

8.6 Draft Contaminated Land Use Planning Policy

REPORT BY THE TOWN PLANNER AND MANAGER, PLANNING
TO 14 DECEMBER 2022 ORDINARY MEETING
GOV400098, LAN900010

RECOMMENDATION

That Council:

1. receive the report by the Town Planner and Manager, Planning on the Draft Contaminated Land Use Planning Policy;
2. endorse and publicly exhibit the Draft Contaminated Land Use Planning Policy outlined in this report; and
3. receive a further report following conclusion of the public exhibition period to consider any submissions received, or if at the end of the public exhibition period, no submissions are received, adopt the Contaminated Land Use Planning Policy as proposed.

Executive summary

Council currently does not have any policy or procedures on how to manage contaminated land, and does not have any sort of contamination register, or potentially contaminated land register. Since 2019, Council has participated in the NSW EPAs *Regional Capacity Building Program*. The Program is funded by the EPA and aims to assist Council's in implementing and maintaining policies and procedures associated with Contaminated Land Management.

In accordance with the NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land 1998 (“the Planning Guidelines”) it is strongly recommended that:

“each local council develop and adopt a formal policy for managing land contamination to provide a local context for decision making” and that “the policy should be consistent with the Guidelines and either adopt or be based on them, with variations based on local conditions and procedure”.

Council currently acts in “good faith” with the Planning Guidelines, but the adoption of a Contaminated Land Use Planning Policy will re-affirm Councils legislative obligations and will align Council activities and management processes to the Planning Guidelines.

Overall the adoption of a policy will aim to achieve the following key principles of:

- Ensuring any land use changes will not increase the risk to human health or the environment.
- Avoiding inappropriate restrictions on land use.
- Providing information to support decision making and to inform the community of Council's requirements.

It is recommended that Council endorse the Contaminated Land Use Planning Policy to provide a framework for Council to appropriately manage land contamination through the land use planning process.

If supported, the draft Contaminated Land Use Planning Policy will be placed on public exhibition for 28 days in accordance with the Local Government Act 1993.

Disclosure of Interest

Nil

Detailed report

Council has prepared a Contaminated Land Use Planning Policy to establish a framework for Council to appropriately manage land contamination. The Policy is strongly aligned/based on the *Model Regional Contaminated Land Policy – Land Use Planning* January 2020, prepared by the Hunter Joint Organisation, as part of their *Regional Contaminated Land Capacity Building Program*.

Mid-Western Regional Council's Contaminated Land Use Planning Policy sets out the preferred practice of Council Officers in relation to:

- Identifying, evaluating and managing contamination through the land use planning process.
- Recording, managing and disclosing contaminated land information.
- Reporting contamination to the NSW EPA.
- Preventing or minimising the potential for contamination.

Additionally, Council has an important role in supplying the community with information regarding land use history, land contamination and remediation activities. The Contaminated Land Use Planning Policy also seeks to establish a Contaminated Land Information System (CLIS) to provide relevant and accurate information on contaminated land to the community in accordance with the *NSW Government Information (Public Access) Act 2009*.

Councils are implementing the CLIS very differently, owing to limited resources. Council should look to implement and maintain an information management system which is commensurate with the size and resources available. As Council has no dedicated contamination specialists/staff, limited resources within existing teams, and poorly integrated software, mapping, and record systems - no CLIS has been developed, or devised – but will be investigated / developed within the limitations of existing resources.

Overall, the adoption and implementation of a local contaminated land use policy by Council will provide a valuable tool to staff and the community.

Public Exhibition

The draft Contaminated Land Use Planning Policy is required to be placed on public exhibition for a period of 28 days to enable submissions from the community. A further report will then be prepared and presented to Council for final adoption. However, if no submissions are received, the proposed Policy will be adopted as presented following the conclusion of the public exhibition period.

Community Plan implications

Theme	Good Government
Goal	Good communications and engagement
Strategy	Improve communications between Council and the community and create awareness of Council's roles and responsibilities

Strategic implications

Council Strategies

The Contaminated Land Use Planning Policy will assist Council to effectively manage land contamination through the land use planning process and will communicate this framework to the public.

Council Policies

Nil

Legislation

Environmental Planning and Assessment Act 1979

NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land 1998
("the Planning Guidelines")

Financial implications

Not Applicable

Associated Risks

This policy reaffirms Councils statutory obligation and provides a framework for decision making. Without this policy there is the risk that there would be a lack of community awareness on contaminated land management and the potential risk to the environment or human health.

HANNAH DRAPER
TOWN PLANNER

ALINA AZAR
DIRECTOR DEVELOPMENT

24 November 2022

Attachments: 1. Draft Contaminated Land Use Planning Policy.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Contaminated Land Use Planning

*A prosperous
and progressive
community.*

ADOPTED		VERSION NO	[VERSION 1.1, 1.2 ETC]
COUNCIL MEETING MIN	7/09/2022	REVIEW DATE	[DATE TO REVIEW]
DATE:	XX/08/2022	FILE NUMBER	[INSERT FILE NO]

1. Scope

This document outlines Mid-Western Regional Councils Policy under the regulatory control of Local Government, as stipulated by the *Environmental Planning and Assessment Act 1979* and Managing Land Contamination Planning Guidelines 1998 (“the Planning Guidelines”).

In accordance with the *Environmental Planning and Assessment Act 1979*, Council as a planning authority is exempt from liability associated with contaminated land for anything done or omitted to be done in “good faith”, which is to act substantially in accordance with the contaminated land planning guidelines. This Policy seeks to align Council activities and management processes to the Planning Guidelines and achieve the key principles of:

- Ensuring any land use changes will not increase risk to human health or the environment.
- Avoiding inappropriate restrictions on land use
- Providing information to support decision making and to inform the community of Council’s requirements.

2. Purpose

The purpose of the Contaminated Land Policy is to provide a framework for Council to appropriately manage land contamination through the land use planning process.

The Policy sets out the preferred practice of Council Officers in relation to:

- Identifying, evaluating and managing contaminated land through the land use planning process.
- Recording, managing and disclosing contaminated land information.
- Reporting contamination to the NSW EPA.
- Preventing or minimising the potential for contamination.

It is not the intent of this Policy that an act or omission of any Officer of the Council shall be called into question or held to be invalid on the grounds of failure to comply with this Policy.

3. Objectives

The objectives of this policy are to:

- Ensure that changes in land use will not increase the risk to human health or the environment.
- Consider the likelihood of land contamination as early as possible in the planning and development control process.
- Link decisions about the development of land with the information available about possible contamination.

POLICY: | [VERSION 1.1, 1.2 ETC]

- Ensure Council exercise its functions relating to the development of contaminated land with a reasonable standard of care and diligence.
- Ensure that site investigations and remediation works are carried out in a satisfactory manner, and where appropriate, are independently verified by a Site Auditor.
- Avoid inappropriate restrictions on land use arising from contamination.
- Provide information to support decision making, and to inform the community of potential restrictions on property arising from contaminated land matters.

4. Application

This Policy relates to Council's responsibility in contaminated land matters as the regulatory authority for land use planning.

This Policy applies to all land within the Local Government Area.

5. Relationship to other Policies, Procedures and Guidelines

This Policy is supported by a number of legislative instruments, regulations, guidelines and other relevant Council documents, as listed below:

Contaminated Land Management Act 1997
Contaminated Land Management Regulation 2013
Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021
Government Information (Public Access) Act 2009
Guidelines provided or endorsed by the NSW EPA under the CLM Act.
Local Government Act 1993
Local Government (General) Regulation 2005
Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land, 1998 (or the planning guideline in force at the time)
National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013
State Environmental Planning Policy (Resilience and Hazards) 2021
Mid-Western Regional Local Environmental Plan 2012
Mid-Western Development Control Plan 2013

6. Review of this Policy

This policy will be reviewed every three (3) years from the date of adoption. The policy will also be subject to review at an earlier time in response to amendments to legislation, policy or guidelines that may directly affect the intent and application of the Policy.

7. Managing Land Contamination through the Planning Process in the Local Government Area

7.1 Land Use Planning Functions

When carrying out planning functions under the *Environmental Planning and Assessment Act 1979*, Council must consider the possibility that the previous and / or current land uses, and / or a nearby land use, has caused contamination of the site, and the potential risk to human health and the environment from that contamination.

POLICY STATEMENTS:

1. Council shall not approve a Development Application or support a Planning Proposal unless it is satisfied on the basis of information available to it under this Policy that:
 - Contamination has been considered;
 - If the land is contaminated, that the land is suitable in its contaminated state (or will be suitable following remediation) for all the uses permissible under the approval; or
 - If the land is contaminated, that conditions can be placed in planning instruments or on development consents and approvals under Part 4 of the *Environmental Planning and Assessment Act 1979* that will ensure any contaminated land can be remediated to a level appropriate to its intended use, prior to, or during the development stage.

7.2 Information Management

Council has an important role in supplying the community with information regarding land use history, land contamination and remediation activities. Council also has a statutory responsibility to include certain information on certificates issued for the purposes of s10.7 of the *Environmental Planning and Assessment Act 1979*. The information required is defined in:

- s59 of the *Contaminated Land Management Act 1997* (i.e. information provided to Council by either the NSW EPA or Accredited Auditors).
- Schedule 2 of the *Environmental Planning and Assessment Regulation 2021* (i.e. whether there is a policy adopted by Council or any other public authority that restricts the development of the land, in this case due to actual or potential contamination).

The development and maintenance of a Land Use Information System (LUIS) will assist Council to meet its legislative obligations. Council will develop a systematic approach to recording and accessing information on contamination.

POLICY STATEMENTS:

2. Council to develop a systematic approach to recording and assessing information on contamination, to facilitate compliance with statutory obligations, support its planning functions, and provide relevant and accurate information on contaminated land to the community in accordance with the *NSW Government Information (Public Access) Act 2009*.

INFORMATION PROVIDED ON THE S10.7 PLANNING CERTIFICATE

POLICY: | [VERSION 1.1, 1.2 ETC]

Information to be disclosed on a Section 10.7(2) Planning Certificate is specified in the *Environmental Planning and Assessment Regulation 2021* (Schedule 2) and s59(2) of the *Contaminated Land Management Act 1997*. Council therefore has a legal obligation to provide certain information through Section 10.7(2) Planning Certificates in relation to land contamination.

POLICY STATEMENTS:

3. Section 10.7(2) Planning Certificates issued by Council are to:
 - Contain information on matters prescribed under Section 59(2) of the *Contaminated Land Management Act 1997* that are relevant to the property
 - Identify whether or not any adopted policy (including this Policy) of Council or any other public authority restricts the development of the land (the subject of the certificate) because of the likelihood of any risk of contamination

INFORMATION TO BE PROVIDED ON SECTION 10.7(5) PLANNING CERTIFICATES

Section 10.7(5) Planning Certificates are governed by s10.7(5) of the *Environmental Planning and Assessment Act 1979*, which states that “a council may include advice on such other relevant matters affecting the land of which it may be aware”. As such, there is no specific legislative requirement for Council to provide information pertaining to land contamination issues on s10.7(5) Certificates. However, this needs to be balanced with the fact that the Council owes the applicant a duty to take reasonable care when issuing planning certificates.

POLICY STATEMENTS:

4. Section 10.7(5) Planning Certificates issued by Council are to provide information that is provided to Councils by the NSW EPA in accordance with s 59 of the *Contaminated Land Management Act*, that is not already included in a s10.7(2) Planning Certificate.
5. If Council is aware that a site has been notified to the NSW EPA under S.60 of the *Contaminated Land Management Act*

7.3 Certification Requirements

Contaminated site assessments are inherently complex and usually present a wide range of issues. Engaging professionals who have the relevant qualifications, competencies and experience is important when investigating and managing contaminated sites. For this purpose, Contaminated Land Consultant certification schemes have been developed to ensure those Consultants dealing with contaminated sites have the necessary competencies to carry out the work. Certification under a recognised scheme should be interpreted as the Consultant meeting at least an acceptable minimum standard of competency. Currently, the certification schemes recognised by NSW EPA and the Council are:

- Environment Institute of Australia and New Zealand’s (EIANZ) scheme for Certified Environmental Practitioner Site Contamination Specialist (CEnvP SC)
- Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

POLICY STATEMENTS:

6. Contaminated land reports are to be prepared, or reviewed and approved by an appropriately qualified and certified Environmental Consultant. Currently, the certification schemes recognised by NSW EPA and the Council are (noting other schemes may become recognised):
 - Environment Institute of Australia and New Zealand's (EIANZ) scheme for Contaminated Land Assessment Specialist Certified Environmental Practitioner (CEnvP SC)
 - Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

7.4 Investigation and Reporting Standards

Given the complex and technical nature of contaminated land reports, it is essential that Consultants complete investigations and reporting in accordance with the EPA prepared and adopted guidelines. To further assist Council staff when assessing planning applications, an accompanying report synthesis, presenting project background, scope, objectives, key issues, investigation findings and recommendations is to be provided with each report.

POLICY STATEMENTS:

7. All investigations and accompanying reports provided to Council are to be completed in accordance with NSW EPA prepared and adopted guidelines.
8. All contaminated land reports provided to Council are required to include a summary report synthesising key findings and recommendations.

7.5 Site Investigation, Remediation and Validation

To ensure Councils satisfy their legislative obligations when considering planning applications, an appropriate investigation process based on the following stages is required.

INITIAL EVALUATION

An Initial Evaluation is to be completed by Council. It aims to determine whether contamination needs to be addressed during the assessment of a Planning Application as required by SEPP (Resilience and Hazard) and to therefore determine whether further information is required for Council to conduct its planning functions in good faith.

POLICY STATEMENTS:

9. An initial evaluation is to be completed by Council for all land use Planning Applications.

POLICY: | [VERSION 1.1, 1.2 ETC]

PRELIMINARY SITE INVESTIGATION

A Preliminary Site Investigation is provided by the Proponent. The main objectives are to identify any past or present potentially contaminating activities, provide a preliminary assessment of any site contamination, and if required, provide a basis for a Detailed Site Investigation.

POLICY STATEMENTS:

10. A Preliminary Site Investigation is required when an Initial Evaluation identifies that contamination is, or may be present on the site, or if potential or actual contamination on an adjacent area has the potential to migrate to the site.

SAMPLING AND ANALYSIS QUALITY PLAN AND DETAILED SITE INVESTIGATION

A Sampling and Analysis Quality Plan and Detailed Site Investigation is provided by the Proponent. The objectives are to define the nature, extent and degree of contamination, to assess potential risk posed by contaminants to human health and the environment, and to obtain sufficient information to develop a Remedial Action Plan, if required. It should be noted that this Stage of the process may entail several investigations and reports, including Site Specific Risk Assessments and Modelling.

POLICY STATEMENTS:

11. A Sampling and Analysis Quality Plan and Detailed Site Investigation is required:
 - Where the Preliminary Site Investigation indicates that the land is, or may be contaminated
 - When the site is, or was, formally used for an *potentially contaminating land use* listed in Appendix A, or other potentially contaminating activities known to Council, and a land use change is proposed that has the potential to increase the risk of exposure to contamination
 - To accompany a remediation proposal or notification.

REMEDIAL ACTION PLAN

A Remedial Action Plan is provided by the Proponent. The objectives are to set remediation objectives and document the process to remediate the site. The proposed remediation is to (as a minimum) reduce the risk from contamination to acceptable levels for the proposed land use scenario. The Remedial Action Plan should be based on the information from previous investigations.

POLICY STATEMENTS:

12. A Remedial Action Plan is required where the Detailed Site Investigation, Site Specific Risk Assessment or Modelling identifies that remediation or management is needed to render the site suitable for its intended land use.

13. A Remedial Action Plan (and accompanying investigation reports) must accompany the Planning Application where development consent is required for remediation (i.e. Category 1 Remediation Works).
14. A Remedial Action Plan (and accompanying investigation reports) must accompany any notification to Council for proposed Category 2 Remediation work.

VALIDATION, ONGOING MANAGEMENT AND MONITORING

Validation and / or Ongoing Management / Monitoring Reports are provided by the Proponent. The objective of Validation is to demonstrate whether or not the objectives stated in the Remedial Action Plan and any conditions of development consent have been achieved. At times, this may include ongoing management and / or monitoring following the completion of remediation. Monitoring undertaken for a limited time is typically incorporated into the Validation Report.

In situations where full clean-up is not feasible or on-site containment of contamination is proposed, the need for an On-going Environmental Management Plan including monitoring, maintenance and management measures should be determined by both the Proponent's Consultant and the Planning Authority.

SEPP (Resilience and Hazards) requires a Notice of Completion to be provided to Council for all remediation work. The Notice of Completion is to include the Validation Report (with monitoring results if monitoring was undertaken, and any ongoing management and monitoring requirements).

POLICY STATEMENTS:

15. A Validation Report (including monitoring results where applicable) is required to validate the completion and effectiveness of all remediation works for which consent has been provided by Council (i.e. Category 1 Remediation Works).
16. The Notice of Completion provided to Council for any Category 2 remediation works is to include the Validation Report.
17. An On-going Environmental Management Plan is required to be provided to Council and implemented where contamination remains on site, and there is uncertainty as to its potential to migrate; and / or the effectiveness of the management measures implemented to contain the contamination following remediation and validation; and / or monitoring and ongoing management forms part of the remediation strategy.

7.6 Site Audits

A Site Audit is an independent review of any or all stages of the site investigation process, conducted by a Site Auditor accredited by the NSW EPA in accordance with the *Contaminated Land Management Act 1997*. Engaging a Site Auditor can provide greater certainty about the information on which the planning authority bases its decision, particularly where sensitive uses are proposed, and / or where contamination is complex. The outcome of a Site Audit is a Site Audit Statement, stating the purpose and outcome of the Site Audit, and accompanying Site Audit Report providing the information on which the outcome was based.

POLICY: | [VERSION 1.1, 1.2 ETC]

POLICY STATEMENTS:

18. Council may require a site audit to be carried out where council:
- Believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete;
 - Wishes to verify whether the information provided by the proponent has adhered to appropriate standards, procedures and guidelines; or
 - Does not have the internal resources to conduct its own technical review.
19. All costs associated with providing a site audit are to be borne by the proponent.

7.7 Control of Remediation Works

Remediation is generally considered beneficial as it improves the quality of the environment, reduces health risks and restores land to productive use. However, in some situations remediation work itself has the potential for environmental impact, and the planning process must ensure that these impacts are adequately identified and mitigated. SEPP (Resilience and Hazard) provides consistent state-wide planning and development controls for the remediation of contaminated land. Remediation work which requires development consent is known as Category 1 Remediation Work. All other remediation work may be carried out without development consent and is known as Category 2 Remediation Work; however, Council must be notified prior to commencement and upon completion of Category 2 Remediation Works.

POLICY STATEMENTS:

20. Development consent is required for Category 1 Remediation Work as defined by SEPP (Resilience and Hazard)
21. Council must be notified of proposed Category 2 Remediation Works no less than 30 days prior to their scheduled commencement.

7.8 Duty to Report

The duty to report contamination to the NSW EPA is a requirement under the *Contaminated Land Management Act 1997*, with updates provided in the *Contaminated Land Management Amendment Act 2008*.

The following people are required to report contamination as soon as practical after they become aware of any contamination that meets the triggers for the duty to report:

- Anyone whose activities have contaminated land
- An owner of land that has been contaminated.

It should be noted that although the above people have the duty to report contamination, anyone can at any time report suspected contamination to the NSW EPA.

8. Preventing Contamination

Measures to prevent possible contamination at its source can help to reduce the need for remedial action in the future. Preventing contamination occurring in the first place can therefore have significant environmental and financial benefits for Council and the Community.

POLICY STATEMENTS:

22. For potentially polluting activities, Council will apply and enforce conditions of development consent that ensure effective and ongoing control measures are implemented.

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POLICY: | [VERSION 1.1, 1.2 ETC]

Appendix A - Potentially Contaminating Land Uses

The following land use definitions generally relate to the land use definitions used in the *Standard Instrument—Principal Local Environmental Plan*. Additional definitions and comments are included in the table to assist in identifying the potential to contaminate land from that land use.

Should only be used where specific information about the site is available.

* Table 1 activities where a Preliminary Investigation is mandatory for change of use DA. See cl 4.6 SEPP (Resilience and Hazards) 2021.

GROUPING	POTENTIALLY CONTAMINATING LAND USE	DEFINITION OR COMMENTS
Agriculture	Aquaculture	Cultivating or keeping fish or marine vegetation for commercial purposes; Fisheries Management Act 1994
	* Extensive agriculture#	Used to capture farm shed activities such as chemical storage and handling
	Food manufacturing	All types of food and drink manufacturing that may have included boilers or cooking, needs to be at reasonable scale
	* Intensive livestock agriculture	Feed lots, piggeries, dairies, concentrated waste products Designated development triggers
	* Intensive plant agriculture	Vineyards, orchards, irrigated cropping, turf farming
	Livestock processing industries	Production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, and includes abattoirs, knackerries, tanneries, wool scours and rendering plants.
	Rural supplies	Store large quantities of chemicals but should be only applied where chemicals are decanted or repackaged on site
	* Sheep and cattle dips	Public or private facilities
	Stock and sale yards	Associated with waste, wash-down facilities and stock dips or other pest treatments
	* Tanning and associated trades	
Asbestos	Asbestos Disposal#	Where asbestos containing material has been buried for permanent disposal
	* Asbestos production and disposal	Includes mining and asbestos product manufacturing
	Demolition without asbestos clearance	A building with significant ACM demolition without providing an asbestos clearance
Chemical *	Acid/alkali plant and formulation	
	Battery manufacture, storage and recycling	Commercial scale storage of used batteries

	Chemical storage facilities	Includes the bulk storage and handling of chemical in association with other activities
*	Chemicals manufacture and formulation	
*	Defence works	UXOs, fuels and chemical use or storage
*	Dry cleaning establishments	
	Hospitals	Incinerators and boilers, radioactive wastes
	Laboratory	Place equipped to conduct scientific experiments, tests, investigations, etc., or to manufacture chemicals, medicines, or the like. Includes large scale photographic labs etc.
*	Paint formulation and manufacture	
	Paper and printing works	Commercial printeries with significant stores of ink and solvents
*	Pesticide manufacture and formulation	
*	Wood preservation	
Fuel	Liquid fuel depots	
*	Oil production and storage	Oil refineries
*	Service stations	
	Store and dispense 450l or more of fuel or oils	Fuel storage on land where primary land use is not otherwise listed
Industry	Cement works	
*	Drum re-conditioning works	
*	Electrical manufacturing (transformers)	
*	Electroplating and heat treatment premises	
*	Engine works	Manufacture of engines
*	Explosives industry	Includes explosives magazines, ammunition and fireworks manufacture and testing.
*	Gas works	
	Heavy industrial storage establishment	Storage of goods, materials, plant or machinery for commercial purposes
	Heavy industrial workshops and metal fabrication	Includes welding, sand blasting, spray painting
*	Iron and steel works	
*	Metal treatment	

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*	Mining and extractive industries	Including mineral or ore processing or coal washing etc.
	Paper pulp or pulp products industries	
	Pet food manufacturing	As distinct from food manufacturing
*	Power stations	
	Sawmill or log processing works	Relating to often being off grid using steam or liquid fuel driven machinery, also drying kilns and use of pesticides
	Small engine service and repairs	Lawnmowers and other small engine not considered motor vehicles
*	Smelting and refining	
	Storage of plant and equipment	Generally informal storage of equipment that may lead to land contamination
	Vehicle body repair workshops	Panel beaters and spray painting
Transport *	Air transport facilities	Includes heliports and all ancillary buildings
	Emergency services facilities	Police, Ambulance Fire, SES have often included fuel storage
	Freight transport facility	
	Motor vehicle service and repairs	Including cars sales yards and tyre shops
*	Railway yards	
	Truck or transport depots	Place used for the servicing and parking of trucks, earthmoving machinery and the like
	Vehicle washing	Where involved in truck washing or engine degreasing for the public or as a standalone operation
Waste	Contaminated soil and groundwater treatment works	
	Junk yard	land used for the collection, storage, abandonment or sale of scrap metals, waste paper, bottles or other scrap materials or goods, or land used for the collecting, dismantling, storage, salvaging, or abandonment of cars or other vehicles or machinery or for the sale of their parts.
*	Landfill sites	Sites use for the disposal of waste
	Oil Recycling	
*	Scrap yards	
	Sewage treatment plants	
	Site used for illegal waste disposal	
	Use of uncertified fill	Land has been levelled or reshaped with fill material that has not been certified as suitable and or the filling has not been approved
*	Waste storage and treatment	

POLICY: | [VERSION 1.1, 1.2 ETC]

Other	Commercial or industrial fixed plant with liquid fuels, e.g. generator sets.	
	Rifle or shooting range	
	Site that includes large electrical transformers or switch gear	Including electrical substations and transformers or switchgear for large industrial premises.
	Site that is impacted by off-site contamination#	Sites that would require contamination assessment due to the impacts of contamination derived from land that is being regulated by the EPA under Part 3 of the CLM Act.

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POLICY: | [VERSION 1.1, 1.2 ETC]

Appendix B Abbreviations

CLIS	Contaminated Land Information System
CLM	Contaminated Land Management
CLM Act	<i>Contaminated Land Management Act 1997</i>
DCP	Development Control Plan
DA	Development Application
DSI	Detailed Site Investigation
EMP	Environmental Management Plan
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Reg	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	Environmental Planning Instrument
LEP	Local Environment Plan
LUIS	Land Use Information System
NEPM 1999)	National Environmental Protection (Assessment of Site Contamination Measure 1999)
POEO Act	<i>Protection of the Environment Operation Act 1997</i>
PSI	Preliminary Site Investigation
RAP	Remediation Action Plan
SAR	Site Audit Report
SAS	Site Audit Statement
SEPP	<i>State Environmental Planning Policy</i>
SMP	Site Management Plan
UPSS	Underground Petroleum Storage System
UST	Underground Storage Tank

Appendix C Glossary

Assessment of site contamination	A formal investigation and report carried out by a contaminated land consultant in accordance with the Planning Guideline, the Reporting Guidelines or the UPSS Regulation and may include a preliminary site investigation, a detailed site investigation, a remediation action plan or a validation report.
Category 1 remediation	As defined in SEPP (Resilience and Hazards) 2021, being remediation that requires development consent.
Category 2 remediation	As defined in SEPP (Resilience and Hazards) 2021, being remediation that may be undertaken without development consent.
Contaminated Land Management	In regard to Council's responsibilities as a regulatory authority through the land use planning process: The management of records relating to past or present land use, assessment of site contamination, provision of relevant information, monitoring of remediation and the determination of suitability for rezoning and development consents as described within this policy.
Contamination	<p>As defined in EP&A Act: 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.</p> <p>or in CLM Act: Contamination of land, for the purposes of this Act, means the presence in, on or under the land of a substance 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.</p> <p>Note: Contamination and Pollution have similar statutory definitions, and while Council has statutory powers to regulate pollution (in particular under the <i>Protection of the Environment Operations Act 1997</i>) this policy is primarily concerned with contamination. A pollution incident is considered to be a matter that is dealt with in the short term by the relevant powers. Pollution can result in contamination if the pollution is not cleaned up in the short term or Council does not become aware of the issue within a reasonable time to be able to enforce a suitable remedy.</p>
Contamination assessment	See Assessment of site contamination.

POLICY: | [VERSION 1.1, 1.2 ETC]

Deferred Commencement	A development consent is granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition, in accordance with s 80 (3) of the <i>Environmental Planning and Assessment Act 1979</i> .
Detailed Site Investigation	Stage 2 - Detailed Investigation as defined in Planning Guideline, the Reporting Guidelines and the NEPM. An investigation that will define with high precision the nature, extent and risks posed by contamination.
Duty to Report	The duty to report significant contamination to the NSW EPA is a requirement under the <i>Contaminated Land Management Act 1997</i> , with updates provided in the <i>Contaminated Land Management Amendment Act 2008</i> . The triggers for reporting are presented in the “ <i>Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997</i> ” (2015).
Environmental Management Plan	A plan to enforce the management of residual contamination (e.g. onsite containment of contamination) following suitable remediation of a site.
Initial Evaluation	An evaluation undertaken by Council to determine whether contamination is likely to be an issue, and to assess whether further information is required for it to conduct its planning functions in good faith.
Local Environmental Plan (LEP)	An LEP guides planning decisions for Local Government Areas (LGAs) through zoning and development controls, which provide a framework for the way land can be used. LEPs are Planning Instruments from the <i>Environmental Planning & Assessment Act 1979</i> .
Ongoing Monitoring	Ongoing monitoring, as defined in <i>ASC NEPM</i> , and the <i>Consultants reporting on contaminated land</i> (NSW EPA, 2020), may be required for assessment, validation and /or management purposes. In these cases, a monitoring program must be documented detailing the proposed strategy, parameters to be monitored, locations, frequency, decision process for additional actions and for ending monitoring, and reporting requirements.
Phase	A term commonly used to refer to the formal stages of contamination assessment; however, it is not reliably consistent with the terms defined in this policy.
Planning Guideline	<i>Managing Land Contamination Planning Guideline</i> (Department of Urban Affairs and Planning and EPA 1998) or otherwise specified by s 145C <i>Environmental Planning and Assessment Act 1979</i> .
Pollution	As defined in the POEO Act pollution means: a. water pollution, or

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- b. air pollution, or
- c. noise pollution, or
- d. land pollution.

pollution incident means an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.
land pollution or pollution of land means placing in or on, or otherwise introducing into or onto, the land (whether through an act or omission) any matter, whether solid, liquid or gaseous:

- a. that causes or is likely to cause degradation of the land, resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems, or actual or potential loss or property damage, that is not trivial, or
- b. that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter, but does not include placing in or on, or otherwise introducing into or onto, land any substance excluded from this definition by the regulations.

See note under **contamination**.

Preliminary Site Investigation

Stage 1 – Preliminary investigation as defined by the Planning Guideline, the Reporting Guidelines and the NEPM. An investigation that defines the potentially contaminating activities carried out on a site, the areas where contamination is most likely to exist and, if necessary, sufficient soil or groundwater sampling to confirm whether the land has been contaminated or not.

Remediation

As defined in SEPP (Resilience and Hazards) 2021 remediation means:

- a. removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or
- b. eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).

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Remediation Action Plan	Remediation Action Plan as defined by the Planning Guideline and the Reporting Guidelines. A plan that sets out how a contaminated site can be made suitable for its intended use including methodology, clean-up criteria and validation procedures.
S10.7 planning certificate	A planning certificate as defined under section 10.7 of the EP&A Act 1979
Site Audit	<p>Non-Statutory Site Audit means a site audit undertaken by a site auditor that is not a requirement of a statutory instrument such as a development consent or regulation by the <i>Contaminated Land Management Act (1997)</i>.</p> <p>Statutory Site Audit as defined in section 47 of the <i>Contaminated Land Management Act (1997)</i> means a site audit carried out in order to secure compliance with, among other things, a requirement of SEPP55 or a development consent.</p> <p>Site Audit Statement contains the Site Auditor's findings and is in the form approved by the EPA. See s53B CLM Act. Further information about Site Audits can be found in the NSW EPA website: http://www.epa.nsw.gov.au/clm/auditorscheme.htm</p>
Specific potentially contaminating land	A land use specified in Appendix A that will, if determined to have been carried out on the land, be used to identify land for contaminated land management under this policy.
Suitably qualified person	Means a person who has such competence and experience in relation to the assessment of site contamination as is recognised as appropriate by the contaminated land management industry. They will also be, or be reasonably able to be, or supervised by a consultant who is, certified under a contaminated land consultant certification scheme recognised by the EPA.
UPSS regulation	Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019
Validation Report	Validation and monitoring as defined by the Planning Guideline and the Reporting Guidelines. A report detailing the results of the post-remediation testing against the clean-up criteria stated in the RAP.