

CONTAMINATED LAND

Objective

To describe how Council will keep relevant records, provide information to interested parties and make decisions regarding contaminated land. Specifically this policy will describe how:

- Information about potentially contaminated land is collected;
- Information is to be maintained in a Contaminated Lands Information System (CLIS);
- Council will use information to appropriately manage the use of land and what information is required for the development of the land;
- Information will be provided to owners of affected land and the public;
- Information will be provided on s10.7 planning certificates;
- Council should be notified of remediation activities within it's LGA;
- Clarify where Category 1 remediation activities will be identified;
- how remediation activities should be conducted;
- Consultants should report on contaminated sites;
- A Site Audit Statement may be required;
- A Site Management Plan will be enforced;
- Council will use contaminated land standards and principles to address illegal land filling;
- The UPSS (Underground Petroleum Storage System) Regulation is to be administered by Council.

Scope

This policy applies to all land within the Gilgandra Shire Local Government Area and includes:

1. Where Council is duly exercising one of the following planning functions:
 - a) Preparation of a planning proposal;
 - b) Processing and determination of a development application or the modification of a development consent;
 - c) Processing and determination of an application for a complying development certificate; and
 - d) Furnishing of advice in a certificate under section 10.7; or

2. Where Council is:

- a) Investigating or remedying illegal land filling; or
- b) Administering the Protection of the Environment (Underground Petroleum Storage System) *Regulation 2012*.

Note: the functions described in paragraph 2 above are not 'planning functions' to which Council is afforded protection from liability under Schedule 6 of the EP&A Act.

Policy

Where Council is aware of any past or present potentially contaminating land uses or activities (as described in this policy) it will maintain relevant information about the land on which that use or activity occurred or is occurring to ensure:

- That land owners and other interested parties may be made aware of those uses; and
- Council can assess land contamination issues and monitor remediation under *State Environmental Planning Policy 55 Remediation of Land (SEPP 55)*.

The information held is intended to aid decision-making regarding contaminated land investigations, land use planning and determinations.

This policy will restrict the use of land by:

1. Prescribing the circumstances where land is required to undergo some level of assessment for land contamination, or remediation, before consent can be granted for any development on that land or the land can be rezoned; and
2. Enforce the restrictions that, in the opinion of the consultant or auditor, are required through the imposition of a Site Management Plan that may be imposed on the land following remediation.

Council will set standards for the conduct of remediation and reporting of contaminated land matters to ensure that contamination and remediation can be effectively managed and monitored for the benefit of the community.

While Council will endeavour to develop and maintain a comprehensive collection of relevant information, it does not guarantee the completeness or accuracy of all the information held. To the degree that information is not required to be provided to Council or hitherto has not been required to be kept by Council, Council may not be in possession of all the relevant information for any given property at any given time.

Relevant Legislation

Contaminated Land Management Act 1997

Provides for Site Auditing (s47), and specific requirements for 149 planning certificates in relation to the Act (s59).

Environmental Planning and Assessment Act 1979

Provides the basis of the planning system in NSW and permits the creation of State Environmental Planning Policies. Part 7A specifically details the liabilities for Planning Authorities in respect of contaminated land and defines the contaminated land Planning Guideline.

Environmental Planning and Assessment Regulation 2000

Sets out the requirements for s10.7 planning certificates (Schedule 4).

National Environmental Protection (Assessment of Site Contamination) Measure 1999.

Sets a national standard for contaminated site assessment.

Protection of the Environment Operations Act 1997

Enables the EPA, and Councils, to regulate pollution and waste in NSW.

Protection of the Environment Operations (Waste) Regulation 2014

Regulation of waste in NSW.

Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014

Self-regulation regime of underground fuel storage in NSW

State Environmental Planning Policy No 55-Remediation of Land

Establishes the mandatory considerations for consent authorities when considering development applications in relation to contaminated land, and criteria for remediation of land before development can occur.

Gilgandra Local Environment Plan 2011

Associated Documents

Gilgandra Shire Council Contaminated Land Procedure (based on Central NSW Regional Contaminated Land template)

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