

C14.0 Potentially Contaminated Land Code

C14.1 Purpose of the Potentially Contaminated Land Code

The purpose of the Potentially Contaminated Land Code is:

C14.1.1 To ensure that use or development of potentially contaminated land does not adversely impact on human health or the environment.

C14.2 Application of this Code

C14.2.1 This code applies to a sensitive use, a use listed in a Use Class in Table C14.1 as one of the specified uses, or development, on land that:

- (a) is shown on an overlay map in the relevant Local Provisions Schedule as within an area of potentially contaminated land;
- (b) the planning authority knows to have been used for a potentially contaminating activity, by reference to:
 - (i) a notice issued in accordance with Part 5A of the *Environmental Management and Pollution Control Act 1994*; or
 - (ii) a previous permit;
- (c) the planning authority reasonably suspects may be contaminated by reference to:
 - (i) a notice issued in accordance with Part 5A of the *Environmental Management and Pollution Control Act 1994*; or
 - (ii) advice from the Director that it is likely that contamination has migrated onto the land; or
- (d) has been identified as having been used, or may have been used, for a potentially contaminating activity, or as land onto which it is likely that contamination from a potentially contaminating activity has migrated:
 - (i) in a report lodged with the application; or
 - (ii) in a report prepared by a site contamination practitioner in response to a request under section 54 of the Act.

C14.2.2 The planning authority may only make a request under clause C14.2.1(d)(ii) where it reasonably believes, based on information in its possession that the land has been used, or may have been used, for one of the potentially contaminating activities listed in Table C14.2, or as land onto which it is likely that contamination from a potentially contaminating activity has migrated.

Table C14.1 Specified Use

Use Class	Specified Use
Passive Recreation	If for public parks, gardens and playgrounds.
Sports and Recreation	If for outdoor recreation facilities.

C14.3 Definition of Terms

C14.3.1 In this code, unless the contrary intention appears:

Term	Definition
background concentration	means as defined in Part 5A of the <i>Environmental Management and Pollution Control Act 1994</i> .
contaminated	means 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 concentration, and represents or potentially represents an adverse impact on human health or the environment.
environmental site assessment	means a report prepared by a site contamination practitioner or a person approved by the Director for the purpose of this code on the nature, extent and levels of existing contamination and the actual or potential risk to human health or the environment, on or off the site, resulting from that contamination, prepared in accordance with the <i>National Environment Protection (Assessment of Site Contamination) Measure 1999</i> .
Director	means as defined in the <i>Environmental Management and Pollution Control Act 1994</i> .
person approved by the Director for the purpose of this code	means a contaminated land auditor accredited under the following legislation: (a) <i>Contaminated Land Management Act 1997</i> (NSW); (b) <i>Environment Protection Act 1993</i> (SA); (c) <i>Environment Protection Act 1970</i> (Vic); (d) <i>Contaminated Sites Act 2003</i> (WA); or (e) <i>Environment Protection Act 1994</i> (Qld), and approved by the Director to provide certification of land in Tasmania.
potentially contaminating activity	means an activity listed in Table C14.2 as a potentially contaminating activity that is not directly associated with and subservient to Residential.
potentially contaminated land	means land: (a) shown on an overlay map in the relevant Local Provisions Schedule as potentially contaminated land; (b) the planning authority knows to have been used for a potentially contaminating activity in accordance with C14.2.1(b); (c) the planning authority reasonably suspects may be contaminated in accordance with C14.2.1(c); or (d) identified in a report for the purposes of C14.2.1(d).
site history	means the collection of information from historical sources to determine if a site is likely to have been impacted by a potentially contaminating activity.
site contamination practitioner	means a person who is certified under a contaminated land practitioners scheme that is endorsed by the Director.

C14.4 Use or Development Exempt from this Code

C14.4.1 The following use or development is exempt from this code:

- (a) development:
 - (i) to investigate whether a potentially contaminating activity has contaminated the land; or
 - (ii) in accordance with a notice issued in accordance with Part 5A of the *Environmental Management and Pollution Control Act 1994*;
- (b) development that does not involve disturbance of more than 1m² of land;
- (c) any use or development where a site history prepared by a site contamination practitioner or a person approved by the Director for the purpose of this code, has been provided to the planning authority and that site history confirms potentially contaminating activities did not contaminate the site;
- (d) any use or development that the Director, a site contamination practitioner, or a person approved by the Director for the purpose of this code, having regard to the applicable standards in this code, has issued a certificate stating that there is insufficient increase in risk from contamination to warrant any specific remediation and protection measures; or
- (e) any use or development that operates in accordance with an approval granted as a result of an assessment of that use or development by the Board of the Environment Protection Authority.

C14.5 Use Standards

C14.5.1 Suitability for intended use

Objective:	That potentially contaminated land is suitable for a sensitive use or a Use Class listed in Table C14.1 and is one of the specified uses.	
Acceptable solutions		Performance Criteria
<p>A1</p> <p>For a sensitive use, or a specified use listed in Table C14.1, the Director, or a person approved by the Director for the purpose of this code:</p> <p>(a) certifies that land is suitable for the intended use; or</p> <p>(b) certifies a plan to manage contamination and associated risk to human health or the environment, so that the land is suitable for the intended use, or</p> <p>if in relation to redevelopment on land subject to the <i>Macquarie Point Development Corporation Act 2012</i>, the intended use must be in accordance with a certificate that has been or will be granted by an accredited environmental auditor.</p>	<p>P1</p> <p>For a sensitive use, or a specified use listed in Table C14.1, the land is suitable for the intended use, having regard to:</p> <p>(a) an environmental site assessment that demonstrates there is no evidence the land is contaminated;</p> <p>(b) an environmental site assessment that demonstrates that the level of contamination does not present a risk to human health or the environment; or</p> <p>(c) an environmental site assessment that includes a plan, to manage contamination and associated risk to human health or the environment that includes:</p> <p style="margin-left: 20px;">(i) any specific remediation and protection measures required to be implemented before any use commences; and</p> <p style="margin-left: 20px;">(ii) a statement that the land will be suitable for the intended use.</p>	

C14.6 Development Standards for Building and Works

C14.6.1 Excavation works, excluding land subject to the *Macquarie Point Development Corporation Act 2012*

Objective:	That works involving excavation of potentially contaminated land, excluding on land subject to the <i>Macquarie Point Development Corporation Act 2012</i> , do not adversely impact on human health or the environment.	
Acceptable solutions		Performance Criteria
<p>A1</p> <p>Excavation, excluding on land subject to the <i>Macquarie Point Development Corporation Act 2012</i>, must involve less than 250m³ of site disturbance.</p>	<p>P1</p> <p>Excavation, excluding on land subject to the <i>Macquarie Point Development Corporation Act 2012</i>, must not have an adverse impact on human health or the environment, having regard to:</p> <ul style="list-style-type: none"> (a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; (b) an environmental site assessment that demonstrates that the level of contamination does not present a risk to human health or the environment; or (c) an environmental site assessment, including a plan to manage contamination and associated risk to human health and the environment, that includes: <ul style="list-style-type: none"> (i) any specific remediation and protection measures required to be implemented before excavation commences; and (ii) a statement that the excavation does not adversely impact on human health or the environment. 	

C14.6.2 Redevelopment on land subject to the *Macquarie Point Development Corporation Act 2012*

Objective:	That redevelopment of land subject to the <i>Macquarie Point Development Corporation Act 2012</i> occurs to a standard that is satisfactory for the purposes of redevelopment of the site, and does not have an adverse impact on human health or the environment, in accordance with section 39F of the <i>Macquarie Point Development Corporation Act 2012</i> .
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Redevelopment of land subject to the <i>Macquarie Point Development Corporation Act 2012</i> must be in accordance with a certificate that has been or will be granted by an accredited environmental auditor.</p>	<p>P1</p> <p>No Performance Criterion.</p>

C14.7 Development Standards for Subdivision

C14.7.1 Subdivision for sensitive use

Objective:	That subdivision of potentially contaminated land that allows for a sensitive use or a Use Class listed in Table C14.1, and is one of the specified uses, does not adversely impact on human health or the environment.
Acceptable solutions	Performance Criteria
<p>A1</p> <p>For subdivision of land, the Director, or a person approved by the Director for the purpose of this code:</p> <p>(a) certifies that the land is suitable for the intended use or development; or</p> <p>(b) certifies a plan to manage contamination and associated risk to human health or the environment, so that the subdivision does not adversely impact on human health or the environment and is suitable for its intended use or development.</p>	<p>P1</p> <p>Subdivision of potentially contaminated land does not adversely impact on human health or the environment and is suitable for its intended use or development, having regard to:</p> <p>(a) an environmental site assessment that demonstrates there is no evidence the land is contaminated;</p> <p>(b) an environmental site assessment that demonstrates that the level of contamination does not present a risk to human health or the environment; or</p> <p>(c) an environmental site assessment, including a plan to manage contamination and associated risk to human health and the environment, that includes:</p> <p>(i) any specific remediation and protection measures required to be implemented before any use or development commences; and</p> <p>(ii) a statement that the land is suitable for the intended use or development.</p>

Table C14.2 Potentially Contaminating Activities

Potentially Contaminating Activity	Potentially Contaminating Activity
Acid / alkali plant and formulation	Mineral processing
Ammunition manufacture and usage (e.g. shooting ranges)	Mine sites involving waste rock or tailings deposits
Asbestos production, handling or disposal	Oil or gas production or refining
Asphalt/bitumen manufacturing	Paint manufacture and formulation
Battery manufacturing or recycling	Pesticide manufacture and formulation
Boat/ship building, marinas, slip ways and associated boat yards	Petroleum product or oil storage
Boiler or kiln usage	Pharmaceutical manufacture and formulation
Chemical manufacture and formulation (e.g. fertilisers, paints, pesticides, photography, plastics, solvents)	Power stations
Commercial engine and machinery repair sites	Printing
Drum conditioning works	Radio-active material usage (e.g. hospitals)
Dry cleaning establishments	Railway yards
Electrical transformers	Scrap yards and recycling facilities
Ethanol production plants	Sewage treatment plants
Explosives industries	Sheep and cattle dips
Fertiliser manufacturing plants	Sites of fires involving hazardous materials, including firefighting foam use
Fill material imported onto a site from a potentially contaminated source	Sites of incidents involving release of hazardous materials
Foundry operations	Spray painting industries
Gas works	Spray storage and mixing sites (e.g. for orchards)
Herbicide manufacture	Tanning and associated trades
Industrial activities involving hazardous chemicals in significant quantities	Textile operations

Potentially Contaminating Activity	Potentially Contaminating Activity
Iron and steel works	Tyre manufacturing and retreading works
Landfill sites, including on-site waste disposal and refuse pits	Wood preservation and storage or cutting of treated timber
Metal smelting, refining or finishing	Wool scouring
Metal treatments (e.g. electroplating) and abrasive blasting	