



Site Contamination Management Policy 2020-2024

Version 2, June 2021



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Policy governance

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Construction, Contracts and Operations

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Council

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Peter Smith

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Stakeholder review and engagement:

The following departments were engaged in the preparation of the Policy: Project Services, Occupational Health and Safety, Asset Management and Property, Environmental Sustainability, Planning, Organisational Performance, Finance, Digital Technology Systems and Customer Experience and Transformation.

The following departments reviewed the Policy: Environmental Sustainability, Communications and Engagement, Organisational Performance and Asset Management and Property, Waste Transformation Project Control Group.

Relevant Legislation:

[Environment Protection Act 2017](#)

Associated Strategic Direction #:

Strategic Direction 2: Liveable Port Phillip

Associated Instruments:

[Site Contamination Risk Register](#)

[Site Contamination Risk Register User Guide](#)

[Greencap Consulting DRAFT Site Contamination Management Plan](#)

[CoPP Risk Management Framework 2018 V3](#)

Supersedes:

[City of Port Phillip Soil Contamination Management Policy 2004](#)

Review History:

Name	Content Manager File Reference	Date	Description of Edits
Site Contamination Management Policy 2020-2024	E74139/20	13/05/2020	Compilation of draft Policy
ELT feedback	E74139/20	02/06/2020	<ul style="list-style-type: none"> • Expansion of 'Outcomes' to include those beyond compliance • Updates to 'Responsibilities' • Better articulation of record keeping • Inclusion of 'Communication and engagement' section
Site Contamination Management Officer	E102917/21	28/06/2021	<ul style="list-style-type: none"> • Updates to 'Definitions' • Updates to relevant legislation • Reorganisation of some information • Minor editorial changes
ELT feedback and other updates	E102917/21	30/06/2021	<ul style="list-style-type: none"> • Updates to Table 2: 'Responsibilities of roles' • Updates to 'Relevant legislation and guidance'

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Purpose

The [Environment Protection Act 2017 \(EP Act\)](#) comes into effect on 1 July 2021. The EP Act sets out duties for landholders to manage the risks associated with contaminated land over which they have management or control.

The Site Contamination Management Policy 2020-2024 (**Policy**) sets out the City of Port Phillip's (**Council**) compliance requirements to effectively and proactively identify contaminated land and manage the risks associated with the contaminated land over which it has management or control.

The associated Site Contamination Risk Register (**Risk Register**) is a register of all land over which Council has management or control and includes site identification information, information about current site use/s and a summary of what is known about site contamination. The Risk Register also includes procedures for assigning contamination risk in a consistent way (risk ranking) which allows sites to be prioritised for assessment and aligns with Council's Risk Management Framework.

Consultant reports and management plans will be available to Council staff via Council's asset management system, OneCouncil.

Together, the Policy, Risk Register and OneCouncil will allow Council to manage site contamination by:

- Providing the framework to understand and make informed decisions about managing contamination risks under the EP Act.
- Informing the development of assessment and management strategies for sites over which Council has management or control.
- Maintaining an up-to-date database of Council managed or controlled sites and their potential environmental liabilities to enable forecasting potential future requirements.

Outcomes

1. Compliance with legislation

The Policy aligns with the EP Act which requires Council proactively manage contamination on land over which it has management or control. The EP Act includes seven duties:

General environmental duty (GED)

This duty requires a person engaging in an activity which may give rise to risks of harm to human health or the environment from pollution or waste, to minimise those risks so far as reasonably practicable. The GED is similar in intent to existing duties under the [Occupational Health & Safety Act 2004](#).

Duty to manage contaminated land

The 'duty to manage' creates an obligation on persons in management or control of land to minimise the risks of harm to human health and the environment from the contamination. This includes obligations to identify contamination a person should reasonably know about, manage the contamination to reduce risks, and to notify people who may be affected by contamination.

Duty to notify of contaminated land

The 'duty to notify' requires a person in management or control of land to notify Environment Protection Authority Victoria (**EPA**) as soon as practicable if the contamination poses a significant risk to human health or the environment.

Duties to notify and respond to pollution

These duties require notification to EPA of pollution incidents and to respond to any leak, spill or other unintended or unauthorized deposit or escape where material harm is caused or threatened.

Duties to manage and dispose of industrial waste soils and reportable priority waste soils

Soil that is not contaminated is an industrial waste. Industrial waste must be deposited at a place authorised to receive the waste, with the consent of the person in management or control of the premises.

Contaminated soil is a reportable priority waste. Reportable priority waste must be classified in accordance with the EP Act, contained in a manner that prevents its escape, transported by suitably licenced vehicles, tracked using EPA's Waste Tracker and disposed of at a facility licensed to accept priority waste.

2. Council is kept safe and informed

Council staff and contractors will be kept safe from the risks of contamination via proactive assessment and effective management of contaminated land, the creation of a Site Contamination Management Procedure as part of the Safety Management System and by being informed of existing and new contaminated land via the Risk Register and OneCouncil.

3. Community are kept safe and informed

Our community will be kept safe from the risks of contamination via proactive assessment and effective management of contaminated land. Tenants/occupants of Council-owned land will be informed of the presence of contamination on land they lease/occupy.

4. Protection of the natural environment

Land over which Council has management or control will be proactively assessed and managed to protect our natural environment from the risks of contamination.

5. Preservation of reputation

Council’s reputation as an organisation which manages its legal obligations and its commitments to community in relation to contaminated land will be maintained.

6. Prevention of major financial impacts

Proactive assessment of land over which Council has management or control will inform planning of works and assist in the prevention of major financial impacts associated with contamination.

Where contamination on Council-owned/managed land has arisen as a result of a current or former tenant or occupant’s activities on that land, resolve to seek financial compensation in line with the ‘polluter pays’ principle - that those who produce contamination should bear the costs of management or clean-up.

7. Management of corporate information

Information relating to contamination of land over which Council has management or control will be managed in accordance with Council’s [Records Management Policy](#), and be accessible to relevant Council staff.

Definitions

Table 1: Definitions of Terms

Term	Definition
Assessment	A scientific evaluation, conducted by a suitably qualified person, of the nature and extent of contamination of land to understand risks to human and environmental health.
Contamination	Land is considered contaminated if a waste or chemical substance is present on the ground surface or under the surface of the land (including in groundwater) in concentrations above ‘background levels’ and the presence of the waste or chemical substance creates a risk of harm to human health or the environment.
Duty holder	The person, or persons, in management or control of land are ‘duty holders’ under the contaminated land duties.
Environment Protection Act 2017 (EP Act)	The State of Victoria’s environmental protection law. The EP Act 2017 comes into effect on 1 July 2021, superseding the Environment Protection Act 1970.
‘Management or control’	‘Management or control’ relates to whether a person can exercise power over the land. For example, when a person: holds a legal interest in the land, such as an owner, leaseholder or committee of management, or has access to the land or use of the land.
Standard Operating Procedure (SOP)	A set of written instructions that document a routine or repetitive activity that are followed within a workplace.

Safe Work Method Statement (SWMS)	A document that outlines high-risk activities carried out within a workplace, the hazards that may arise from these activities and safety measures to implement to control the risks.
Clean-up	Activities to remove, disperse, destroy, dispose of, abate, or treat contamination. For the purpose of restoring the environment to a state as close as practicable to the state it was in before it became contaminated.
Safety Management System (SMS)	Council's SMS is set of policies, procedures and guidelines to systematically manage health and safety in the workplace The SMS supports safety in the workplace by providing clear processes and responsibilities. It also supports Council to comply with health and safety legislation. The Site Contamination Management Procedure will be part of Council's SMS.

Responsibilities

Table 2: Responsibilities of Roles

Role	Responsibility	Reporting to	Frequency
Council	Approve the Policy.	N/A	Annual
Councillors	Ensure complaints, feedback and enquiries received from members of the community are directed via the appropriate channels for prioritisation and resolution.	N/A	Ongoing
Chief Executive Officer (CEO)	<ul style="list-style-type: none"> Approve editorial changes to the Policy. Ensure the Policy is reviewed and approved by Council. 	Council	As required
General Manager Customer, Operations and Infrastructure	<ul style="list-style-type: none"> Endorse changes to the Policy for approval by the CEO. Conduct internal reviews where requested. Approval of reporting to EPA. Executive Sponsor of Project Control Group (PCG) to which this work reports. 	CEO	As required
Executive Manager Construction Contracts and Operations	<ul style="list-style-type: none"> Accountable for the success of the Policy. Monitor, track and report on the Policy. Make decisions regarding Policy implementation via the PCG to which this work reports. Program Sponsor of the PCG to which this work reports. 	ELT	As per PCG schedule
Coordinator Waste Futures	<ul style="list-style-type: none"> Conduct, or direct other relevant internal parties to conduct, reviews where required. Support a culture of continuous improvement to ensure the safety of humans and the environment. 	ELT	As required

Role	Responsibility	Reporting to	Frequency
	<ul style="list-style-type: none"> Resolve escalated complaints, feedback and enquiries received from members of the community in relation to site contamination. Provide access to training to support Council staff and contractors to ensure compliance with the Policy. Provide leadership to the Site Contamination Management Officer. Prepare updates and reports for the PCG to which this work reports. 		
<p>Site Contamination Management Officer (SCMO)</p>	<ul style="list-style-type: none"> Implement the Policy, in collaboration with relevant internal departments. Monitor and report on the implementation of the Policy. Identify relevant stakeholders and communicate with them. Use the Risk Register to prioritise sites for assessment, based on sensitivity of land use and likelihood of contamination. Add or update site-specific information to the Risk Register. Track Risk Register impacts on the annual budget and project portfolio build. Develop and implement communications to ensure staff, contractors, tenants of Council properties and the community are well-informed. Produce relevant and required reports as required by the Strategic Risk and Internal Audit committee (SRIA). Develop and implement the Site Contamination Management Procedure in collaboration with relevant departments. Scope site assessments, management and/or remediation of Council owned/managed land. Obtain and evaluate quotations from environmental consultants. Engage and manage environmental consultants for the assessment, management and/or remediation of Council owned/managed land. 	<p>PCG and/or Coordinator Waste Futures</p>	<p>Ongoing</p>
<p>Project Managers</p>	<ul style="list-style-type: none"> Consult the SCMO, OneCouncil and Risk Register prior to commencing any project which will involve ground disturbance. Engage and manage environmental consultants for the assessment, 	<p>Managers</p>	<p>As required</p>

Role	Responsibility	Reporting to	Frequency
	<p>management and/or remediation of contaminated land.</p> <ul style="list-style-type: none"> • Ensure Site/Soil Management Plans are implemented during earthworks. • Ensure contaminated soil is transported by suitably licensed vehicles and is disposed of at an appropriately licensed facility. • Follow the Site Contamination Management Procedure. • Resolve complaints, feedback and enquiries received from members of the community in relation to site contamination at the project level. 		
OHS Department	<ul style="list-style-type: none"> • Ensure occupational health and safety risks related to site contamination are incorporated into Council’s Safety Management System. • Participate in the development of the Site Contamination Management Procedure. 	SRIA	As required

Scope

The Policy and associated instruments relate to Strategic Direction 2 of the Council Plan 2021-2031, Liveable Port Phillip - a great place to live, where our community has access to high quality public spaces, development and growth are well managed, and it is safer and easy to connect and travel within.

Alignment to Council Plan 2021-2031

This Policy applies to all Council staff and contractors carrying out, or responsible for, works involving intrusive ground works (those involving breaking of earth) on land over which Council has management or control. This includes, but is not limited to, parks maintenance, construction and public space redevelopment.

Out-of-scope

This Policy is not intended to inform or guide works involving intrusive ground works on privately owned land.

Implementation

The SCMO will deliver the policy through the design, delivery and evaluation of an annual work plan. The annual work plan will be developed at policy adoption, and revised following annual reviews of the Policy.

Site Contamination Management Officer

The SCMO is responsible for implementing the Policy, including prioritising sites for assessment, reviewing tenders and engaging consultants to undertake environmental assessments of council owned/managed properties.

The SCMO will also provide advice to other teams within Council dealing with site contamination, including parks maintenance, construction and public space redevelopment. This includes consulting with Project Managers on site contamination related matters, participating in Project Control Groups (**PCG**), and providing guidance to operational staff to ensure the SMS Site Contamination Management Procedure is followed.

Communication and engagement

Sharing information about contaminated land is required to minimise the risk of harm to human health and the environment posed by contamination.

Council is committed to transparent communication and engagement with tenants, staff, contractors, the community and EPA regarding contaminated land. As such, Council commits to:

- Inform tenants/occupants (and prospective tenants/occupants) of Council-owned properties of the presence of contamination on land they lease/occupy, including the nature and extent of contamination, potential impacts and how it is managed.
- Where Council staff or contractors may come into contact with contamination, provide information regarding the nature and extent of contamination and control measures to minimise the risks of harm to human health and the environment.
- Inform our community of their own legislative duties relating to contaminated land.
- Inform other government entities of contamination on Council-owned land where required to facilitate shared management of contamination.
- Notify EPA of sites with 'notifiable contamination', as per the duty to notify.

Notification strategy

The notification strategy for Council to inform tenants of contaminated land, is for the Site Contamination Management Officer (SCMO) to meet with tenants/occupants of contaminated land and provide them with:

- Copies of environmental assessment reports
- A brief cover letter, prepared by the SCMO, outlining Council's obligations under the EP Act, key findings of the assessment and management recommendations
- And answer any additional questions.

Project specific communication plans will continue to be developed by Project Managers. The Site Contamination communications plan is not intended to supersede these.

Induction and training

The SCMO will be responsible for inducting relevant Council staff and contractors to the Policy, the Site Contamination Management Procedure and Risk Register, and will deliver the relevant associated training.

Document control

The Policy, Risk Register, Site Contamination Management Procedure and Site Contamination Communications Plan will be accessible to all staff via the intranet.

Consultant site assessment reports and site management plans will be available via OneCouncil.

The SCMO will be responsible for updating the Policy as new legislation and guidance is published. Updates must be approved by the CEO (upon delegation by Council).

The SCMO will be solely responsible for updating the Risk Register.

Review

The Policy will be subject to annual desktop reviews and an end-of-lifespan review. These will be undertaken by the SCMO in consultation with relevant Council departments and will include a report on tracking towards achievement of [Outcomes](#).

The schedule of review is noted in [Policy Governance](#).

Monitoring and Reporting

The SCMO will be responsible for monitoring and reporting on the delivery of the Policy when requested by Council (ELT, SRIA and PCGs). Reporting may include:

- Status of activities in the annual workplan
- Status and results of proactive site assessment schedule
- Impacts on operational activities and project budgets
- Compliance with OHS obligations.

In addition to other monitoring and reporting, each [Outcome](#) will be monitored throughout the year and reported on annually as per the schedule of review.

Measures of progress/success for each Outcomes are defined in Table 3.

Table 3: Measures of progress/success

Outcome	Description	Measure of progress/success
1. Compliance with legislation	Council will be compliant with all relevant legislation relating to contaminated land.	Council complies with all duties under the EP Act and records no breaches.
2. Council is kept safe and informed	Council staff and contractors will be kept safe from the risks of contamination via proactive assessment and effective management of contaminated land, training in, and adherence to, the Site Contamination Management Procedure and by being informed of contaminated land via the Risk Register and OneCouncil.	No Council staff or contractor experiences harm because of contamination on Council land. No Council staff or contractor records a breach of the Site Contamination Management Procedure.
3. Community are kept safe and informed	Our community will be kept safe from the risks of contamination via proactive assessment and effective management of contaminated land. Tenants/occupants of Council-owned properties will be informed of contamination on land they lease/occupy. Our community will be informed of their own legislative duties relating to contaminated land.	No community member experiences harm because of contamination on Council land.
4. Protection of the natural environment	Land over which Council has management or control will be proactively assessed and managed to protect our natural environment from the risks of contamination	Harm to the natural environment caused by contaminated land is minimised.
5. Preservation of reputation	Council’s reputation as an organisation which manages its legal obligations and its commitments to community in relation to contaminated land will be maintained.	Council achieves Outcomes 1 to 4. Council resolve all community complaints relating to site contamination in a timely manner.

Outcome	Description	Measure of progress/success
6. Prevention of major financial impacts	<p>Proactive assessment of land over which Council has management or control will inform planning of works and assist in the prevention of major financial impacts associated with contamination.</p> <p>Seek financial compensation where a current or former tenant of Council-owned/managed land is responsible for contamination on that land, in line with the 'polluter pays' principle.</p>	<p>More accurate forecasting of project budgets and timelines. Potential costs associated with managing contaminated land are understood in the project planning phase.</p> <p>Those responsible for contamination bear the costs associated with clean-up.</p>
7. Management of corporate information	<p>Information relating to contamination of land over which Council has management or control will be managed in accordance with Council's Records Management Policy, and be accessible to relevant Council staff via the Risk Register and OneCouncil.</p>	<p>Council records no breaches of the Records Management Policy.</p>

Relevant legislation, regulations and guidance

Legislation, regulations and guidance relevant to contaminated land assessment and management in Victoria is summarised in Table 4. This section will be updated on 1 July 2021 when the Environment Protection Act 2017 and subordinate legislation comes into effect.

Table 4: Relevant legislation and guidance

Category	Document name
Victorian Environment Protection Legislation and Regulations	Environment Protection Act 2017
	Environment Protection Regulations, 2021
	Environment Protection Transitional Regulations, 2021

Category	Document name
Contaminated land guidance	<p>EPA Victoria <i>'Assessing and controlling contaminated land risks: A guide to meeting the duty to manage for those in management or control of land'</i>, Publication 1977.1, June 2021</p> <p>EPA Victoria <i>'Notifiable contamination guideline – Duty to notify of contaminated land'</i>, Publication 2008, June 2021</p> <p>EPA Victoria <i>'Contaminated land policy'</i>, Publication 1915, February 2021</p> <p>EPA Victoria <i>'Contaminated land: understanding section 35 of the Environmental Protection Act 2017'</i>, Publication 1940, February 2021</p> <p>EPA Victoria <i>'Proposed methodology for deriving background level concentrations when assessing potentially contaminated land'</i>, Publication 1936, January 2021</p> <p>EPA Victoria <i>'Industry Guidance: supporting you to comply with the general environmental duty'</i>, Publication 1741.1, October 2020</p> <p>EPA Victoria <i>'Guide to the proposed final Environment Protection Regulations'</i>, Publication 1753.1, November 2020</p> <p>EPA Victoria <i>'New environment protection laws – summary of proposed changes most relevant to council officers'</i>, Publication 1794.1, October 2019</p> <p>EPA Victoria <i>'Factsheet: Engaging Consultants'</i>, Publication 1702, June 2018</p> <p>Department of Education and Training <i>'Assessing the soil in children's services – guidelines for environmental consultants'</i>, March 2011</p> <p>Worksafe Victoria <i>'Industry Standard: Contaminated construction sites'</i>, June 2017</p> <p>Environmental Health Unit, Department of Human Services <i>'Managing risks associated with land contamination: Guidance for councils'</i>, November 2006</p> <p>Department of Environment, Land, Water and Planning, <i>'Draft General Practice Note: Potentially Contaminated Land'</i>, July 2020</p>
Waste soil management and offsite disposal	<p>EPA Victoria <i>'Summary of proposed waste framework'</i>, Publication 1756.1, December 2020</p> <p>EPA Victoria <i>'Waste classification assessment protocol'</i>, Publication 1827.1, June 2020</p> <p>EPA Victoria <i>'Waste disposal categories – characteristics and thresholds'</i>, Publication 1828.2, March 2021</p>

Category	Document name
	<p>EPA Victoria 'Waste code transition to Environmental Protection Regulations', Publication 1967.2, June 2021</p> <p>EPA Victoria 'Managing industrial waste – your duties as a waste producer', Publication 1990, July 2021</p>
Asbestos	<p>Western Australia Department of Health 'Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia', May 2009</p> <p>WorkSafe Victoria 'Compliance Code: Managing asbestos in workplaces', December 2019</p> <p>WorkSafe Victoria 'Compliance Code: Removing asbestos in workplaces', December 2019</p>
Dangerous goods and hazardous substances	<p>WorkSafe Victoria, 'Dangerous Goods Storage and Handling Code of Practice', 2013</p> <p>WorkSafe Victoria, 'Hazardous Substances Compliance Code', 2019</p>
Working in roads and road reserves	<p>Management of Infrastructure in Road Reserves Code of Practice</p> <p>Worksite Safety – Traffic Management Code of Practice</p> <p>Operational Responsibility for Public Roads Code of Practice</p>
Discharging trade waste to sewer	<p>South East Water Trade Waste Management Policy</p>
National Guidance	<p>National Environment Protection (Assessment of Site Contamination) Measure - Amended April 2013</p> <p>Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2018). Australian and New Zealand Governments and Australian state and territory governments, Canberra ACT, Australia</p> <p>Australian Drinking Water Guidelines (2011) - Updated May 2019</p> <p>Australian Government, Guidelines for groundwater quality protection in Australia: National Water Quality Management Strategy, Department of Agriculture and Water Resources, Canberra, March 2013</p> <p>PFAS National Environmental Management Plan Version 2.0, Heads of EPA Australia and New Zealand, 2020</p> <p>Cooperative Research Centre for Contamination Assessment and Remediation of the Environment (CRC CARE)</p>