



Part E – General Controls – Environmental Controls

Chapter E20: Contaminated Land Management

Contents

1	INTRODUCTION	1
2	OBJECTIVES	1
3	CONTAMINATED LAND MANAGEMENT ACT 1997	1
4	STATE ENVIRONMENTAL PLANNING POLICY No. 55 REMIEDIATION OF LAND (SEPP 55)	1
4.1	Report Requirements	3
4.2	General	3
4.3	Stages for investigation	3
5	PROCEDURES FOR DEVELOPMENT APPLICATIONS & COMPLYING DEVELOPMENT CERTIFICATE APPLICATIONS	4

Figures

Figure 1: Procedure for category 1 and category 2 remediation work.....	2
Figure 2: Council procedure for considering land contamination issues for Development Applications.....	5

1 INTRODUCTION

1. This chapter outlines Council's procedures in dealing with the assessment of known or potentially contaminated land and the remediation of contaminated land.
2. This policy directly relates to the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55), the Contaminated Land Management Act 1997 and the joint NSW Department of Urban Affairs & Planning & Environment Protection Authority publication titled *Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land (August 1998)*.

2 OBJECTIVES

1. The objectives of the Contaminated Land Management policy are to:-
 - a) Consider the likelihood of contamination upfront in the planning and development process;
 - b) Ensure that any proposed development of an identified contaminated site will not result in any unacceptable levels of risk to human health or the environment;
 - c) Avoid inappropriate restrictions on the development of known or potentially contaminated sites;
 - d) Ensure site investigations and remediation work are carried out in a satisfactory manner and where appropriate are subject to independent validation and site audit certification by contaminated site remediation experts;
 - e) Ensure that ongoing responsibility for the management and monitoring of contaminated land is clearly and legally assigned.

3 CONTAMINATED LAND MANAGEMENT ACT 1997

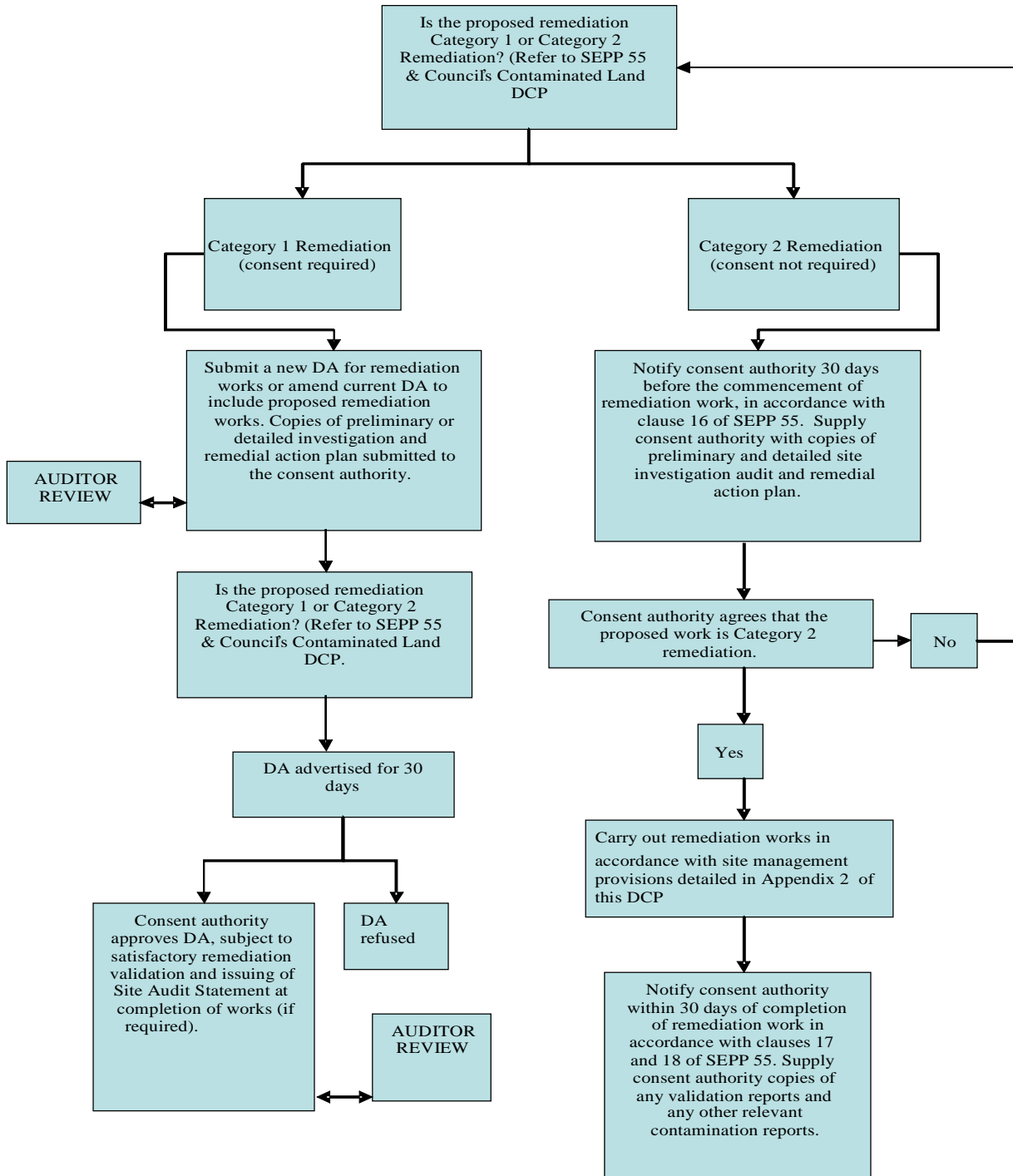
Duty to Report Contamination on Land which presents a Significant Risk of Harm to Human Health or the Environment

1. The Contaminated Land Management Act 1997 requires that either the landowner or the person whose activities have caused contamination must notify the NSW Department of Environment & Climate Change as soon as practicable after becoming aware of the contamination incident or activity.
2. A formal notice under section 60 of the Contaminated Land Management Act 1997 is required

4 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 REMEDIATION OF LAND (SEPP 55)

1. The aim of SEPP 55 is to provide for a state-wide planning approach to the remediation of contaminated land.
2. Under SEPP 55, Council is required in determining a Development Application to consider whether land is contaminated and whether the proposed remediation of any identified contamination site will satisfactorily render the land suitable for the intended land use upon the site.
3. The SEPP 55 state that a person must not carry out a category 1 remediation work except with the consent of the consent authority. Under the SEPP, a person may however carry out category 2 remediation work, without the consent of the consent authority.

5. For more information relating to the categories of work and the requirements refer to the SEPP.



** NOTE: Development consent may be required if works such as demolition or shoring are involved.

Figure 1: Procedure for category 1 and category 2 remediation work

4.1 Report Requirements

4.2 General

The key principle in considering contaminated land and the likelihood of land contamination is to determine any issues as early as possible in the planning and development process. This section provides an overview of the requirements in the SEPP 55. For full detail of requirements refer to the SEPP.

4.3 Stages for investigation

1. There are 4 main stages associated with the investigation of a site for potential land contamination and the subsequent remediation of any identified land contamination, namely:-
 - Stage 1 – Preliminary Investigation;
 - Stage 2 – Detailed Investigation;
 - Stage 3 – Site Remedial Action Plan; and
 - Stage 4 – Validation & Reporting.

4.3.1 Stage 1 – Preliminary Investigation

2. The main components of the preliminary investigation are to:-
 - i) Identify any past or present potentially contaminating activities;
 - ii) Conduct a preliminary visual inspection
 - iii) Provide a preliminary assessment of any site contamination; and
 - iv) Provide the basis for a more detailed investigation if required.
 - v) Review Council & NSW Government Department Records

For a full list of industries and potential contaminants please refer to SEPP No. 55 Remediation of Land and the Planning Guidelines “Managing Contaminated Land”

4.3.2 Stage 2 – Detailed Investigation

1. A detailed investigation is only necessary where a preliminary investigation indicates that the land is contaminated or the site history confirms that the site is or was formerly used for a potentially contaminated industry or activity.
2. The components of the detailed investigation are:-
 - i) To define the nature, extent and degree of contamination;
 - ii) To assess potential risk posed by contaminants to health and environment; and
 - iii) To obtain sufficient information for the development of a Remedial Action Plan (RAP), if required.
3. As part of the detailed investigation and assessment of site contamination issues, proponents are required to take into account any relevant technical standards or guideline requirements.

4.3.3 Stage 3 – Remedial Action Plan

1. The Remedial Action Plan (RAP) is based on information from the previous Preliminary Site History and Detailed Investigation stages and shall demonstrate what remediation measures are required to deal with any identified contamination in order to render the site suitable for the proposed development or land use activity. The objectives of the remediation strategy and the recommended site contamination remediation clean-up criteria must be clearly stated in the RAP.
2. If development consent is required, then a RAP must be considered by Council, prior to the determination of the Development Application.

4.3.4 Stage 4 – Completion of Remediation Work - Validation Reporting, Site Auditing & Monitoring

1. SEPP 55 requires the submission of a formal Notice of Completion of Remediation Work to Council within 30 days from the date of completion of the remediation works.
2. Refer to the SEPP for more information.

5 PROCEDURES FOR DEVELOPMENT APPLICATIONS & COMPLYING DEVELOPMENT CERTIFICATE APPLICATIONS

1. Where land is contaminated or has the potential for contamination Council requires the following:
 - a) A preliminary investigation report in accordance with the requirements of this policy and relevant legislation;
 - b) a Detailed Site Contamination Investigation Report is required where the preliminary investigation report reveals that the site is or was previously used by a potentially contaminating land use or soil and / or groundwater analysis reveals elevated contaminants above threshold levels;
 - c) Council may, as a matter of due diligence, request a Site Audit Statement to be provided from an accredited Site Auditor, in order to certify that the site is suitable for its intended use even if the Preliminary Investigation confirms that the site has no issues and the visual assessment of the site reveals no evidence of any contamination;
 - d) Where the Detailed Site Contamination Investigation Report indicates that the site is subject to soil strata and / or groundwater table contamination above threshold limits, a Remedial Action Plan will be required;
 - e) An independent review may be necessary (at the applicant's expense) where there is uncertainty relating to the findings of the Detailed Investigation Report.
 - f) Council will not continue the assessment until satisfied with the information in the detailed report or RAP.

Council may grant a conditional Development Consent with conditions of consent relating to the preparation of a Remedial Action Plan (prior to the issuing of the Construction Certificate), completion of the remediation works (during the construction phase) and the completion of a validation report and 'signing' off of the remediation work by the Site Auditor through a Site Audit Statement at prior to the occupation of the building or commencement of the land use stage.

Alternatively, Council may grant a "Deferred Commencement" Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, particularly where the level of contamination is in the opinion of Council significant and / or the proposed land use is a sensitive land use with respect to potential contamination impacts. The "Deferred Commencement" Consent will require the completion of a range of "pre-conditions" prior to the consent becoming operative.

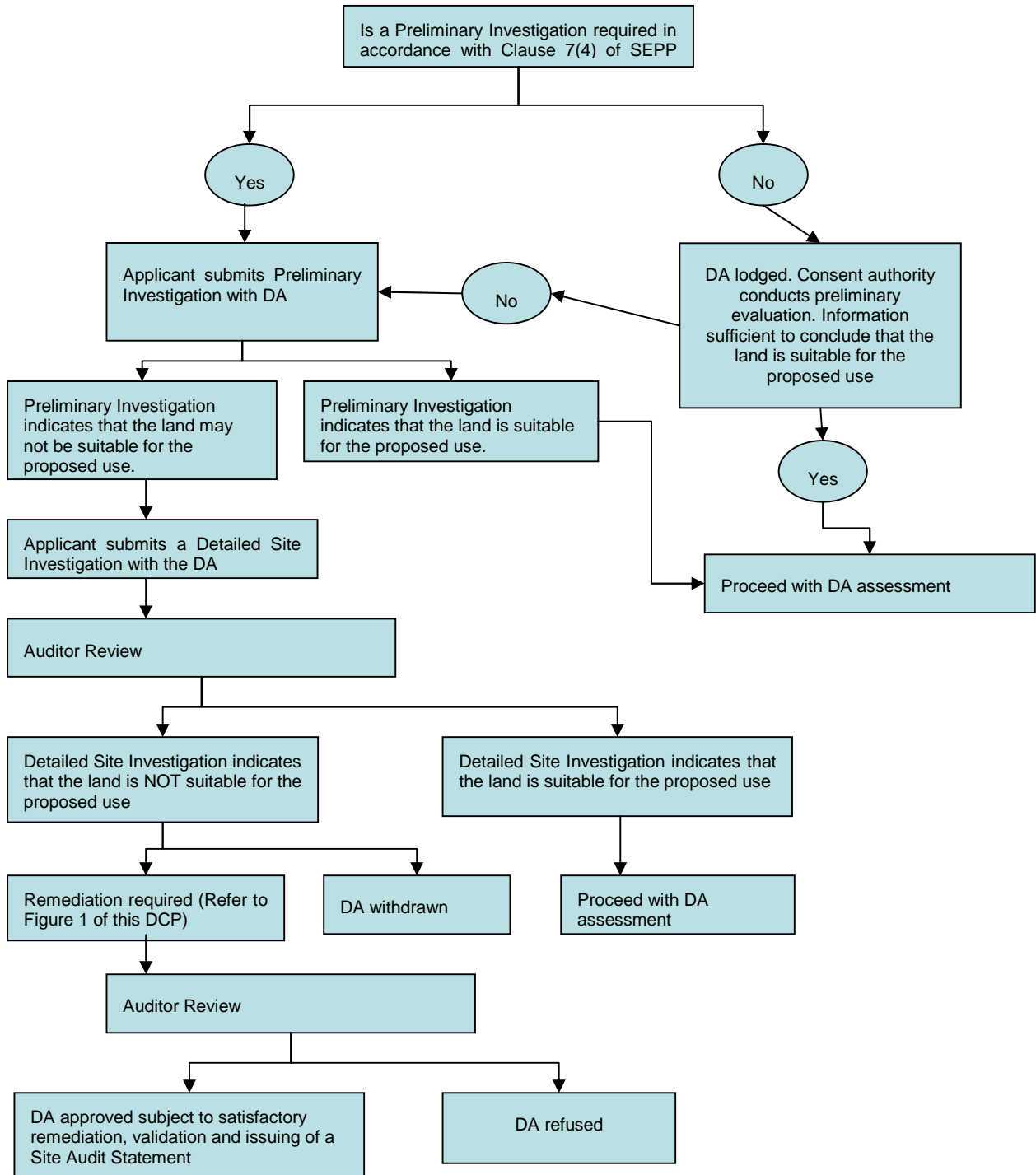


Figure 2: Council procedure for considering land contamination issues for Development Applications