



STRATHFIELD MUNICIPAL COUNCIL

**PART K**  
**of**  
**Strathfield**  
**Consolidated Development**  
**Control Plan**

***Development on***  
***Contaminated Land***

(Replaces DCP No. 23)

## TABLE OF CONTENTS

<b>1.0</b>	<b>SECTION 1 – GENERAL .....</b>	<b>358</b>
1.1	INTRODUCTION .....	358
1.2	PURPOSE OF PART K .....	358
1.3	OBJECTIVES OF PART K .....	358
1.4	ABBREVIATIONS AND DEFINITIONS.....	358
<b>2.0</b>	<b>SECTION 2 – COUNCIL’S DECISION MAKING PROCESS.....</b>	<b>361</b>
2.1	INITIAL EVALUATION .....	361
2.2	COUNCIL PROCEDURES FOR DEVELOPMENT APPLICATIONS.....	361
<b>3.0</b>	<b>APPENDIX 1 – SCHEDULE OF POTENTIALLY CONTAMINATING ACTIVITIES.....</b>	<b>366</b>
<b>4.0</b>	<b>APPENDIX 2 - SOURCES OF SITE HISTORY INFORMATION FOR PRELIMINARY SITE INVESTIGATIONS (STAGE 1) .....</b>	<b>368</b>
<b>5.0</b>	<b>APPENDIX 3 – CONTAMINATED SITE ASSESSMENT PROCEDURE FOR MANAGING DEVELOPMENT ON PAST LANDFILL SITES .....</b>	<b>369</b>

## **1.0 SECTION 1 – GENERAL**

### **1.1 Introduction**

Refer to “General Introduction” of this Consolidated Plan in regards to Background, General Introduction and Definitions etc.

### **1.2 Purpose of Part K**

Part K forms the basis for considering development applications on land previously contaminated land within the Strathfield Council area or land that is impacted by contaminated groundwater from known landfill sites. The plan has been prepared in accordance with the Environmental Planning & Assessment Act 1979, State Environmental Planning Policy No.55 – Remediation of Land (SEPP55) and the *Managing Land Contamination: Planning Guidelines* prepared by the Department of Urban Affairs and Planning (DUAP) and the Environment Protection Authority (EPA).

In accordance with the *Managing Land Contamination: Planning Guidelines*, this Consolidated Plan provides the framework for the integration of land contamination management controls and policies into the local planning and development process. The main aims of Part K are to ensure that when land is developed, the potential of contamination affecting human health and the environment are properly addressed. Part K is a comprehensive guide for development on land that is or may be contaminated.

Part K is to be read in conjunction with Council’s General Policy for the Management of Development on Contaminated Land.

### **1.3 Objectives of Part K**

**The specific objectives of Part K are to:**

1. Implement a cautionary approach by identifying and dealing with contamination issues at an early stage in the development application process in order to prevent harm and avoid unnecessary restrictions on land use.
2. Ensure Council does not incur any liability in exercising its planning functions in relation to contaminated land by adhering to policies substantially in accordance with relevant state planning guidelines and legislation.

### **1.4 Abbreviations and Definitions**

#### **Abbreviations**

ANZECC	Australian and New Zealand Environment and Conservation Council
BTEX	Benzene/Toluene/Ethylbenzene/Xylene
DA	development application
d(BA)	Decibels – A weighted
DCP	development control plan
DLWC	Department of Land and Water Conservation
EPA	NSW Environment Protection Authority

HCB	Hexachlorobenzene
IMROC	Inner Metropolitan Regional Organisation of Councils
LA	sound pressure level – ‘A’ weighting
LEP	local environmental plan
LGA	local government area
NEHF	National Environmental Health Forum
RAP	remedial action plan
PAH	Polycyclic Aromatic Hydrocarbons
PCB	Poly chlorinated biphenol
SEPP 55	State Environmental Planning Policy No. 55 – Remediation of Land
TPH	total petroleum hydrocarbons.

## Definitions

**category 1 remediation work** is defined in clause 9 of SEPP55 – Remediation of Land.

**category 2 remediation work** is defined in clause 9 of SEPP55 – Remediation of Land.

**Contaminate** and **contamination** are defined in section 5 of the Contaminated Land Management Act 1997.

**contaminated land planning guidelines** means guidelines under section 145C of the Contaminated Land Management Act 1997.

**EPA** means the New South Wales Environment Protection Authority constituted by the Protection of the Environment Administration Act 1991.

**DCP** means development control plan.

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

**LEP** means local environmental plan.

**Minister** means the Minister administering the Act.

**preliminary investigation**, in relation to land, means a preliminary investigation referred to in the contaminated land planning guidelines.

**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).

*Note: This definition of remediation corresponds to parts of the definition of remediation in the Contaminated Land Management Act 1997.*

**remediation order** means a remediation order made by the Environment Protection Authority and in force under Part 3 of the Contaminated land Management Act 1997.

**remediation site** means:

- (a) land declared to be a remediation site by a declaration in force under Division 3 of Part 3 of the Contaminated Land Management Act 1997, or
- (b) premises:
  - (i) in respect of which there is in force a notice under section 35 of the Environmentally Hazardous Chemicals Act 1985 requiring prescribed remedial action to be taken, or
  - (ii) that are the subject of prescribed remedial action (whether being undertaken by the Environment Protection Authority or by another public authority at the direction of that Authority) under section 36 of that Act.

**site audit** is defined in Section 5.2 of this DCP.  
**the Act** means the Environmental Planning & Assessment Act 1979.

## **2.0 SECTION 2 – COUNCIL’S DECISION MAKING PROCESS**

In determining all development applications, Council will consider the possibility of land contamination and the implications it has on any proposed or permissible future uses of the land. A precautionary approach will be adopted to ensure that any land contamination issues are identified and dealt with early in the planning process.

### **2.1 Initial Evaluation**

Council will conduct an initial evaluation as part of the development assessment process to determine whether contamination is an issue, and whether sufficient information is available for Council to carry out its planning functions in good faith. The initial evaluation will be based on readily available factual information provided by the applicant and information available to Council such as previous investigations about contamination on the land, previous zoning and uses of the subject land, and restrictions relating to possible contamination such as notices issued by the EPA. Council may also conduct a site inspection of the subject land.

### **2.2 Council Procedures for Development Applications**

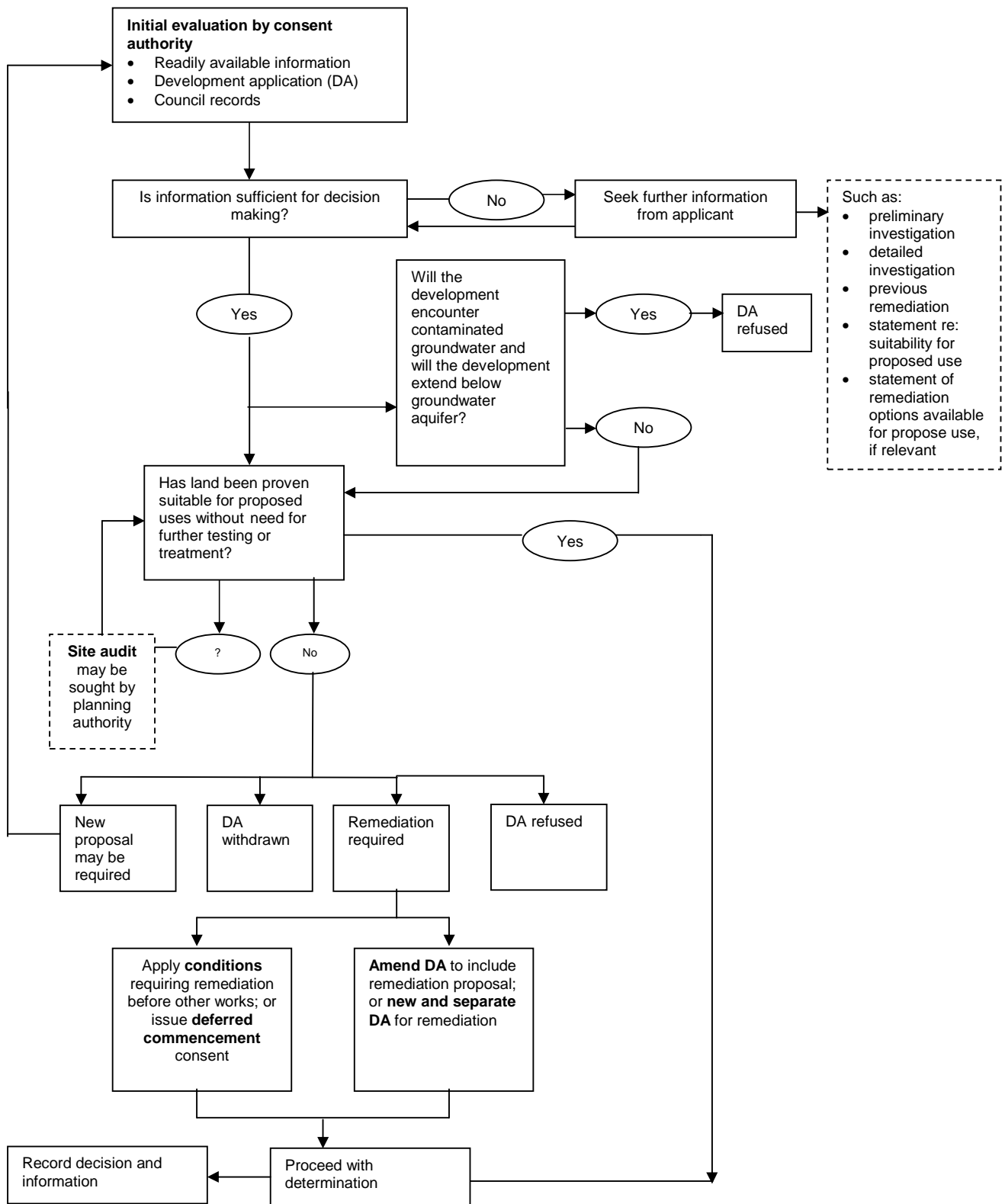
Section 79C(1) of the Environmental Planning and Assessment Act 1979 requires Council to consider ‘...the suitability of the site for the development’ when assessing development applications. The risk from contamination to health and the environment is included in this assessment.

In accordance with clause 7 of SEPP 55, Council will not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated; and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and*
- (c) if the land requires remediation to be made suitable for any purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

The following subsections outline when Council will require information relating to site contamination issues to be submitted with development applications. Council’s procedure for considering land contamination issues for development applications is shown in Figure 1.

**FIGURE 1: Council's procedure for considering land contamination issues for subdivision and development applications.**



### **2.2.1 When Does Council Require a Preliminary Site Contamination Investigation (Stage 1)?**

The objectives of a preliminary investigation are to identify any past or present potentially contaminating activities and to provide a preliminary assessment of site contamination. The preliminary investigation typically contains a detailed appraisal of the site history and a report based on visual site inspection and assessment. Where information on site contamination is limited, some soil sampling may be warranted.

SEPP 55 requires Council to consider contamination issues in determining development applications. In accordance with clause 7(4) of SEPP 55, Council will require a preliminary investigation to be submitted with a development application where the land concerned is:

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

[NOTE: Table 1\* in the *Managing Land Contamination Planning Guidelines* 1998, Department of Urban Affairs and Planning & NSW Environment Protection Authority which is reproduced in Appendix 1.]

In addition to the requirements outlined in clause 7(4) of SEPP 55, Council may also require a preliminary investigation to be submitted when:

- Council has reasonable grounds to believe the land is contaminated because of the land’s history, condition, or other information known to Council.
- The site has been investigated and/or remediated but there is insufficient information available about the nature and extent of contamination and/or remediation, or the circumstances have changed.
- There are restrictions on, or conditions attached to, the use of the site by a regulatory or planning authority that are, or may be, related to contamination, but there is insufficient information available about the nature and extent of contamination.
- Council records have demonstrated that the site is associated with pollution incidents or illegal dumping of wastes.



- The site is adjoining land that has been associated with activities that may cause contamination listed in Appendix 1 and it is likely that this may have contaminated the subject premises.

The preliminary site contamination investigation shall be carried out in accordance with the requirements of the relevant NSW EPA Guidelines. The proponent is responsible for engaging a suitably qualified consultant to undertake the preliminary site contamination investigation. In addition, the proponent is responsible for all costs borne in engaging the consultant and site auditor, if requested by Council (see Chapter 5 – Independent Auditing).

A list of information sources that may be useful in understanding the history of the site is included in Appendix 2. Applicants may also request Council to perform a search of its records to determine previous approved developments at the site (see Chapter 6 – ‘Council Records and Community Information’ in Council’s Policy for the Management of Development on Contaminated Land).

If Council is satisfied that the preliminary site contamination investigation justifiably concludes that the site is suitable for the proposed use, then Council will not require any further investigations to be conducted. *Note:* This does not mean that a site is clean but merely that the site is suitable for a particular use.

### **2.2.2 When Does Council Require a Detailed Site Contamination Investigation (Stage 2)?**

The objectives of a detailed site investigation are to:

- define the extent and degree of contamination;
- assess the potential risk posed by contaminants to human health and the environment; and
- obtain sufficient information for the development of a Remedial Action Plan (if necessary). This will include the condition of the groundwater aquifer, and the impact of any contaminated groundwaters likely to be encountered during any part of the development.

Council will require a detailed site contamination investigation (DSI) to be undertaken when the results of the preliminary investigation demonstrate the potential for, or existence of contamination which may not be suitable for the proposed use of the land. Council will also require a DSI for any land that may be impacted by land contamination from any known landfill sites. In some cases Stage 1 and Stage 2 investigations may be combined where the land is known to contain or have contained a potentially contaminating activity.

The detailed site contamination investigation shall be carried out in accordance with the requirements of the relevant NSW EPA Guidelines. The proponent is responsible for engaging a suitably qualified consultant to undertake the detailed site contamination investigation. In addition, the proponent is responsible for all costs borne in engaging the consultant and site auditor (see Chapter 5 – Independent Auditing).

The detailed site contamination investigation should include a statement which describes whether the site is suitable for the proposed use, or if remediation is

necessary to make the site suitable for the proposed use. If remediation is required, the report should also list the feasible remediation options available to remediate the site.

To assist in dealing with development on lands that may be impacted by contaminated groundwaters from known landfill sites, the Council will follow the requirements of the Policy and has prepared an Summary Assessment Procedures Sheet which can be found as Appendix 3 of the DCP.

### **2.2.3 When Does Council Require a Remedial Action Plan (RAP)?**

The objectives of a remedial action plan (RAP) are to:

- set remediation objectives;
- determine the most appropriate remedial strategy;
- identify necessary approvals that need to be obtained from regulatory authorities.

The RAP should document the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.

Council will require the submission of a RAP if the detailed investigation concludes that the land is not suitable for the proposed use in its present state. Prior to determining the development application, Council must be satisfied that remedial measures have been, or will be undertaken in accordance with the submitted RAP, to make the site suitable for the proposed use.

### **2.2.4 When Does Council Require a Validation and Monitoring Report?**

The objective of validation and monitoring report is to demonstrate that the objectives stated in the RAP have been achieved and any conditions of development consent have been complied with.

Ideally, validation should be conducted by the same consultant that conducted the site investigation and remediation process. Validation must confirm statistically that the remediated site complies with the clean-up criteria set for the site.

Council will require a validation and monitoring report to be submitted after remediation works have been completed, and prior to the issue of a construction certificate or commencement of any building site works whichever occurs first. This will normally be achieved by Council placing a condition on any consent granted requiring the submission of a validation and monitoring report prior to the issuing of a construction certificate. Alternatively, Council may issue a deferred commencement consent for the proposed use, requiring that remediation and validation is undertaken prior to other work commencing.

### 3.0 APPENDIX 1 – SCHEDULE OF POTENTIALLY CONTAMINATING ACTIVITIES

Source: Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land, 1998, Department of Urban Affairs and Planning & NSW Environment Protection Authority

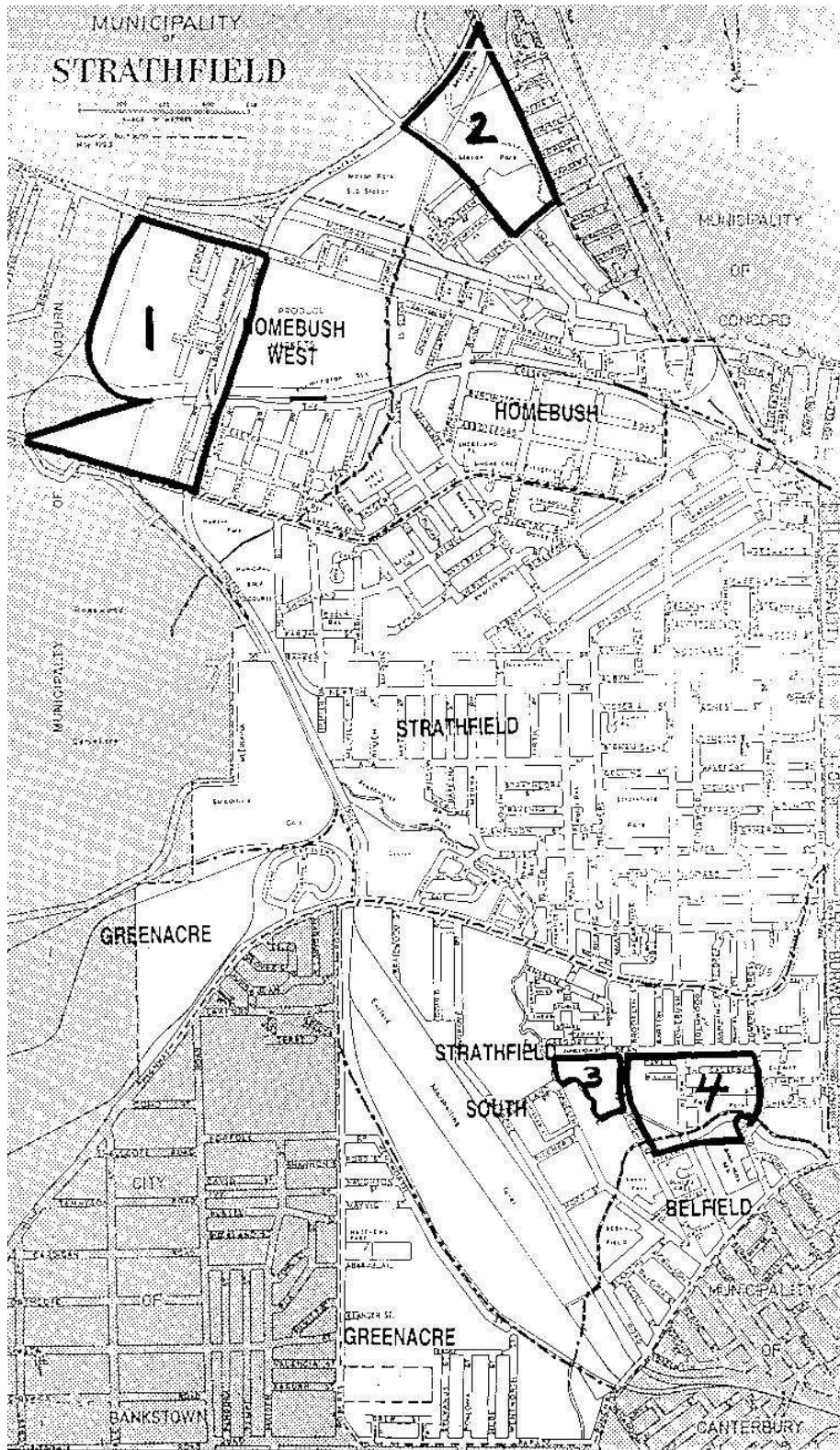
acid/alkali plant and formulation  
agricultural/horticultural activities  
airports  
asbestos production and disposal  
chemicals manufacture and formulation  
defence works  
drum re-conditioning works  
dry cleaning establishments  
electrical manufacturing (transformers)  
electroplating and heat 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  
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: In the Strathfield Local Government Area, there are 4 known landfill sites that are no longer being used:

1. 22 Mandemar Avenue, Homebush West
2. Bressington / Mason Parks, Underwood Road Homebush
3. Dean Reserve, 146 Dean Street Strathfield South
4. 7-33 Water Street and 6-10 Dunlop Street, Strathfield South

Council has no other readily available information in respect to any of the other activities referred to in the above list of potentially contaminating activities.

**FIGURE 2: Map identifying localities of past landfill sites**



#### **4.0 APPENDIX 2 - SOURCES OF SITE HISTORY INFORMATION FOR PRELIMINARY SITE INVESTIGATIONS (STAGE 1)**

- Past aerial photographs
- Council records - town planning, development and building applications, complaints, pollution incident reports
- Local Historical Publications - list ones relevant to your LGA
- Current and previous site owners
- Current and previous site workers
- Long-term residents
- Past and Present Telephone Books
- Noxious Trades Act register of Noxious Trades
- Sands Sydney and New South Wales Directory 1858-1932/3
- NSW Environment Protection Authority Section 35 Notices, past and present scheduled premises, unhealthy building land
- Sydney Water Corporation Trade Waste Agreements
- WorkCover Authority Dangerous Goods Branch
- Pacific Power sites containing present and past electrical substations.

## **5.0 APPENDIX 3 – CONTAMINATED SITE ASSESSMENT PROCEDURE FOR MANAGING DEVELOPMENT ON PAST LANDFILL SITES**

### **PROCEDURE STATEMENT**

The aim of this procedure is to ensure that when land is developed downstream of a known landfill site ( see Appendix 1 for listed sites), that the potential of contamination affecting human health and the environment are properly addressed. This policy applies to development on land that is or may be contaminated. There are no exceptions to the properties.

### **MANDATORY REQUIREMENTS**

A compulsory Pre Development Application meeting will be required for all proponents affected by this procedure and all such properties will be required to submit a Detailed Site Investigation report (DSI) with their Development Application (DA) and where necessary a Remedial Action Plan (RAP).

The consultant they select shall be suitably qualified, and work in accordance with NSW EPA Guidelines for Consultants reporting on Contaminated Sites.

The DSI will be expected to include and not be limited to:

- Defining the type, extent and degree of contamination
- Contaminant dispersal in air, surface water, groundwater, soil and dust
- The potential effects of contaminant on public health, the environment and building structure (where applicable) off site impacts on soil, sediment and biota.
- The adequacy and completeness of all information available to be used in making decision on remediation and development of the RAP. This will include the condition of the groundwater aquifer, and the impact of any contaminated groundwaters likely to be encountered during any part of the development.

### **SAMPLING**

Sampling should be carried out in accordance with the NSW EPA's Sampling Design Guidelines for Contaminated Sites.

### **NOTE:**

Should your land be located downstream of any known landfill site (see Appendix 1 for listed sites) and you encounter a groundwater aquifer (a body of saturated rock or soil containing a system of interconnected voids from which significant or economic quantities of groundwater may be abstracted) which is found to be contaminated or likely to be contaminated, then the proponent will NOT be allowed to develop below the level at which the development encountered the aquifer at its highest seasonal point.

### **DSI FINDINGS**

- If the DSI finds that a contaminated groundwater aquifer is to be encountered by the development the DA will be refused.
- If the DSI states that the land is not suitable for development and remediation is not possible to accommodate the proposed use, the DA will be refused.
- If the DSI states that the aquifer is not encountered and that land is found suitable without any testing or treatment then the DA can proceed to

determination. The DSI will have to be then checked at this point by an EPA Site Auditor to verify findings.

- If the DSI states that the property is not suitable for the proposed development and that remediation is possible to accommodate the proposed use, then the proponent will need to submit a Remedial Action Plan. Both the DSI and RAP will need to be checked and verified by an EPA accredited site auditor or before the DA is determined.

Any approval will require remediation take place, and the remediation be validated and verified by an EPA accredited site auditor prior to construction certificate being issued.

Site Audit Statement is to be issued and presented to Council detailing the suitable use of the land following remediation (refer to guidelines for the NSW site auditor scheme for exact details on issuing a site Audit Statement).

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