



1. Intent of Policy

This document outlines Council's Policy in relation to the management of Contaminated Land that is under the regulatory control of Local Government, as stipulated by the *Environmental Planning and Assessment Act 1979* and *Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land* (1998) ("the Planning Guidelines"). It applies to all land within the Local Government Area.

This Policy seeks to align Council activities and management processes to the Planning Guidelines and achieve the key principles of:

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

This policy is based on Hunter Joint Organisation's *MODEL Regional Contaminated Land Policy - Land Use Planning*, dated January 2020.

2. Scope of Policy

The purpose of the Contaminated Land Policy is to provide a framework for Council to appropriately manage land contamination through the land use planning process, and in doing so, ensure Council acts in "good faith" with its legislative obligations.

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

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

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

3. Definitions and Abbreviations

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
Initial Evaluation	An evaluation undertaken by Council to determine whether contamination is likely to be an issue, and to assess whether further information is required for it to conduct its planning functions in good faith
Land Contamination	Land contamination may be the result of past or current uses. The land may be contaminated by a current or historical land use activity directly on that site or through migration of contamination from adjacent sites. See also definition of “contamination”
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

Policy 3132 – Contaminated Land Policy for Land Use Planning

	remediation strategy
Planning Application	A Development Application or Planning Proposal made to Council in accordance with the <i>Environmental Planning and Assessment Act 1979 (NSW)</i>
Planning Guidelines	NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)
Planning Proposal	A formal application submitted to Council that proposes 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>
Resilience and Hazards SEPP	State Environmental Planning Policy (Resilience and Hazards) 2021
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 (with changes made through the Contaminated Land Management Amendment Act 2008)</i> given the site's current or approved use
Sampling and Analysis Quality Plan (SAQP)	The objective of a sampling and analysis quality plan is to provide the context, justification and details of the selected sampling and analysis approach, to support decision making.
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
Table 1 of the Planning Guidelines	List of Potentially Contaminating Activities included in Table 1 of the "NSW Managing Land Contamination Planning Guidelines" (1998)
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

4. Relationship to other Policies, Procedures and Guidelines

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

- *Contaminated Land Management Act 1997*
- *Contaminated Land Management Regulation 2013*

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Government Information (Public Access) Act 2009*
- Guidelines provided or endorsed by the NSW EPA under the CLM Act.
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land
- National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Oberon Local Environment Plan 2013
- Oberon Development Control Plan 2001

5. Policy Principles

The key principles of this Policy are to:

- Ensure that changes in land use will not increase the risk to human health or the environment
- Consider the likelihood of land contamination as early as possible in the planning and development control process
- Link decisions about the development of land with the information available about possible contamination
- Ensure Council exercise its functions relating to the development of contaminated land with a reasonable standard of care and diligence
- Ensure that site investigations and remediation works are carried out in a satisfactory manner by a certified consultant, and where appropriate, are independently verified by a Site Auditor
- Avoid inappropriate restrictions on land use arising from contamination
- Provide information to support decision making, and to inform the community of potential restrictions on property arising from contaminated land matters.

6. Policy Statement

Land Use Planning Functions

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

Policy Statement:

1. Council shall not approve a Development Application or support a Planning Proposal unless it is satisfied on the basis of information available to it under this Policy that:
 - a) Contamination has been considered;
 - b) If the land is contaminated, that the land is suitable in its contaminated state (or will be suitable following remediation) for all the uses permissible under the approval; or
 - c) If the land is contaminated, that conditions can be placed in 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.

Information Management

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

The information required is defined in:

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

The development and maintenance of a corporate Contaminated Land Information System will assist Council to meet its legislative obligations.

Policy Statements:

2. Council will develop and maintain a Contaminated Land Information System to facilitate compliance with statutory obligations, support its planning functions, and provide information on contaminated land to the community in accordance with the *NSW Government Information (Public Access) Act 2009*.
3. 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 *Contaminated Land Management Act 1997*.

Information to be provided on Section 10.7(2) Planning Certificates

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

Policy Statement:

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

Information to be provided on Section 10.7(5) Planning Certificates

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

Policy Statements:

5. Section 10.7(5) Planning Certificates issued by Council are to provide information that is provided to Councils by the NSW EPA in accordance with s 58 of the *Contaminated Land Management Act*, that is not already included in a s10.7(2) Planning Certificate.
6. If Council is aware that a site has been notified to the NSW EPA under S.60 of the *Contaminated Land Management Act*, but is currently in various stages of being reviewed by the NSW EPA to assess if the contamination is significant enough to warrant regulation or Council is considered the relevant regulatory authority, it will provide information to this effect on the s10.7(5) certificate.

7. Where Council has a Contaminated Land Information Management System in place, information held on the system may be listed.

Certification Requirements

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

- Environment Institute of Australia and New Zealand - Certified Environmental Practitioner (Site Contamination) (CEnvP (SC))
- Soil Science Australia - Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)

Policy Statement:

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

Investigation and Reporting Standards

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

Policy Statements:

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

Site Investigation, Remediation and Validation

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

Initial Evaluation

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

Policy Statement:

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

Preliminary Site Investigation

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

Policy Statement:

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

Sampling and Analysis Quality Plan and Detailed Site Investigation

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

Policy Statement:

13. A Sampling and Analysis Quality Plan and Detailed Site Investigation is required:
 - a) Where the Preliminary Site Investigation indicates that the land is, or may be contaminated
 - b) When the site is, or was, formally used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines, or other potentially contaminating activities known to Council (refer Attachment A), and a land use change is proposed that has the potential to increase the risk of exposure to contamination
 - c) To accompany a remediation proposal or notification.

Remedial Action Plan

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

Policy Statements:

14. 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.
15. 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).
16. A Remedial Action Plan (and accompanying investigation reports) must accompany any notification to Council for proposed Category 2 Remediation work.

Validation and Monitoring

Validation and / or Monitoring Reports are provided by the Proponent. The objective of Validation is to demonstrate whether or not the objectives stated in the Remedial Action Plan and any conditions of development consent have been achieved. At times, this may include 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.

The Resilience and Hazards SEPP 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:

17. 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).
18. The Notice of Completion provided to Council for any Category 2 remediation works is to include the Validation Report.
19. 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.

Site Audits

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

Policy Statements:

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

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. The Resilience and Hazards SEPP 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:

22. Development consent is required for the following remediation work:
- a) Category 1 Remediation Work requiring consent as defined by the Resilience and Hazards SEPP (refer to Attachment B)
 - b) 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).
23. Council must be notified of proposed Category 2 Remediation Works no less than 30 days prior to their scheduled commencement.

Duty to Report

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

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

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

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

Policy Statement:

24. Where Council considers 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 will notify the EPA for possible action under the *Contaminated Land Management Act 1997*.

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:

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

7. Accountability, Roles and Responsibilities

Position Title	Responsibility
Planning and Development Director	Responsible for the implementation and regular review of the policy, and for ensuring staff are sufficiently trained to implement the policy
Planning and Development Director	Provide support and advice on implementation of the policy
Planning and Development Staff	Ensure adherence to the policy when undertaking planning functions under the <i>Environmental Planning and Assessment Act 1979</i>
Planning and Development Staff	Provide information on Section 10.7 Planning Certificates that is consistent with the policy]

Approving Authority	Oberon Council
Contact	Damian O'Shannassy, Planning and Development Director
Approval	Ordinary Meeting 20 December 2022 Item 13.04, Minute 19 201222
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ATTACHMENT A - POTENTIALLY CONTAMINATING ACTIVITIES

Land use register project undertaken in 2021 – 2022 by LotSearch through the Contaminated Land Regional Capacity Building Program (CRCB) where other legislation and regional policies were consulted to prepare a list of potentially contaminating activities.

Table 1. Some Activities that may Cause Contamination Source: Managing Land Contamination. Planning Guidelines SEPP 55 – Remediation of Land (1998)

- 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.

TABLE 2. - POTENTIALLY CONTAMINATING LAND USES

Source: the land use register project undertaken in 2021 – 2022 by Lot Search through the Contaminated Land Regional Capacity Building Program (CRCB) where other legislation and regional policies were consulted to prepare a list of potentially contaminating activities.

Potentially Contaminating Land Use / Activity	Legislation / Source
Agricultural/horticultural activities	SEPP55
Tanning and associated trades	SEPP55
Sheep and cattle dips	SEPP55
Aquaculture	Bathurst Regional CL Policy
Extensive agriculture	Bathurst Regional CL Policy
Intensive livestock agriculture	Bathurst Regional CL Policy
Intensive plant agriculture/horticulture	Bathurst Regional CL Policy
Livestock processing works	Bathurst Regional CL Policy
Food manufacturing	Bathurst Regional CL Policy
Rural supplies	Bathurst Regional CL Policy
Stock and sale yards	Bathurst Regional CL Policy
Asbestos production and disposal	SEPP55
Acid or Alkali Manufacture, Formulation or Use	SEPP55
Paint Manufacture and Formulation	SEPP55
Pesticide Manufacture and Formulation	SEPP55
Chemicals Manufacture, Formulation & Storage	SEPP55; Chemical Storage Facilities - Bathurst Regional CL Policy
Battery manufacture, storage and recycling	SEPP55
Defence works	SEPP55
Dry cleaning	SEPP55
Hospitals	SEPP55
Research Institutions/ Laboratories	SEPP55
Printing shops & works	SEPP55
Firefighting training and use of Firefighting Foam	SEPP55
Wood preservation	SEPP55
Drum reconditioning	SEPP55
Breweries/distilleries	SEPP55
Cement, Ceramics and asphalt manufacturing	Cement - Bathurst Regional CL Policy; Ceramics & Asphalt - Claire DoE Industry Profiles
Electrical Component manufacturing (incl. transformers)	SEPP55
Explosives Industries	SEPP55
Foundries	SEPP55
Gas works	SEPP55
Iron and steel works	SEPP55
Metal treatments; electroplating and heat treatment premises	SEPP55
Smelting and refining	SEPP55

Policy 3132 – Contaminated Land Policy for Land Use Planning

Potentially Contaminating Land Use / Activity	Legislation / Source
Metal fabrication & Industrial Workshops	Bathurst Regional CL Policy
Mining and extractive industries	SEPP55
Power stations	SEPP55
Paper/pulp works	Bathurst Regional CL Policy
Textile manufacturing	Claire DoE Industry Profiles
Pet food manufacturing	Bathurst Regional CL Policy
Sawmills & Log Processing	Bathurst Regional CL Policy
Heavy Industrial Storage	Bathurst Regional CL Policy
Storage of Plant & Equipment	Bathurst Regional CL Policy
Other Manufacturing	VIC EPA
Service Stations	SEPP55
Liquid fuel/Oil production or storage	SEPP55
Air Transport Facilities	SEPP55
Emergency Service facilities	Bathurst Regional CL Policy
Freight/Truck/Transport Facilities	Bathurst Regional CL Policy
Railway yards	SEPP55
Marinas	SEPP55
Engine works; Vehicle and machinery manufacturing works	SEPP55; Claire DoE Industry Profiles
Vehicle Body Repair	Bathurst Regional CL Policy
Engine/Vehicle Service & Repairs	Bathurst Regional CL Policy
Vehicle Washing	Bathurst Regional CL Policy
Contaminated Land & Groundwater	Bathurst Regional CL Policy
Landfill sites; Waste Storage or Treatment	SEPP55
Scrap yards	SEPP55
Water and sewage treatment plants	SEPP55
Rifle Ranges	Bathurst Regional CL Policy
Commercial or Industrial Fixed Plant	Bathurst Regional CL Policy
Council Depots	SEPP55

ATTACHMENT B - CATEGORY 1 REMEDIATION WORKS

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

“Category 1 remediation work: work needing consent

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.”

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 – Friday	7.00am to 5.00pm
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 seven (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.

Toilet Facilities

Toilet facilities must be provided for workers in accordance with the publication titled *Code of Practice: Amenities for Construction Work* (WorkCover, 1996).

[Note: Toilets for workers must be connected to the sewerage system where practicable. Alternatively, Council approval is required under Section 68 of the *Local Government Act 1993* to install an accredited sewage management facility (e.g. portable chemical closet) on the site.]

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 shovelled 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).

Oberon 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 any 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 2017*
- *Protection of the Environment Operations Act 1997*
- *Protection of the Environment Operations (Waste) Regulation 2014*
- 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 licence 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 or in-situ decommissioning 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: (SafeWork, 2020)*.

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.