occupied the subject land according to information provided to Council by the NSW Government. Use of chemicals associated with the cattle tick dip has the potential to have contaminated the site. For more information regarding the status of the site, and any possible remediation or soil testing that may have been carried out, persons should contact Biosecurity NSW, NSW Trade and Investment at the Wollongbar Agriculture Institute.

Section 7.1.2 Section 149(5) Certificates

A person may apply for a planning certificate containing additional information on certain matters, including land contamination, under Section 149(5) of the *Environmental Planning and Assessment Act 1979*. In the matter of land contamination, this information will indicate whether or not the land is considered to be potentially or actually contaminated, whether Council records have insufficient information about previous use to determine if land is contaminated, or where land that has been previously contaminated has been remediated.

Where a planning certificate indicates there may be contamination on the subject land further information may be available on request.

References

DUAP and EPA, (1998). Planning Guidelines for Contaminated Land (DUAP and EPA, 1998).

NSW Govt, (1997). *The Contaminated Land Management Act, 1997*.

NSW Govt, *State Environmental Planning Policy 55 (SEPP 55) – Remediation of Land*.

National Environmental Protection Council. *National Environment Protection (Assessment of Site Contamination) Measure 1999* (April 2013)

NSW EPA www.epa.nsw.gov.au/ date accessed 27 July 2015

Appendix 1 - Schedule of Potentially Contaminating Activities

This list is not sufficient to rely solely on to determine if a site is contaminated or not. The list is a guide only.

The following list is taken from Table 1 of the Publication 'Managing Land Contamination Planning Guidelines' SEPP 55, (DUAP and EPA, 1998).

- *Acid/ alkali plant and formulation*
- *Agricultural/ horticultural activities*
- *Airports*
- *Asbestos production / disposal*
- *Chemical manufacture and formulation*
- *Defence works*
- *Drum reconditioning*
- *Dry cleaning establishments*
- *Electrical manufacturing (Transformers)*
- *Electroplating and heat treatment premises*
- *Engine works*
- *Explosive industry*
- *Gas works*
- *Iron and steel works*
- *Landfill sites*
- *Metal treatment*
- *Mining and extractive industries*
- *Oil production and storage*
- *Paint formulation and manufacture*
- *Pesticide manufacture and formulation*
- *Power stations*
- *Railway yards*
- *Scrap yards*
- *Service stations*
- *Sheep and cattle dips*
- *Smelting and refining works*
- *Tanning and associated trades*
- *Waste storage and treatment*
- *Wood preservation*

Reference is also drawn to Appendix A Industries and Chemicals Used of the Guidelines to assist developers, consultants and the public to determine risks associated with land contamination.

Appendix 2 – Draft Conditions of Consent

It is suggested that conditions of consent for remediation work cover the following:

Statutory requirements

- meet requirements such as those of the EPA, Sydney Water, Department of Health, council and WorkCover Authority
- meet relevant regulations, and Australian standards and codes. See (EPA 1998a)

Health and safety

- prepare a health and safety plan in accordance with WorkCover Authority requirements
- meet all occupational health and safety and construction safety regulations
- establish site fencing, public safety warning signs, and security surveillance

Air quality

- ensure no burning of material on site
- maintain equipment in functional manner to minimise exhaust emissions
- cover vehicles entering and leaving the site with soil/fill material
- regularly monitor air quality throughout work
- establish dust suppression measures to minimise wind borne emissions of dust. having regard to site specific wind conditions

Water quality

- regularly monitor water quality throughout work
- store water for dust suppression in adequately bunded area and drain to a central collection sump and treat, if necessary, to meet EPA discharge criteria

Erosion and sediment control

- establish temporary erosion and sediment control measures prior to commencement
- maintain erosion and sediment control measures in functional condition
- meet the NSW Department of Housing's 1993 guidelines *Soil and Water Management for Urban Development*, if applicable
- submit detailed designs for pollution control system, including leachate collection and disposal, before commencement of work
- store any temporary stockpiles of contaminated materials in a secure area
- clean vehicles leaving the site

Noise

- control noise emissions in accordance with the *Noise Control Act 1975*
- ensure plant equipment is noise suppressed
- regularly monitor noise quality throughout work and send results to EPA/consent authority

Waste

- remove, dispose of and monitor, in accordance with the requirements of the *Environmentally Hazardous Chemicals Act 1985* and the Waste Minimization and Management Act
- prepare, if contaminated solid is to be removed from site, a waste management plan and annual report detailing issues such as where it will go, how it will be treated and transportation issues

Landscaping and rehabilitation

- prepare landscaping plan for approval of consent authority
- landscape site in accordance with landscape plan
- progressively stabilise and revegetate disturbed areas in accordance with landscape plan

Consultants

- ensure professionals undertaking remediation are appropriately qualified and experienced

Validation

- prepare final validation program in accordance with EPA requirements
- submit validation notice to consent authority within a month of completion
- prepare and submit a detailed survey of all sites used as landfill disposal pits, identifying the boundaries and depth of disposal pits in relation to existing roadways and buildings

Ongoing monitoring

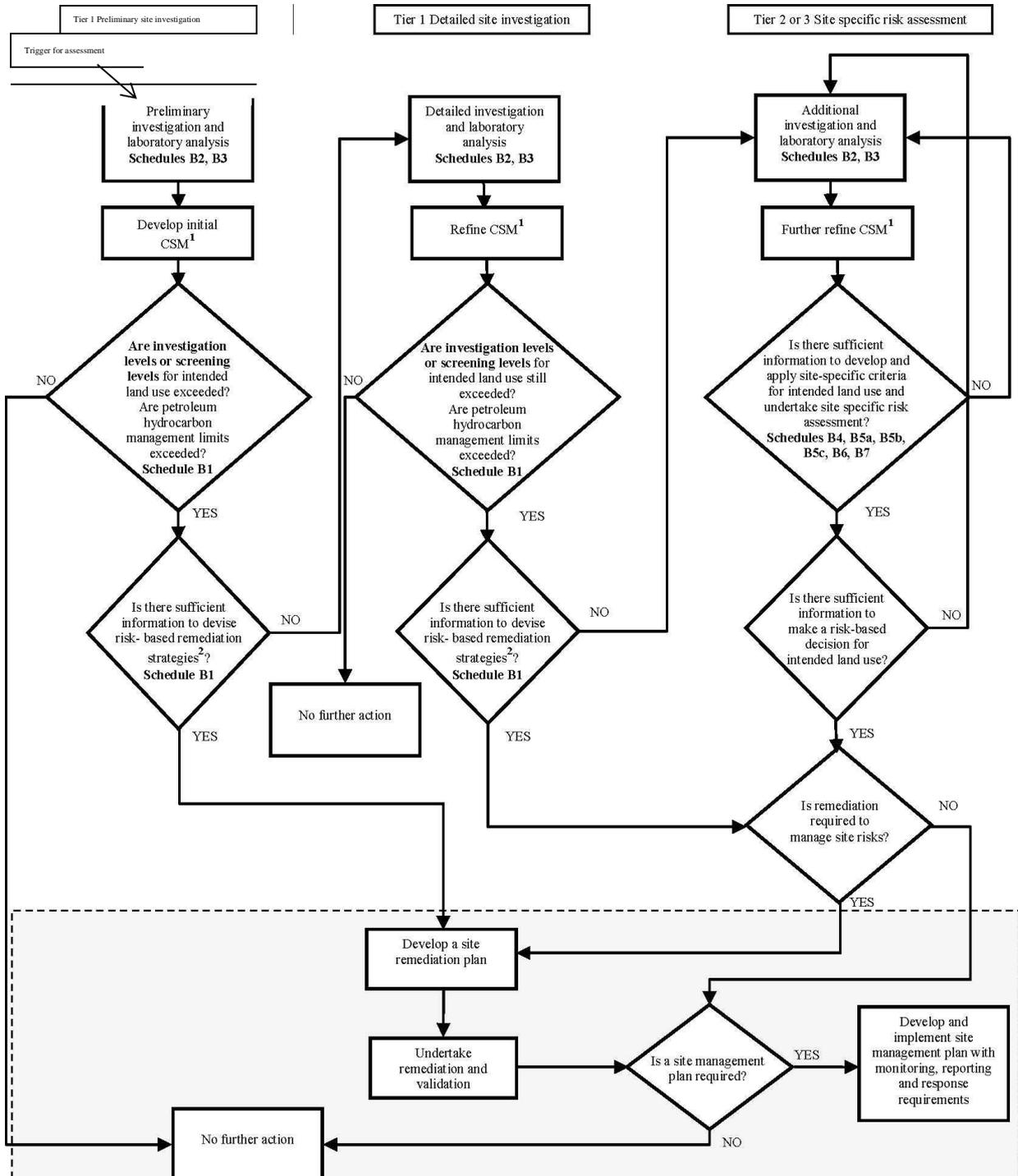
- periodically monitor material containment areas for the leaching of contaminants

(Source: Managing Land Contamination Planning Guidelines, DUAP and EPA, 1998.)

Appendix 3 - Schedule A from NEPM – Recommended general process for assessment of site contamination

The following Schedules are also relevant to assessment and remediation of site contamination:

Community engagement and risk communication Schedule B8 Competencies and acceptance of environmental auditors and related professionals Schedule B9



Note

¹ Conceptual site model.

² Remediation and/or management can be considered at this point for sites with localised or low-level exceedance.

Assessment of asbestos contaminated sites (in the absence of other contaminants) may proceed directly to preparation of a Site Management Plan based on the results of a reliable site history, site walkover and qualitative assessment.

The shaded area indicates activities which are outside the scope of this Measure