

E2.0 Potentially Contaminated Land Code

E2.1 Purpose of the Potentially Contaminated Land Code

E2.1.1 The purpose of this provision is to:

- (a) ensure that use or development of potentially contaminated land does not adversely impact on human health or the environment.

E2.2 Application of this Code

E2.2.1 This Code applies to:

- (a) a use, on potentially contaminated land, that is a sensitive use, or a use listed in a use class in Table E2.2.1 and is one of the uses specified as a qualification; or
- (b) development on potentially contaminated land.

Table E2.2.1 - Use Table

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

E2.2.2 A permit is required for all use and development to which this Code applies that is not exempt from this Code under clause E2.4.

E2.3 Definition of Terms

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 an suitably qualified person 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 National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended 16 May 2013.
Director	means as defined in the <i>Environmental Management and Pollution Control Act 1994</i> .
potentially contaminating activity	means an activity listed in Table E2.2 as a potentially contaminating activity, other than an activity carried out as ancillary to a Residential use class.
Potentially contaminated land	means land that is, or adjoins, land that the applicant or the planning authority:

	<p>(a) knows to have been used for a potentially contaminating activity by reference to:–</p> <p>(i) a notice issued in accordance with Part 5A of the <i>Environmental Management and Pollution Control Act 1994</i>; or</p> <p>(ii) a previous permit ; or</p> <p>(b) ought reasonably to have known was used for a potentially contaminating activity.</p>
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.
suitably qualified person (contaminated land)	means a person who, in the opinion of the planning authority, meets the criteria set out in section 6 of Schedule B9 of the National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended 16 May 2013.

E2.4 Use or Development exempt from this Code

E2.4.1 The following use and development is exempt from this Code.

E2.4.2 Development:

- (a) to investigate potentially contaminated land; or
- (b) in accordance with a notice issued in accordance with Part 5A of the *Environmental Management and Pollution Control Act 1994*.

E2.4.3 Any use or development where a site history prepared by an suitably qualified person has been provided to the planning authority that confirms potentially contaminating activities did not impact the site.

E2.4.4 Development that does not involve disturbance of more than 1m² of land.

E2.4.5 Any use or development that the Director, or a person approved by the Director for the purpose of this Code, having regard to the objective stated in all 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.

E2.5 Use Standards

Objective:	
To ensure that potentially contaminated land is suitable for the intended use	
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>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</p> <p>(b) approves a plan to manage contamination and associated risk to human health or the environment that will ensure the land is suitable for the intended use.</p>	<p>P1</p> <p>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; or</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) a plan to manage contamination and associated risk to human health or the environment that includes:</p> <p>(i) an environmental site assessment;</p> <p>(ii) any specific remediation and protection measures required to be implemented before any use commences; and</p> <p>(iii) a statement that the land is suitable for the intended use.</p>

E2.6 Development Standards

E2.6.1 Subdivision

Objective:	
To ensure that subdivision of potentially contaminated land does not adversely impact on human health or the environment and is suitable for its intended use.	
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>P1</p> <p>Subdivision does not adversely impact on health and the environment and is suitable for its intended use, having regard to:</p>

<p>(a) certifies that the land is suitable for the intended use; or</p> <p>(b) approves a plan to manage contamination and associated risk to human health or the environment, that will ensure the subdivision does not adversely impact on health or the environment and is suitable for its intended use.</p>	<p>(a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; or</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) a plan to manage contamination and associated risk to human health and the environment that includes:</p> <ul style="list-style-type: none"> (i) an environmental site assessment; (ii) any specific remediation and protection measures required to be implemented before any use or development commences; and (iii) a statement that the land is suitable for the intended use or development.
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E2.6.2 Excavation

Objective:	
To ensure that works involving excavation of potentially contaminated land does not adversely impact on human health or the environment.	
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>No acceptable solution.</p>	<p>P1</p> <p>Excavation does not adversely impact on health and 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; or (b) a plan to manage contamination and associated risk to human health and the environment that includes: <ul style="list-style-type: none"> (i) an environmental site assessment; (ii) any specific remediation and protection measures required to be implemented before excavation commences; and

	(iii) a statement that the excavation does not adversely impact on human health or the environment.
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Table E2.2 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 formulation and manufacture
Battery manufacturing or recycling	Pesticide manufacture and formulation sites
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
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	