



Contaminated Land Policy

Date Adopted/ Approved:	9 June 2020
Review Date:	June 2024
Version:	1.0
Responsible Position:	Manager Compliance
ECM Doc Set ID	5955559

1. Purpose

To provide Willoughby City Council (Council) with a framework for dealing with contamination issues as they arise in planning, development assessment and administrative roles, and to ensure that Council carries out its legal responsibilities in the management of contaminated land.

2. City Strategy Outcome

A City that is green

5.1 – Enhance, protect and respect waterways, bushland, nature, wildlife and Ecological systems

3. Application

This Policy relates to Council's responsibility in contaminated land matters as the regulatory authority for land use planning and applies to all land within the Local Government Area.

All relevant compliance and planning officers are required to comply with the provisions of this policy and its related procedures.

4. Policy Principles

Council will:

- maintain a public register of known contaminated land and land that is the subject of investigative reports that have been submitted to Council in the planning proposal or development application process
- maintain a framework and procedures for officers to follow
- ensure probity, accountability and transparency in the way it manages contaminated land
- act in good faith, and to the best of its ability, ensure that changes of land use will not increase the risk to human health or the environment
- provide information on planning certificates on the status of land in regards to contamination
- provide information to support decision-making
- comply with the requirements of relevant legislation and guidelines.

5. Policy Statement

This policy sets out a framework for the management of contaminated land within the Willoughby City Council area through the land use planning process. Council aims to act responsibly and proactively manage contamination hazards and risks. It is committed to serving the best interest of the community, and endeavours to positively promote, and contribute to, sustainable environmental and social outcomes.

6. Responsible Officer

The Manager of Compliance is accountable for the administration of the policy.

7. Monitoring and Review

The Environmental Health Officer is responsible for:

- training Council's officers on how to apply the policy, related guidelines and procedures
- providing advice in relation to the application of the policy
- maintaining the contaminated land register
- assessing planning proposals and development applications to ensure changes in land use or development proposals will not increase the risk to human health or the environment
- providing information to support decision-making
- maintaining, monitoring, reviewing and suggesting improvements to the policy.

8. Supporting information

8.1 The Contaminated Land Management Framework

Council will establish and maintain a policy and procedures framework consistent with *State Environmental Planning Policy No 55 - Remediation of Land* (SEPP 55) and *Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land* (SEPP 55 Guidelines).

The management of contaminated land is a shared responsibility between the Environmental Protection Authority (EPA), the NSW Department of Planning, Industry and Environment (DPIE), and local councils. Broadly, the responsibility is distributed as follows:

- the EPA 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;
- the DPIE is responsible for development, review and the update of *SEPP 55* and the *SEPP 55 Guidelines*; and
- local councils deal with other site contamination under the planning and development framework, including *SEPP 55 and the SEPP 55 Guidelines*. These sites, 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.

8.1.1 State Environmental Planning Policy No 55

The object of *SEPP 55* is to provide for a State-wide planning approach to the remediation of contaminated land.

In particular, *SEPP 55* aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- a) by specifying when consent is required, and when it is not required, for a remediation work; and
- b) by specifying certain considerations that are relevant in rezoning land and in determining development applications; and
- c) by requiring that a remediation work meets certain standards and notification requirements.

8.1.2 Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land

The purpose of these Guidelines is to establish 'best practice' for managing land contamination through the planning and development control process. The Guidelines explain what needs to be done to show that planning functions have been carried out in good faith.

The Guidelines include:

- a) information to assist in the investigation of contamination possibilities;
- b) a decision-making process that responds to the information obtained from an investigation;
- c) information on how planning and development control can cover the issues of contamination and remediation;
- d) a suggested policy approach for planning authorities;
- e) discussion of information management systems and notification and notation;
- f) schemes, including the use of planning certificate notations; and
- g) approaches to prevent contamination and reduce the environmental impact from remediation activities.

8.1.3 Contaminated Land Management Procedures

Council has prepared procedures to support this policy. The purpose of the procedures is to provide more detailed guidance to Council officers on the processes that need to be followed to responsibly manage contaminated land. The procedures include information on:

- a) the decision-making process;
- b) rezoning of land;
- c) assessing development;
- d) maintaining a record of remediation work;
- e) site audits and site audit statements;
- f) maintaining a contaminated land register;
- g) contaminated land thresholds for human health and the environment;
- h) the duty to report contamination; and
- i) planning certificates issued under Section 10.7 of the Environmental Planning and Assessment Act 1979.

Governing laws and standards	<ul style="list-style-type: none"> • <i>Contaminated Land Management Act 1997</i> • <i>State Environmental Planning Policy (SEPP) 55</i> • <i>Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land</i> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Regulation 2000</i> • <i>Protection of the Environment Operations Act 1997</i>
Related policies and other documents	<ul style="list-style-type: none"> • <i>Willoughby City Council Code of Conduct</i> • <i>Statement of Business Ethics</i>
History	This Policy is new and does not replace any other

Appendix

Definitions	
Contaminated Land	Land in, on, or under which any substance is present at a concentration above that naturally present in, on' or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.
Contamination	Concentration of substances above that naturally present that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.
Management	Management of land or of contamination of land means management in relation to the actual or possible contamination of the land, including investigation into the existence, nature and extent of contamination of the land and remediation of contaminated land.
Potentially Contaminated Land	Land that may be contaminated with a concentration of substances above that naturally present that may pose or is likely to pose a potential or actual risk to human health or the environment.
Remediation	Remediation of contaminated land includes: <ul style="list-style-type: none"> a) preparing a long-term management plan (if any) for the land, and b) removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land, and c) eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of persons or animals on the land).
Site Audit	An independent review by a site auditor of any or all stages of the site investigation process conducted in accordance with the <i>Contaminated Land Management Act</i> .
Site Auditor	A person accredited by the EPA under the <i>Contaminated Land Management Act</i> to conduct site audits.

Site Audit Statement	A certificate issued by a site auditor stating for what use the land is suitable.
Council	Willoughby City Council
Council Officers	Director Planning & Infrastructure Manager Compliance Manager Planning Strategic Planners Town Planners Environmental Health Officers