



Contaminated Land Policy



We're with you

Wingecarribee Community Strategic Plan 2041 - 4.1.2 Work collaboratively to reduce pollution, manage biodiversity risks, and the impact on our environment

Document Type	Council Policy
Document Reference No.	3247009
Version No.	2.0
Adoption Date	7 August 2024
Resolution Number	MN 2024/281
Document Owner	Manager Environment and Sustainability
Responsible Branch	Environment and Sustainability
Responsible Business Unit	Sustainability Services
Review Schedule	Four years
Review Date	7 August 2028

Acknowledgements

This policy is based on the Model Policy produced by the Canberra Region Joint Organisation through a project funded by the New South Wales Government through the EPA's Contaminated Land Program.



Contents

1	Objectives.....	4
2	Policy Statement.....	4
2.1	Managing Contaminated Land	4
2.2	Assessing Development Application Involving Contamination	5
2.3	Requests for Information	5
2.4	Development Applications and Planning Proposals	5
2.5	Contaminated Land Information System	5
2.6	s10.7 (2) Planning Certificates.....	7
2.7	Contaminated Land Certification Requirements	7
2.8	Investigation and Reporting.....	8
2.9	Site Investigation, Remediation and Validation	8
2.10	Site Audits	10
2.11	Control of Remediation Works.....	11
2.12	Duty to Report.....	11
2.13	Preventing Contamination	12
3	Scope.....	12
4	Responsibilities	13
4.1	Councillors	13
4.2	Executive	13
4.3	Manager Environment and Sustainability	13
4.4	Managers	13
4.5	Council staff	13
5	Performance Measures	13
6	Definitions	14
7	Related Material.....	15
7.1	Related Legislation	15
8	Non-compliance with this Policy	16
9	Document Control.....	16
9.1	Version Control.....	16
9.2	Superseded Documents	Error! Bookmark not defined.
10	Attachments	16
11	Attachment A Potentially Contaminating Activities	17
12	Attachment B - Category 1 Remediation Works	18
13	Attachment C - Site Management Requirements Remediation Works	19

1 Objectives

The objectives of this policy are:

- To ensure that changes in land use do not increase the risk to human health or the environment.
- To consider the likelihood of contamination as early as possible when carrying out Council regulatory, management or planning activities.
- To ensure Council maintains a suitable contaminated land information system, enabling Council to provide stakeholders with accurate information relating to land contamination.
- To ensure Council exercises its functions relating to the development of contaminated land in accordance with the relevant legislation, guidelines, and codes
- To avoid any inappropriate restrictions on land use arising from contamination
- To ensure site investigation, remediation and reporting works are completed in a satisfactory manner
- To provide information to support Council decision making, and to inform the community of potential restrictions on development arising from land contamination.

2 Policy Statement

2.1 Managing Contaminated Land

The management of contaminated land is a shared responsibility between the EPA, NSW Planning and Environment (DPE), and Council - in very broad terms:

- the EPA, which uses its powers under the Contaminated Land Management Act (1997) to deal with site contamination that is significant enough to warrant regulation under the Act given the site's current or approved use;
- local councils who deal with other contamination under the planning and development framework, including SEPP (Resilience and Hazards) and the Contaminated Land Guidelines, on sites which, though contaminated, do not pose an unacceptable risk under their current or approved use. In these cases, the planning and development process determines what remediation is needed to make the land suitable for a different use.

Under the provisions of this policy, Council has developed a framework to manage contaminated or potentially contaminated land within the City in accordance with the EP& A Act and SEPP (Resilience and Hazards).

Note - Schedule 6 of the EP& A Act provides that, planning authorities that act substantially in accordance with SEPP (Resilience and Hazards) and related guidelines, are taken to have acted in good faith when carrying out planning functions.

When carrying out planning functions under the EP& A Act, Council must consider the possibility that a previous land use, or an adjoining/nearby land use, has caused contamination of the site; as well as the potential risk to health or the environment from that contamination. The general principle of contamination management under SEPP (Resilience and Hazards), and the related guidelines, is that a precautionary approach be adopted when exercising a planning function, and that the identification of land contamination issues occurs at an early stage in the planning process in order to prevent harm and reduce delays and costs.

Upon receipt of a Planning Proposal for LEP amendment request or a Development Application, relevant staff will undertake a review of the application to determine if the land warrants further investigation in relation to contamination. If this review identifies evidence of potential or actual contamination, further assessment of contamination will be conducted.

2.2 Assessing Development Application Involving Contamination

When assessing development applications, Council is required to initiate the Contaminated Land Process if it considers that land contamination may be present and could pose a risk to human health and/or the environment.

This typically occurs in two stages:

1. Request for Information; and
2. Conditions of Development Consent

2.3 Requests for Information

Council, as the regulatory authority, is unable to provide consent for a development until it is satisfied that the site is, or can be made, suitable (during the development stage with the implementation of remediation and/or management) for the proposed land use. For that reason, Site Investigation and Remedial Action Plan stages will typically be addressed through a "Request for Information" process rather than specifying them as conditions of development consent.

It should be noted that the level of information needed to ensure the land is, or can be made, suitable for the proposed land use needs to be assessed on a case-by-case basis. In some situations, the request for information may include further stages of the Contaminated Land Process if deemed necessary for Council to make a determination on the development application.

2.4 Development Applications and Planning Proposals

Whilst performing its role as a planning authority, Council must consider the likelihood of a previous or current land use (or nearby land use) contaminating the site, and the potential associated risk to human health and the environment. All planning proposals for land rezoning must include a Preliminary Site Investigation, stating whether the site is likely to be contaminated.

Policy Statement:

Council will not approve a Development Application or Planning Proposal, unless it is satisfied that, based off the information available to it:

- 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 of the uses permissible under the approval; or
- If the land is contaminated, that conditions can be placed through planning instruments or on development consents and approvals under Part IV 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.

2.5 Contaminated Land Information System

Council has a responsibility to provide the community information relating to land contamination, land use history and remediation and validation works. Council also has a statutory responsibility to include certain information on planning certificates issued for the purpose of s10.7 of the *Environmental Planning and Assessment Act 1979*. The information required to be provided by Council includes;

- s59 of the *Contaminated Land Management Act 1997* (i.e. information provided to Council by either the NSW EPA or Accredited Auditors).
- Schedule 4 of the *Environmental Planning and Assessment Regulation 2000* (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 implementation of an accurate Contaminated Land Information System will aid Council in meeting its legislative requirements. Whilst there is no legislative requirement for Council to notify a land owner when their parcel of land is included as 'potentially contaminated' in a Contaminated Land Information System, notifying the landowner provides the opportunity for them to establish that the land is not contaminated and should not be notified on a Section 10.7(2) Planning Certificate, or alternatively, to manage or undertake remediation of the land. Notifying the property owner of a site's inclusion also allows the owner the opportunity to reduce the potential risk of harm to the health of the land's occupants and to the environment.

Information contained within Councils Contaminated Land Information System is also available to the public via access to documents on request in accordance with the requirements of the *Government Information (Public Access) Act 2009*. This includes making publicly available and free of charge land contamination consultants reports filed within the system.

In providing contaminated land information on s10.7 Planning Certificates Council is guided by matters prescribed in s59(2) of Contaminated Land Management Act 1997. Accordingly, Council does not routinely provide any information pertaining to land contamination issues outside the abovementioned prescribed matters on s10.7 Planning Certificates, including s10.7(5) Certificates. This should not be an indication that information about contamination or a history of potentially contaminating activities do not exist. Records of this nature that may exist are not comprehensive or risk assessed. Additional information relating to a property may be available under the Government Information (Public Access) Act 2009. Further information about accessing information held by Council is available on Council's website.

Policy Statement:

- Council will develop and maintain a Contaminated Land Information System to support its planning functions and provide relevant and accurate information regarding contaminated land to the public, in accordance with the *NSW Government Information (Public Access) Act 2009*.
- Where Council has a Contaminated Land Information System in place, and the inclusion of a property in the system has the potential to restrict the development or use of the land, the property owner will be notified of the inclusion, on request, via a 10.7(2) Planning Certificate.
- Council does not routinely provide information pertaining to land contamination issues on s10.7(5) Planning Certificates. Additional information relating to a property may be available under the Government Information (Public Access) Act 2009.
- Council will request that all contaminated land reports provided exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the *Government Information (Public Access) Act 2009* and the *Contaminated Land Management Act 1997*.

2.6 s10.7 (2) Planning Certificates

Under the *Environmental Planning and Assessment Regulation 2000* (schedule 4) and s59 (2) of the *Contaminated Land Management Act 1997*, Council has a legal obligation to provide certain information through section 10.7(2) planning certificates in relation to land contamination.

Section 10.7 (2) certificates issued by Council will include information relevant to the property on the date the certificate is issued. This information will include;

- a) that the land to which the certificate relates is significantly contaminated land within the meaning of that Act—if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
- b) that the land to which the certificate relates is subject to a management order within the meaning of that Act—if it is subject to such an order at the date when the certificate is issued,
- c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act—if it is the subject of such an approved proposal at the date when the certificate is issued,
- d) that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act—if it is subject to such an order at the date when the certificate is issued,
- e) that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act—if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

Policy Statement:

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.
- Whether or not the land is affected by an adopted policy of the Council or any other public authority that restricts the development of land because of the likelihood of any risk of contamination.
- Council does not routinely provide information pertaining to land contamination issues on s10.7(5) Planning Certificates. Additional information relating to a property may be available under the Government Information (Public Access) Act 2009.

2.7 Contaminated Land Certification Requirements

Engaging professionals who have the relevant qualifications, competencies and experience is important when investigating and managing contaminated sites. Contaminated Land Consultant certification schemes have been developed to ensure 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 an acceptable minimum standard of competency. Currently, the certification schemes recognised by NSW EPA and Council are:

- Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme

- Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

Policy Statement:

- Contaminated land reports are to be prepared or reviewed and approved by an appropriately qualified and certified Environmental Consultant (for any reports submitted from 1 July 2021 and onwards). Currently, the certification schemes recognised by NSW EPA and Council are (noting other schemes may become recognised):
 - o Site Contamination Practitioners Australia (SCPA) scheme;
 - o Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme; or
 - o Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

2.8 Investigation and Reporting

It is essential that consultants reporting on contaminated land sites complete their investigations and reports in accordance with the NSW EPA prepared and adopted guidelines. To assist Council staff when assessing planning applications, an accompanying report synthesis, presenting project background, qualifications relevant to scope of work, objectives, key issues, investigation findings and recommendations is to be provided with each report.

Policy Statements:

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

2.9 Site Investigation, Remediation and Validation

To ensure Council satisfy their legislative requirements when considering planning applications, an appropriate investigation process is required.

Initial Evaluation

An initial evaluation of potential site contamination is to be completed by council. The initial evaluation will determine whether contamination needs to be addressed during the assessment of a Planning Application, and to determine whether further information is required for Council to conduct its planning functions in good faith.

Policy Statement:

- An initial evaluation of a sites potential contamination is to be completed by Council for all land use Planning Applications.

Preliminary Site Investigation

A Preliminary Site Investigation is to be provided by the proponent when an Initial Evaluation indicates that contamination is or may be present on the site. 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 Statement:

- 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.

Detailed Site Investigation

A Detailed Site Investigation is to be provided by the proponent. The main 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 the Detailed Site Investigation Stage of the process may entail several investigations and reports.

Policy Statement:

- A Detailed Site Investigation is required when:
 - o A Preliminary Site Investigation indicates that the land is, or may be contaminated;
 - o When the site is, or was, used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines (refer Attachment 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; or
 - o To accompany a remediation proposal or notification.

Remedial Action Plan

A Remedial Action Plan is to be provided by the Proponent. The objectives are to set remediation objectives and formally 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

Policy Statements:

- A Remedial Action Plan is required where the Detailed Site Investigation identifies that remediation or management is needed to render the site suitable for its intended land use
- 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 as defined in Attachment B).
- A Remedial Action Plan (and accompanying investigation reports) must accompany any notification to Council for proposed Category 2 Remediation work.

use scenario. The Remedial Action Plan should be based on the information from previous investigations.

Validation and Ongoing Monitoring

Validation and / or Environmental Monitoring Reports are to be provided by the Proponent. The objective of Validation is to demonstrate whether the objectives stated in the Remedial Action Plan and any conditions of development consent have been achieved. At times, this may include ongoing 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. Where appropriate, Council may require ongoing management /restrictions to be included on the title of the property as a 88B instrument under the *Conveyancing Act 1919*.

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).

Policy Statements:

- 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).
- The Notice of Completion provided to Council for any Category 2 remediation works is to include the Validation Report.
- 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. Where appropriate, Council may require ongoing management /restrictions to be included on the title of the property as a 88B instrument under the *Conveyancing Act 1919*.

2.10 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 and remediation is complex.

Policy Statements:

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

2.11 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 Hazards) 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. The triggers for Category 1 Remediation Works are presented in Attachment B.

Policy Statements:

- Development consent is required for the following remediation work:
 - o Category 1 Remediation Work requiring consent as defined by SEPP (Resilience and Hazards) Chapter 4 Section 4.8 9 (refer to Attachment B);
 - o Proposed works that are inconsistent with the requirements of this policy (i.e. remediation works that do not comply with the conduct of remediation works specified in Attachment C, and are thereby reclassified as Category 1 Remediation Work); or
- Council must be notified of proposed Category 2 Remediation Works no less than 30 days prior to their scheduled commencement.

2.12 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; or
- 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.

Policy Statement:

- Where Council reasonably believes that contamination on a site triggers the duty to report contamination, and it is not clear if the polluter or site owner has reported the contamination, it may notify the EPA for possible action under the *Contaminated Land Management Act 1997*.

2.13 Preventing Contamination

Proactive 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:

- For potentially polluting activities, Council will apply and enforce conditions of development consent that ensure effective and ongoing control measures are implemented.
- Council may undertake risk-based compliance inspections of potentially contaminating industries / activities to ensure compliance with consent conditions and environment protection legislation.

3 Scope

This policy outlines a framework for the management of Contaminated Land regulated by local Council, as determined by the *Environmental Planning and Assessment Act 1979* and Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land (1998) ("the Planning Guidelines").

In accordance with the planning guidelines, this policy aims to;

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

This policy applies to the following functions of Council:

- The preparation, amendment, and application of Local Environmental Plans
- The preparation, amendment, and application of Development Control Plans
- The Preparation, amendment, and application of Plans of Management for Community Land
- The determination of Development Applications
- The modification of Development Consent Conditions
- The determination of activities pursuant to part 4 of the *Environmental Planning and Assessment Act 1979*; and
- The storage and sharing of contaminated land information through s10 planning certificates.

The content of this policy is relevant to:

- Local government staff
- Contaminated land practitioners
- Land owners
- Developers
- The general public

4 Responsibilities

Responsibilities for the implementation of this Policy are shared as follows.

4.1 Councillors

Councillors shall:

- Understand the processes in place to manage contaminated land and the distinction in roles of Council staff.

4.2 Executive

The Executive shall:

- Understand the processes in place to manage contaminated land and provide leadership to the organisation
- Integrate the Policy with the other Council policies and processes

4.3 Manager Environment and Sustainability

The Manager Environment and Sustainability shall:

- provide guidance to Councillors, Executive and other Council staff as to the content and implementation of this Policy;
- ensure the timely review of this Policy; and
- conduct investigations into alleged non-compliance with this Policy

4.4 Managers

Managers shall:

- provide guidance to Council staff within their respective branches as to the content and implementation of this Policy, seeking guidance from the policy owner as required

4.5 Council staff

Council staff shall:

- implement application of this policy in development applications
- updating Council property information system / contaminated land information system with applicable contamination information
- Contaminated land information is provided to the GIS team.
- Application of this policy in relation to planning proposals and zoning changes within the Local Environmental Plan (LEP)

5 Performance Measures

The success of this Policy will be measured by:

- Development applications and planning certificates processed in an efficient and effective manner.
- Community understanding of the requirements surrounding the management of contaminated land

6 Definitions

Define any specific terms relating to the policy that may not be obvious to a member of the public or other external stakeholder. Include any acronyms and their meanings. The following table should be used:

Category 1 Remediation	Remediation works requiring Development Consent
Category 2 Remediation	Remediation works that do not require Development Consent (but must be notified to Council)
Contamination	The condition of land or water where any chemical substance or waste has been added as a direct or indirect result of human activity at above background level and represents, or potentially represents, an adverse health or environmental impact
CLM Act	<i>Contaminated Land Management Act 1997</i> (NSW)
Detailed Site Investigation (DSI)	An investigation with the objective to define the nature, extent and degree of contamination; assess potential risk posed by contaminants to health and the environment; and obtain sufficient information to develop a Remedial Action Plan (if needed)
Development Application	A Development Application is a formal request for consent to carry out development and is considered under Part IV of the <i>Environmental Planning & Assessment Act 1979</i>
Development Consent	Formal approval from Local Councils to proceed with a development. Development Consent is required prior to commencement of any works associated with development governed by Part IV of the <i>Environmental Planning & Assessment Act 1979</i>
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 "Guidelines on the Duty to Report Contamination under the <i>Contaminated Land Management Act 1997</i> " (2015)
EPA	Environment Protection Authority
LEP	Local Environmental Plan. An LEP guides planning decisions for Local Government Areas 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>
LGA	Local Government Area
Ongoing Environmental Management Plan (OEMP)	A plan outlining monitoring and management requirements 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
Planning Application	A Development Application or Planning Proposal made to Council in accordance with the <i>Environmental Planning and Assessment Act 1979</i> (NSW)
Planning Guidelines	NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)

Planning Proposal	A formal application submitted to Council proposing to rezone land
POEO	<i>Protection of the Environment Operations Act 1997 (NSW)</i>
Preliminary Site Investigation (PSI)	An investigation to identify any past or present potentially contaminating activities, to provide a preliminary assessment of any site contamination, and if required, to provide a basis for a more detailed investigation
Remedial Action Plan (RAP)	A plan that sets objectives, and documents the process, for remediating a contaminated site
s10.7 Certificate	Planning Certificate under Section 10.7 of the <i>Environmental Planning and Assessment Act 1979 (NSW)</i>
Significantly Contaminated Land	A site is declared Significantly Contaminated Land by the EPA where contamination is considered significant enough to warrant regulation under the <i>Contaminated Land Management Act 1997</i> (with changes made through the <i>Contaminated Land Management Amendment Act 2008</i>) given the site's current or approved use
Site Audit	An independent review by a Contaminated Land Auditor, accredited by the NSW EPA, of any or all stages of the site investigation process, conducted in accordance with the requirements of the <i>Contaminated Land Management Act 1997</i>
Site Audit Report (SAR)	A report which summarises the report(s) audited, and provides the Auditor's opinion and conclusions. A Site Audit Report must be accompanied by a Site Audit Statement
Site Audit Statement (SAS)	A statement which outlines the conclusions of a site audit. A Site Audit Statement must be accompanied by a Site Audit Report
Validation	The objective of the validation stage of the contaminated land process is to demonstrate whether or not the objectives stated in the Remedial Action Plan have been achieved

7 Related Material

7.1 Related Legislation

This policy is supported by key legislative instruments, including:

- Contaminated Land Management Act 1997
- Contaminated Land Management Regulation 2013
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Government Information (Public Access) Act 2009
- Guidelines 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
- National Environment Protection (Assessment of Site Contamination) Measure 1999, 2013 amendment
- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

- State Environmental Planning Policy (Resilience and Hazards) 2021
- Work Health and Safety Act 2011

8 Non-compliance with this Policy

Non-compliance with this Policy should be reported to Manager Environment and Sustainability who will investigate and determine the appropriate course of action.

9 Document Control

9.1 Version Control

Version	Adoption Date	Notes
1.0	26 March 1997	Initial adoption of policy.
2.0	7 August 2024	Review. Amendments bring policy into line with current legislative and procedural requirements. Updated Policy based on the Model Contaminated Land Policy developed by the Canberra Region Joint Organisation.

10 Attachments

Attachment A – Potentially Contaminating Activities

Attachment B - Category 1 Remediation Works

Attachment C - Site Management Requirements Remediation Works

Approved by:

WINGECARRIBEE SHIRE COUNCIL

7 AUGUST 2024

11 Attachment A Potentially Contaminating Activities

Source: Managing Land Contamination. Planning Guidelines SEPP 55 – Remediation of Land (1998)

Table 1. Some Activities that may Cause Contamination

- acid/alkali plant and formulation
- agricultural/horticultural activities
- airports
- asbestos production, disposal and demolition
- chemicals manufacture and formulation
- defence works
- drum re-conditioning works
- 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, including lead paint contamination
- pesticide manufacture and formulation
- power stations
- railway yards
- scrap yards
- service stations
- sheep and cattle dips
- smelting and refining
- tanning and associated trades
- waste storage and treatment
- wood preservation

Note: It is not sufficient to rely solely on the contents of this Table to determine whether a site is likely to be contaminated or not. This Table is a guide only. A conclusive status can only be determined after a review of the site history and, if necessary, sampling and analysis.

12 Attachment B - Category 1 Remediation Works

State Environmental Planning Policy No 55—Remediation of Land, Clause 9 defines Category 1 Remediation Work as:

"For the purposes of this Policy, a category 1 remediation work is a remediation work (not being a work to which clause 14 (b) applies) that is:

- (a) designated development, or*
- (b) carried out or to be carried out on land declared to be a critical habitat, or*
- (c) likely to have a significant effect on a critical habitat or a threatened species, population or ecological community, or*
- (d) development for which another State environmental planning policy or a regional environmental plan requires development consent, or*
- (e) carried out or to be carried out in an area or zone to which any classifications to the following effect apply under an environmental planning instrument:*
 - i. coastal protection,*
 - ii. conservation or heritage conservation,*
 - iii. habitat area, habitat protection area, habitat or wildlife corridor,*
 - iv. environment protection,*
 - v. escarpment, escarpment protection or escarpment preservation,*
 - vi. floodway,*
 - vii. littoral rainforest,*
 - viii. nature reserve,*
 - ix. scenic area or scenic protection,*
 - x. wetland, or*
- (f) carried out or to be carried out on any land in a manner that does not comply with a policy made under the contaminated land planning guidelines by the Council for any local government area in which the land is situated (or if the land is within the unincorporated area, the Western Lands Commissioner).*

Note. See Section 5A of the [Environmental Planning and Assessment Act 1979](#) for the factors to be taken into account in assessing whether there is likely to be a significant effect as referred to in paragraph (c) above. The terms used in that paragraph are defined in that Act by reference to both the [Threatened Species Conservation Act 1995](#) and the [Fisheries Management Act 1994](#)."

13 Attachment C – Site Management Requirements Remediation Works

All Category 2 remediation works must be carried out in accordance with the following site management requirements. These have been established to prevent Category 2 work adversely impacting on the environment and public amenity.

Category 2 remediation works that do not comply with these requirements will be classified as Category 1 remediation work and will require development consent.

Remediation Work

All remediation work must be carried out in accordance with:

- Managing Land Contamination Planning Guidelines SEPP 55- Remediation of Land
- Any guidelines published by the NSW Environment Protection Authority under the *Contaminated Land Management Act 1997*.

Hours of Operation

All remediation work must be carried out between the following hours:

Monday – Saturday 7:00am to 5:00pm
No work is permitted on Sundays or Public Holidays

Site Signage

A sign displaying the contact details of the remediation contractor and site manager (if different from the remediation contractor) must be displayed on the site adjacent to the site access, including a contact telephone number that is available 24 hours a day, 7 days a week. The sign must be clearly legible from the street and be displayed for the duration of the remediation works.

Notification of Adjacent Owners and Occupiers

The occupiers of all adjacent premises must be notified of the proposed remediation works at least 7 days before the works commence.

Site Security

The site must be securely fenced and any other necessary precautions taken, to prevent unauthorised entry to the site for the duration of the remediation works.

Soil and Water Management

All remediation work must be carried out in accordance with a soil and water management plan. A copy of the soil and water management plan must be kept on-site and be made available to Council Officers on request.

Sediment and Erosion Controls

Appropriate sediment and erosion controls must be installed before remediation works are commenced and be maintained in a functional condition until site stabilisation works have been completed.

Prior to the commencement of any remedial work, an erosion and sediment control plan prepared by a suitably qualified person in accordance with "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including (and not limited to) catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Stockpiles

No stockpiles of soil or other materials are to be placed on footpaths or nature strips without the prior written approval of Council.

All stockpiles of soil or other materials must be placed away from drainage lines, gutters, stormwater pits or inlets, trees or native vegetation and be provided with appropriate erosion, sediment and leachate management controls.

All stockpiles of soil or other materials likely to generate dust or odours must be covered (where practical).

All stockpiles of contaminated soil must be stored in a secure area.

Site Access

Vehicular access to the site must be restricted to a stabilised access point.

Protection of Public Roads

Appropriate measures must be taken to prevent the spreading of mud, soil or sediment by vehicles leaving the site. These measures could include the installation of shaker grids or wash-down bays to minimise the transportation of sediment.

Any wastewater from washing the wheels and underbodies of vehicles must be collected and disposed of in a manner that does not pollute waters.

Any mud, soil or sediment tracked or spilled on the roadway must be swept or shoveled up immediately. Hosing of the roadway is not permitted.

Disposal of Water from Excavations

All excavation pump-out water must also be analysed for suspended solids, pH and any contaminants of concern identified during the contamination assessment phase, and comply with relevant EPA and ANZECC water quality criteria prior to discharge to the stormwater system.

Other options for the disposal of excavation pump-out water include disposal to sewer with the prior approval of the relevant water utility, or off-site disposal by a licensed liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Site Stabilisation and Revegetation

All exposed areas shall be progressively stabilised and revegetated or resealed on the completion of remediation works.

Bunding

All land farming areas of hydrocarbon contaminated soils must be banded to contain surface water runoff and to prevent the leaching of contaminants into the underlying soils. This will typically require placement on a sealed surface or on durable plastic.

All contaminated water from banded areas must be discharged to sewer with the prior approval of the relevant water authority, or be disposed of off-site by a licensed liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Protection of Trees

Trees on the site must not be removed, lopped or otherwise trimmed without the prior approval of Council.

Trees to be retained on the site must be protected from damage to their foliage and root systems. Suitable measures may include erecting fences or barriers to keep earthmoving equipment and heavy vehicles well clear of trees.

Noise

Noise must be minimised as far as practicable, by the selection of appropriate methods and equipment, and by the use of silencing devices where practicable.

Noise from remediation work must comply with the guidelines for construction site noise specified in the interim Construction Noise Guideline (OE&H- EPA 2009).

Wingecarribee Shire Council is the appropriate regulatory authority for noise from non-scheduled construction activities in its area, except as described in Section 6(2) of the POEO Act 1997, and thus has discretion in dealing with noise.

Any noise monitoring must be carried out by a suitably qualified Acoustical Consultant if complaints are received, or if directed by Council, and any noise control measures recommended by the Acoustical Consultant must be implemented throughout the remediation work.

Vibration

The use of plant or machinery must not cause vibrations to be felt on any other premises.

Air Quality

Dust Control

Dust emissions must be confined within the site boundaries. The following dust control measures may be employed to comply with this requirement:

- Erection of dust screens around the perimeter of the site
- Use of water sprays across the site to suppress dust
- Keeping excavation surfaces moist
- Covering of all stockpiles of soil and other materials likely to generate dust (where practical)
- Securely covering all loads entering or exiting the site.

Asbestos

Works involving the potential disturbance of asbestos containing materials must be carried out in strict accordance with SafeWork NSW requirements.

Odour Control

Remediation work must not result in the emission of odours that can be detected at any boundary of the site by an Authorised Council Officer. The following measures may be employed to comply with this requirement:

- Use of appropriate covering techniques, such as the use of plastic sheeting to cover excavation faces or stockpiles
- Use of fine mist sprays
- Use of mitigating agents on hydrocarbon impacted areas or materials
- Maintaining equipment and machinery to minimise exhaust emissions.

If odours are detected, the site is to be inspected by a suitably qualified Environmental Consultant and recommended control measures are to be implemented throughout the remediation process.

Burning of Materials

No materials are to be burned on site.

Transport

All haulage routes for trucks transporting soil, materials, equipment or machinery to and from the site must be selected to meet the following objectives:

- Comply with all road traffic rules
- Minimise noise, vibration and odour to adjacent premises
- Minimise use of local roads.

All transport operators and drivers transporting soil, materials, equipment or machinery to and from the site must:

- Use the designated haulage routes and site access points
- Make all deliveries and pick-ups between the hours specified in Hours of Operation
- Securely cover all loads to prevent any dust or odour emissions during transportation
- Not track soil, mud or sediment onto the road.

Hazardous Wastes

Hazardous wastes arising from the remediation work must be removed, stored and disposed of in accordance with the requirements of the EPA and SafeWork NSW, including the following legislation and guidelines:

- *Work Health & Safety Act 2011*
- *Work Health & Safety Regulation 2011*
- *Protection of the Environment Operations Act 1997*
- *Protection of the Environment Operations (Waste) Regulation 2005*
- Waste Classification Guidelines (NSW EPA, 2014), and associated addenda (available on <http://www.epa.nsw.gov.au/wasteregulation/classify-waste.htm>), resource recovery orders and exemptions (current list available on <http://www.epa.nsw.gov.au/wasteregulation/orders-exemptions.htm>)
- *Environmentally Hazardous Chemicals Act 1997*.

Documentary evidence verifying that all wastes have been classified and disposed of appropriately must be included in the Monitoring and Validation report for the site.

Disposal of Contaminated Soil

Contaminated soil must be disposed of in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and Regulations and any relevant NSW EPA guidelines such as the publication titled Waste Classification Guidelines (NSW EPA, 2014) and associated addenda (available on <http://www.epa.nsw.gov.au/wasteregulation/classify-waste.htm>), and resource recovery orders and exemptions (current list available on <http://www.epa.nsw.gov.au/wasteregulation/orders-exemptions.htm>)

NOTE: If contaminated soil or other waste is transported to a site unlawfully, the owner of the waste and the transporter are both guilty of an offence.

Containment / Capping of Contaminated Material

On-site containment or capping of contaminated soil is not permitted if the concentrations of contaminants are statistically above the soil investigation levels specified in The *National Environment Protection (Assessment of Site Contamination) Measure 1999*, amended in 2013 (ASC NEPM, 2013) for the range of land-uses permitted on the site (unless otherwise agreed with Council or other relevant authority through the endorsement of a Remedial Action Plan and an On-going Environmental Management Plan).

Importation of Fill

Fill material must be validated (at its source if practicable), prior to being imported onto the site. The validation must indicate that the material is free of contaminants (i.e. comprises Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM)) or as otherwise approved by the NSW EPA, or the relevant resource recovery exemptions and orders. Fill imported on to the site should also be compatible with the existing soil characteristic for site drainage purposes.

Fill material may be validated by one or both of the following methods:

- The fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material or the known past history of the site where the material is obtained
- The fill should be sampled and analysed in accordance with the relevant EPA Guidelines, to ensure that the material is not contaminated.

Documentary evidence verifying that any fill material has been appropriately validated must be included in the Validation Report for the Site.

Groundwater

An appropriate license must be obtained from the NSW Office of Water for approval to extract groundwater. Prior to discharge to the stormwater system, site groundwater must be analysed for any contaminants of concern and comply with relevant EPA and ANZECC water quality criteria. Other options for the disposal of groundwater include disposal to sewer with the prior approval of the appropriate water authority, or off-site disposal by a liquid waste transporter at an appropriately licensed liquid waste treatment or processing facility.

Removal of Underground Storage Tanks

The removal of underground storage tanks (UST) must be undertaken in accordance with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, WorkSafe NSW and relevant Australian Standards.

Following the removal of USTs, the tank pits must be remediated and validated in accordance with *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019* and relevant guidelines provided under the Regulation.

Excavation and Backfilling Work

All excavation and backfilling work must be carried out by competent persons in accordance with WorkSafe requirements, including the publication titled *Excavation Work Code of Practice: (WorkCover, 2015)*.

If it is necessary to excavate adjacent to an adjoining building or structure, and the excavation work may damage or impair the stability of the building or structure, the person proposing to carry out the work must:

- Take all necessary precautions to protect the building or structure from damage, including any shoring or underpinning where appropriate
- Provide details of the proposed work to the adjoining owner at least seven (7) days before the works commence.

Building and Demolition Work

Development consent may be required from Council for any associated building or demolition work.