

PART B: Site planning controls

Section B7 Land contamination

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1.0 Introduction

Land contamination is most often the result of past uses. It can occur as a result of poor environmental management and waste disposal practices or accidental spills in industrial or commercial activities. The poor management of contaminated land can present a risk to public health and the environment.

When carrying out planning functions under *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), the possibility that the previous and/or current land use and/or nearby land use, has caused contamination of the site, and the potential for risk to human health and the environment from that contamination must be considered by City of Newcastle (CN).

The NSW Government has established a framework for dealing with contaminated land matters. There are four important elements to this framework.

1. The *Contaminated Land Management Act 1997*. This establishes a process for the investigation and remediation of sites that pose a significant risk to human health or the environment. The Environment Protection Authority is responsible for the regulation of these sites.
2. *State Environmental Planning Policy (Resilience and Hazards) 2021*. Chapter 4 sets out matters that must be considered by local councils and other planning agencies when undertaking planning functions and making decisions on suitable land uses and activities.
3. The Contaminated Land Planning Guidelines. This is a set of guidelines published by the NSW State Government to assist local councils and other planning agencies when undertaking their functions and responsibilities. Agencies acting in accordance with the guidelines are granted a statutory exemption from liability.
4. Policies adopted by individual local councils that are consistent with the Contaminated Land Planning Guidelines and provide for specific local requirements.

In addition to the above CN also has responsibilities under the EP&A Act 1979 and other state legislation to consider broader land use issues relating to the ongoing management of land and public assets.

2.0 Application

CN's Contaminated Land Policy will apply when preparing a development application (DA) (including modification) or an activity under Part 5 of EP&A Act 1979.

3.0 Additional information

Contaminated land policy

To address CN's responsibilities in respect to contamination, including development assessment, we have a Contaminated Land Policy. This policy serves as a framework for CN's planning functions relating to the use and development of land that is, or may be, contaminated. CN's Contaminated Land Policy is available from our website.

Applicable environmental planning instruments and legislation:

The provisions of the following listed environmental planning instrument/s also apply to DA's to which this section applies:

- *Newcastle Local Environmental Plan 2012* ([LEP 2012](#))
- *Contaminated Land Management Act 1997*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*

In the event of any inconsistency between this section and any environmental planning instrument, the environmental planning instrument will prevail to the extent of the inconsistency.