



# Site Contamination Management Policy

Policy outcome:	The City of Port Phillip will meet legislated responsibilities in relation to contaminated land.
Responsible area:	Project Delivery
Version:	Version 3.2
Date approved/adopted:	2 July 2025
Planned review date:	Desktop review 12 months after adoption and biennial thereafter

## Table of Contents

1. Purpose.....	2
2. Scope.....	2
3. Alignment to Council Plan.....	2
4. Legislative Context.....	3
4.1. Legislated responsibilities as an owner and/or manager of contaminated or potentially contaminated land.....	3
4.1.1. General environmental duty (GED) .....	3
4.1.2. Duty to manage contaminated land .....	3
4.1.3. Duty to notify of contaminated land .....	3
4.1.4. Duties to notify and respond to pollution.....	4
4.1.5. Duties to manage and dispose of industrial waste.....	4
4.2. Legislated responsibilities as a licensee of children's services .....	4
4.3. Legislated responsibilities as a Responsible Authority.....	5
4.4. Legislated responsibilities as a Planning Authority .....	5
5. Policy .....	5
6. Policy Review.....	6
7. Supplementary Policy Documents .....	6
8. Related legislation and documents .....	7
9. Definitions .....	8
10. Document history .....	9



## 1. Purpose

In Victoria, the environment is primarily protected by the *Environment Protection Act 2017* (EP Act). Historically, land and groundwater in many areas of metropolitan Melbourne including City of Port Phillip (CoPP) became contaminated through (EPA Publication 1915):

- Our industrial and manufacturing heritage
- Poor environmental practices for much of the last century
- Poor understanding of the adverse effects of contaminants previously thought benign
- Substances and practices originally thought to pose little or no risk that are later revealed as harmful.

The Site Contamination Management Policy (Policy) provides CoPP with clear principles to meet legislated responsibilities associated with contaminated and potentially contaminated land within the municipality.

## 2. Scope

The Policy is relevant to any CoPP employee who is acting as:

- an entity in management or control of contaminated or potentially contaminated land which includes:
  - Property and Assets: purchase and divestment of CoPP owned and managed land
  - Project Delivery: project managers undertaking capital works, public space redevelopment
  - Waste and city maintenance: maintenance of CoPP
  - Children's Services: Licensee of children's services
- Planning Authority under the *Planning and Environment Act 1987*

In addition, the policy applies to any CoPP employee who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste. This includes instances where CoPP contracts relevant work to a third party.

## 3. Alignment to Council Plan

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.



## 4. Legislative Context

The following section provides a summary of the legislated responsibilities of CoPP in relation to contaminated land.

### 4.1. Legislated responsibilities as an owner and/or manager of contaminated or potentially contaminated land

The EP Act 2017 established Environmental Duties which CoPP must discharge as an owner and/or manager of contaminated or potentially contaminated land.

The definition of “a person in management or control” has a specific definition in accordance with EPA guidelines (EPA Publication 1977.1) and is provided in Section 9 of this document.

It is important to note that management and/or control of land may be shared by more than one person and therefore held concurrently between two or more duty holders (EPA Publication 1977.1).

#### 4.1.1. 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.

#### 4.1.2. Duty to manage contaminated land

*“A person in management or control of contaminated land must minimise risks of harm to human health and the environment from the contaminated land so far as reasonably practicable”* (EP Act 2017, Section 39)

This duty applies regardless of who caused the land or groundwater to be contaminated or when contamination took place. It also applies regardless of whether EPA is aware of the contamination or has issued any notices (EPA Publication 1821.1).

This duty requires an entity in management or control of land to consider if the land, including groundwater, has the potential to be contaminated, and proportionately investigate any potential risks of harm that the contamination may pose to people and the environment (EPA Publication 1977.1).

#### 4.1.3. Duty to notify of contaminated land

*“A person in management or control of land must notify the Authority if the land has been contaminated by notifiable contamination as soon as practicable after the person becomes aware of, or reasonably should have become aware of, the notifiable contamination”* (Environment Protection Act, Section 40)

Triggers for ‘prescribed notifiable contamination’ as per the EP Act 2017 are established in the Environment Protection Regulations 2021 (Regulations), Part 2.1.



#### **4.1.4. 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 unauthorised deposit or escape where material harm is caused or threatened. Specifically, there is:

- A duty to take action to respond to harm caused by a pollution incident
- A duty to notify EPA Victoria of a *“leak, spill or other unintended or unauthorised deposit or escape of a substance”* (EP Act 2017, Section 30), and *“that causes or threatens to cause material harm to human health or the environment”* (EP Act 2017, Section 30).

#### **4.1.5. Duties to manage and dispose of industrial waste**

CoPP should consider its environmental duties whenever:

- Capital works or maintenance activities generate soil surplus to requirements
- CoPP requires soil to be imported to a Council owned or managed site

In accordance with the *Environment Protection Act 2017* and the *Environment Protection Regulations 2021* surplus soil is a waste, and must be categorised as one of:

- An industrial waste (surplus soil categorised as clean fill);
- Priority waste; or
- Reportable priority waste.

The specific environmental duties relevant for the waste soil is dependent on the waste category. In brief, where waste soil is generated at a site, or where soil is to be imported into a site CoPP should have consideration of the following duties:

- Duty to deposit wastes somewhere that is authorised to receive the waste under the law (i.e. a “lawful place”).
- Duty to take all reasonable steps before giving up management or control of industrial waste to another person for the purposes of transport
- Duty to identify and classify the type of industrial waste
- Duty to manage priority waste and to investigate alternative to waste disposal
- Duties and control relating to reportable priority waste

## **4.2. Legislated responsibilities as a licensee of children’s services**

As a licensee of children’s services CoPP also has a responsibility to *“ensure that every reasonable precaution is taken to protect the children from any hazard likely to cause injury”* (Children’s Services Act 1996, Section 107(1)). Soil assessment is a necessary part of addressing this responsibility of the license in considering whether the proposed location of the children’s service is considered satisfactory for that purpose (Children’s Services Act 1996, Section 10).



### 4.3. Legislated responsibilities as a Responsible Authority

The role of Responsible Authority is undertaken by the City Development team at CoPP. A Responsible Authority has a legislated meaning which has been provided in the definitions (Section 9) of this policy.

As a Responsible Authority CoPP has the legislated responsibilities in relation to contaminated land to:

- “consider any significant effects which the development may have on the environment or which the environment may have on the use or development for a planning permit application” (Planning and Environment Act 1987 Section 60(1)(e))
- Ensure that contaminated and potentially contaminated land is used and developed safely as required in Victorian Planning Provisions, Clause 14.03-1S, 45.03, 65.01, 73.01

### 4.4. Legislated responsibilities as a Planning Authority

The role of the Planning Authority is undertaken by the City Planning and Sustainability team within CoPP. A Planning Authority “is any person or body given the power to prepare a planning scheme or an amendment to a planning scheme” (<https://vpa.vic.gov.au/glossary/#glossaryP>). In doing so, CoPP has the following responsibilities in relation to land contamination:

- Must take into account any significant effects which the planning scheme or amendment might have on the environment, or which the environment might have on any use or development envisaged in the scheme or amendment (Planning and Environment Act 1987 Section 13 (1), S12(2)(b))
- Must satisfy itself that the environmental conditions of that land are or will be suitable for that use when preparing an amendment which would have the effect of allowing potentially contaminated land to be used for a sensitive use, agriculture or public open space (Ministerial Directive 1 – Potentially Contaminated land)
- Must ensure that contaminated and potentially contaminated land is used and developed safely. (Victorian Planning Provisions, Clause 14.03-1S, 45.03, 65.01, 73.01)

## 5. Policy

CoPP will meet its legislated responsibilities in relation to contaminated and potentially contaminated land by:

- Eliminating, or reducing risks, as far as is reasonably practicable to employees, contractors, subcontractors and the public, who may interact with contaminated or potentially contaminated land within City of Port Phillip
- Site Contamination Management Officer has the responsibility for implementing this policy



- Implementing, maintaining and reviewing our Contaminated Land Management Framework which will be available via the intranet to all CoPP employees. The core elements of which are:
  - **The Site Contamination Risk Register:** a register maintained by the Site Contamination Management Officer which includes all land over which Council has management or control, and includes sufficient information to inform and compare contaminated land risks.
  - **The Site Contamination Management Procedures:** a collection of procedures which enable CoPP employees who interface with contaminated land in various roles to understand how to meet their legislated responsibilities.
  - **The Site Contamination Management Plans:** document(s) which outline the management requirements for land within CoPPs ownership and/or management to minimise risks arising from contaminated or potentially contaminated land.
- Maintaining a culture of consultation, communication and teamwork in all aspects of contaminated land.
- Developing and maintaining an effective approach to training to ensure all employees have sufficient skills to meet their legislated responsibilities in relation to contaminated land.
- Practicing good document control with all consultant reports related to contaminated or potentially contaminated land.

## 6. Policy Review

This Policy does not have an expiry date. This Policy should be reviewed biannually to determine if an update is required. Updates would be necessitated by changes to the legislation and subordinate instruments that impact on CoPPs roles or legislated responsibilities in relation to contaminated land. This Policy should be reviewed by a technical expert in contaminated land in Victoria (for example the Site Contamination Management Officer).

## 7. Supplementary Policy Documents

Refer to Risk Management Policy 2023 regarding eliminating, or reducing risks, as far as is reasonably practicable to employees, contractors, subcontractors and the public, who may interact with contaminated or potentially contaminated land within City of Port Phillip

Refer to Records and Information Policy to understand good document control.

Refer to Asset Management Policy in relation to the purchase and divestment of CoPP owned and managed land.

Refer to Asset Management Plan in relation to the management of CoPP owned and managed land, specifically sports and recreation spaces and play spaces.



## 8. Related legislation and documents

Section 4 provides the legislative context for the development of the Policy. This section summarises the legislation considered:

Acts:

- *Children's Services Act 1996*
- *Crown Land (Reserves) Act 1978*
- *Environment Protection Act 1970* (superseded)
- *Environment Protection Act 2017*
- *Environment Protection Amendment Act 2018*
- *National Environment Protection Council Act 1994*
- *Planning and Environment Act 1987*
- *Victorian Planning Authority Act 2017*

Regulations and Gazetted Documents:

- ANZG (2018) Australian and New Zealand Guidelines for Fresh and Marine Water Quality.
- Port Phillip Planning Scheme, Clause 13.04-1S, Contaminated and potentially contaminated land
- Port Phillip Planning Scheme, Clause 21.02-06, Environmental Risk
- Port Phillip Planning Scheme, Clause 45.03, Environmental Audit Overlay
- Ministerial Direction No.1, Potentially Contaminated Land
- Ministerial Direction on the Preparation and Content of Amendments that may significantly impact the environment, amenity and human health and ministerial requirement for information for authorisation or preparation of amendments that may significantly impact the environment, amenity and human health.
- *National Environment Protection (Assessment of Site Contamination) Measure* (ASC NEPM) 1999 (Amended April 2013), National Environment Protection Council (NEPC) 2013, Canberra
- State Environment Protection Policy (Waters) 2018 (Superseded)
- Victorian Government, Environment Protection Regulations 2021
- Victorian Government, Environment Reference Standard 2021
- Victorian Planning Provisions, Clause 14.03-1S, Contaminated and Potentially Contaminated Land
- Victorian Planning Provisions, Clause 13.07-1S, Land Use Compatibility
- Victorian Planning Provisions, Clause 45.03, Environmental Audit Overlay
- Victorian Planning Provisions, Clause 65.01, Approval of an Application or Plan
- Victorian Planning Provisions, Clause 73.01, Operational Provisions- Meaning of Terms
- Victorian Planning Provisions, Clause 53.10, Use and Activities with Potential Adverse Impacts





**Please note:** consideration was given to a wide array of guidance documents produced by the EPA Victoria and the State Government. These documents have not been listed as versions change frequently potentially creating an undue administrative burden to maintain document currency.

## 9. Definitions

Term	Definition
<b>An entity in management or control</b>	<p>A person in management or control of contaminated land can include (EPA Publication 1977.1):</p> <ul style="list-style-type: none"> <li>• the registered owner of the land</li> <li>• a person with a proprietary right to occupy the land, such as a tenant under a lease agreement or a licensee under a licence agreement</li> <li>• a person holding a right of way or entry onto land (for example, a utility company with buried infrastructure)</li> <li>• a person who is authorised to occupy the site under a construction agreement (for example, a principal contractor)</li> <li>• a committee of management or control appointed under the Crown Land Reserves Act 1978.</li> </ul> <p>Management and/or control of land may be shared by more than one person and therefore held concurrently between two or more duty holders (EPA Publication 1977.1).</p>
<b>Contaminated land</b>	<p><i>“Land is contaminated if waste, a chemical substance or a prescribed substance is present on or under the surface of the land, and the waste, chemical substance or prescribed substance –</i></p> <p><i>(a) is present in a concentration above the background level; and</i></p> <p><i>(b) creates a risk of harm to human health of the environment”</i></p> <p>Environment Protection Act 2017, Part 3.5, Division 1, Section 35</p>
<b>Land</b>	<p><i>“Land means any land, whether publicly or privately owned, and includes – (a) any buildings or other structures permanently affixed to the land; and (b) groundwater”</i> Environment Protection Act 2017, Section 3 (1)</p>
<b>Potentially contaminated land</b>	<p><i>“Land:</i></p> <p><i>(a) used or known to have been used for industry or mining;</i></p> <p><i>(b) used or known to have been used for the storage of chemicals, gas, waste, or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land); or</i></p> <p><i>(c) where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land”</i></p> <p><i>Land uses with potential to contaminate land are provided in Table 2 of the Planning Practice Note 30.”</i></p> <p>Ministerial Direction No.1 – Potentially Contaminated Land          Clause 73.01 General Terms of the Victorian Planning Provisions          Planning Practice Note 30</p>





Term	Definition
<b>Responsible Authority</b>	<p>Responsible Authority has a legislated meaning which includes administration and enforcement of:</p> <ul style="list-style-type: none"> <li>• “a <i>planning scheme</i>”; (Planning and Environment Act 1987, Section 13 (1), (a))</li> <li>• “<i>provisions of a planning scheme</i>” (Planning and Environment Act 1987, Section 13 (1), (b))</li> <li>• “a <i>planning scheme or a provision of a planning scheme in relation to an area of land covered by the planning scheme</i>” (Planning and Environment Act 1987, Section 13 (1), (c))</li> <li>• “a <i>planning scheme or a provision of a planning scheme in relation to a type of use or development</i>” (Planning and Environment Act 1987, Section 13 (1), (d))</li> <li>• “a <i>planning scheme or a provision of a planning scheme in relation to a class or classes of application</i>” (Planning and Environment Act 1987, Section 13 (1), (e))</li> </ul>
<b>Sensitive land use</b>	Residential use, childcare centre, kindergarten, pre-school centre, primary school (even if ancillary to another use) (Planning Practice Note 30)

## 10. Document history

Version	Date of approval / adoption	Changes made	ECM record
1	13/05/2020	Document superseded City of Port Phillip Soil Contamination Management Policy 2004	E74139/2
1	2/6/2020	<ul style="list-style-type: none"> <li>• Expansion of ‘Outcomes’ to include those beyond compliance.</li> <li>• Updates to ‘Responsibilities’.</li> <li>• Better articulation of record keeping</li> <li>• Inclusion of ‘Communication and engagement’ section.</li> </ul>	E74139/20



Version	Date of approval / adoption	Changes made	ECM record
2	28/06/2021	<ul style="list-style-type: none"> <li>• Updates to 'Definitions'</li> <li>• Updates to relevant legislation</li> <li>• Reorganisation of some information</li> <li>• Minor editorial changes</li> </ul>	E102917/21
2	30/6/2021	<ul style="list-style-type: none"> <li>• Updates to Table 2: 'Responsibilities of roles'</li> <li>• Updates to 'Relevant legislation and guidance'</li> </ul>	E102917/21
3	2 July 2025	Environment Protection Act 2017 came into force in 2021 and dramatically changed the regulatory environment for contaminated land. The Policy was rewritten to reflect these changes.	TBD