

10e Land contamination

Explanatory outline

Part 10e outlines procedures and assessment criteria relating to land contamination.

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10e.1 Application of this part

This part applies to development described in Column 1 when carried out on land described in Column 2.

Column 1:	Type of development	Column 2:	Applicable land
	Any type of development applicable to <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> regarding contaminated land		Any land applicable to <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> regarding contaminated and/or identified on Council's Contaminated Land Information System/Register.

10e.2 Objectives

The objectives of this part are to:

1. ensure that changes in land use will not increase the risk to human health or the environment
2. consider the likelihood of land contamination as early as possible in the planning and development control process
3. ensure that Council exercises its functions relating to the development of contaminated land with a reasonable standard of care and diligence

10e.3 Relevant planning instruments & legislation

The *Upper Hunter Local Environmental Plan 2013* is relevant to development to which this part applies.

The following also apply:

- *Contaminated Land Management Act 1997 and Regulation 2013*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*

Further planning instruments and legislation may also be relevant.

In the event of any inconsistency, the provisions of any of the above will prevail over requirements or criteria contained in this part.

10e.4 State Government Guidelines relating to land contamination

SEPP (Resilience and Hazards) has a companion document *Managing Land Contamination - Planning Guidelines (NSW Environment Protection Authority, 1998)*. This document outlines the processes of identifying, evaluating and remediating contaminated land and is the latest version (early 2020) of the 'NSW EPA current guidelines' that are referred to in this part.



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10e.5 Contaminated Land Policy

Council's processes of identifying, evaluating and remediating contaminated land are given in Council's *Upper Hunter Contaminated Land Policy 2017*.

Various development assessment procedures relating to contaminated land are contained in that document, and this DCP part makes reference to that document.

10e.6 Supporting plans & documentation

Development applications that are subject to this part should be supported by the following plans and documentation.

Item	When required	Plans or information to be provided
A. General requirements	All applications	Refer to part 2 Preparing and lodging a development application .
B. Contaminated land report	All applications subject to this part	<p>Report and accompanying plans, in accordance with NSW EPA current guidelines, including a summary report synthesising key findings and recommendations.</p> <p>The following may also be required, in accordance with NSW EPA current guidelines and with <i>Upper Hunter Contaminated Land Policy 2017</i>:</p> <ul style="list-style-type: none"> • Preliminary Site Investigation • Detailed Site Investigation • Remedial Action Plan <p>All reports must be prepared by an appropriately qualified and certified Environmental Consultant, suitably certified as per the details contained in <i>Upper Hunter Contaminated Land Policy 2017</i>.</p>

10e.7 Assessment criteria

A performance-based approach will be adopted in the assessment of development applications. Applications will be assessed according to the extent to which the outcomes specified in the left-hand column of the following table will be satisfied or achieved by the design, construction or operation of the proposal.

The design guidelines specified in the right-hand column indicate design and best practice solutions by which the required outcomes can be met. They do not preclude other solutions that may be suitable under particular local circumstances. All proposals will be considered on merit.

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Outcomes to be achieved

Design guidelines

A. Land contamination

- Developments are assessed in accordance with:
 - *State Environmental Planning Policy (Resilience and Hazards) 2021*
 - NSW Environment Protection Authority, 1998: *'Managing Land Contamination Planning Guidelines'* (or current updated version)
 - *Upper Hunter Contaminated Land Policy 2017*
 - Any other relevant *Guidelines* produced by the NSW EPA -as given at <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>

10e.8 Supplementary guidance

The following documents or reference materials provide further advice or information that is relevant to this part.

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- NSW Environment Protection Authority:
 - *Managing Land Contamination Planning Guidelines* - <http://www.epa.nsw.gov.au/clm/planning.htm>
 - Guidelines as given at <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>
- *Upper Hunter Contaminated Land Policy 2017*