



Register of Contaminated Land Consent Conditions



Regional Contaminated Land Capacity Building Program



Proudly led by the Councils of the Hunter Region

This publication was produced by the Hunter Joint Organisation with the assistance of StellaNord Consulting:
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Contaminated Land Management Program



Acknowledgement of Country

The Hunter Joint Organisation acknowledges the country and history of the traditional custodians of the lands upon which we work and live. We pay our respects to the Elders past, present and emerging, of our region, and of Australia.

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Foreword

Contaminated land is a complex and technical area requiring specialist consideration to ensure it does not significantly impact health of the community and the environment. Investigating and managing contamination through the Development Application (DA) Process is one of the primary means through which councils meet their legislative responsibilities for identifying, evaluating and managing contaminated land. This document (the Register) provides model “Requests for Information” and “Conditions of Development Consent” that can be used by council staff when assessing and conditioning development applications involving contaminated land requirements.

Clause 2 of Schedule 6 of the Environmental Planning and Assessment Act 1979, provides that planning authorities who act substantially in accordance with the Managing Land Contamination Planning Guidelines are taken to have acted in good faith. This means that before a planning authority can be found negligent of an act or omission related to a particular planning function, it must be shown that they did not substantially comply with the Managing Land Contamination Planning Guidelines. The application of this Register supports councils to act in “good faith” with their legislative obligations, and ensures that assessment, remediation, validation, monitoring and ongoing management of contamination is completed in accordance with the requirements of the relevant legislation and standards.

It has been developed collaboratively with staff from councils participating in the Contaminated Land Council Regional Capacity Building Program, and has undergone processes of both technical (planning and contaminated land expertise) and legal review prior to publication.

Conditions included in the Register were developed based on the principles of the Hunter JO (2023) guideline Developing Quality Conditions of Consent, available at the Hunter Joint Organisation contaminated land webpage (<https://www.hunterjo.com.au/projects/regional-contaminated-land-program/>).

The Register forms part of a series of guides and resources, developed as supporting documents to the Model Contaminated Land Policy – Land Use Planning (Hunter Joint Organisation, 2023). Figure 1 presents the Register in the context of the document series.

The Register is designed to:

- a) Provide a consistent approach by councils in the Hunter Region to the assessment and management of contaminated land through the development assessment process; and
- b) Ensure conditions of consent are appropriately worded to meet planning requirements and are enforceable in law.

NOTE:

The Conditions included in this Register reflect the policy statements included in the Model Regional Contaminated Land Policy - Land Use Planning (Hunter Joint Organisation, 2023). Where Council has amended the Model Regional Policy to develop their local Contaminated Land Policy, care should be taken to ensure the application of model wording included in this Register of Conditions reflect local policy directions and statements.

How to use this Register

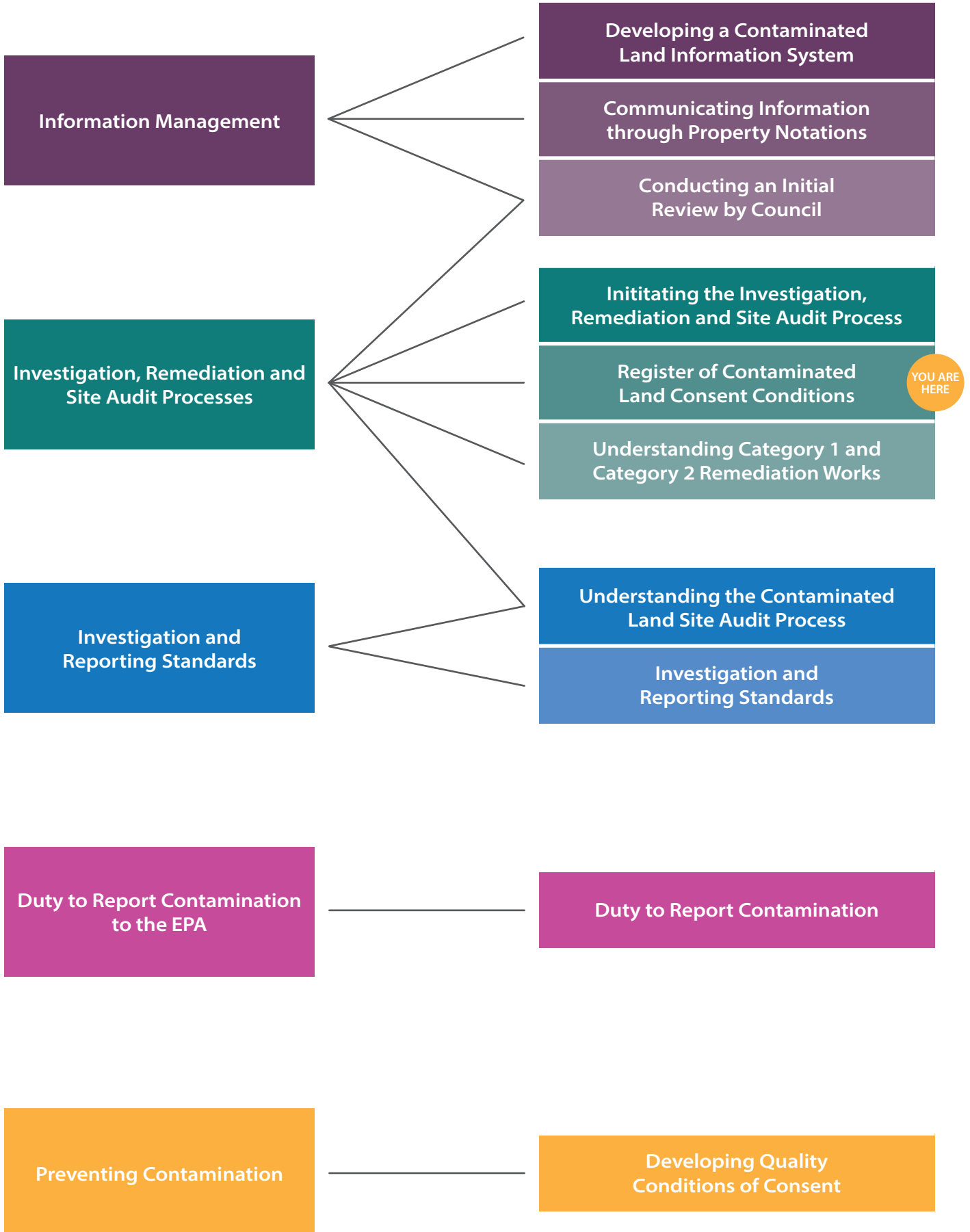
The Register is structured to reflect the contaminated land investigation and remediation process (Contaminated Land Process) established by national standards and NSW legislation (refer to Section 1.2). For each stage, the Register provides:

Contextual information	This describes the purpose of the stage, and the nature and extent of information required by council to adequately inform decision making.
Model text for “Requests for Information” or “Conditions of Consent”.	<p>This wording can be used by council staff to construct “Requests for Information” or “Conditions of Consent” appropriate to the development application it is considering.</p> <p>Model text is provided in a table format.</p> <p>[Red text] means that wording needs to be adapted to reflect information specific to the council area or development application.</p>
Advisory Notes	<p>These provide specific advice or notes for the consideration of council Assessors when selecting or adapting the model wording.</p> <p>The notes are for council purposes only. They are not to be included in Requests for Information or Conditions of Consent issued to the development application Proponent.</p> <div data-bbox="585 1223 1327 1375" style="border: 1px solid black; padding: 10px; text-align: center; margin: 20px auto; width: fit-content;"> <p>Advisory Notes for the assessor are provided in boxes</p> </div>

Councils may also choose to incorporate the model conditions provided into their already established local registers and/or databases of standard consent conditions.

Focus Areas

Supporting Resources and Guides



A large pile of garbage, including plastic bags, cardboard, and other debris, under a blue sky with white clouds. The text 'Part One' is overlaid on the bottom left of the image.

Part One

Part 1: Introduction

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Introduction

Management of contaminated land is essential to protect human health and the environment. Since land contamination can restrict development and use of land, there are also economic, legal and planning implications for the community and for regulatory authorities.

In NSW, contaminated land matters are regulated through two avenues. Contamination can be declared “significant enough to warrant regulation” by NSW EPA under the Contaminated Land Management Act 1997 (CLM Act). The NSW EPA is the regulatory authority for such contamination.

For other sites, councils (and other consent authorities) are the regulators through the planning and development process.

1.1 Councils Obligations as the Regulatory Authority

When carrying out land use planning functions, council must consider the possibility that the previous and/or current land uses, and/or a nearby land use, has caused contamination of the site, and the potential risk to human health and the environment from that contamination.

The National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 2013), volume 1, Section 5 (Planning and Development) states:

“Authorities of participating jurisdictions (at local and State government level) that consent to developments, or changes in land use, should ensure a site that is being considered for development or a change in land use, and that the authorities ought reasonably know if it has a history of use that is indicative of potential contamination, is suitable for its intended use.”

This is consistent with the more specific requirements included in SEPP (R&H) cl 4.6:

“Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is—
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—
- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge)."

Where council has reasons to believe contamination may be present on a site, and could pose a risk to human health and/or the environment in the proposed land use scenario, the Contaminated Land Process is triggered.

1.1.1. Limitations of this document – Planning Proposals

This register contains standard wordings and information relating to development applications and excludes rezoning planning proposals. However, the context relating to the Contaminated Land Process is also relevant to planning proposals.

It should be noted that requirements around rezoning have been removed from the SEPP. Considerations for rezonings are now included in the Ministerial Direction 4.4 Remediation of Land under a list of directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the Environmental Planning and Assessment Act 1979. The Direction requires the planning proposal authority to consider whether the land is contaminated for certain planning proposals. If the land is contaminated, the planning proposal authority needs to be satisfied that it can or will be made suitable as part of the Local Environmental Plan (LEP) process. It may include provisions in an LEP to satisfy this.

1.1.2. Copyright for Contaminated Land Reports

Although not directly related to the DA process, the contaminated land reports provided to Council as part of the DA process may in the future be subject to the mandatory proactive release requirements of the Government Information (Public Access) Act 2009 (GIPA Act) and the Government Information (Public Access) Regulation 2018 (GIPA Regulation). Compliance with the GIPA Act and Regulation does not require or permit the release of information by Council that would constitute an infringement of copyright. This means that if providing access to information would breach copyright, then access cannot be provided in this manner. For example, this could include providing a copy or reproduction (paper or electronic) of a record such as a contaminated land report.

A factsheet about the GIPA Act and copyright is available here: <https://www.ipc.nsw.gov.au/fact-sheet-gipa-act-and-copyright>

The factsheet provides several options available to facilitate the release of material without infringing the copyright. One suggested avenue is to seek consent during the DA process. The DA applicant could obtain permission from the copyright owner (e.g. the Consultant) to make multiple copies of the records (e.g. the report). The DA applicant could then provide these copies to council for their use under the GIPA Act. This approach is contingent upon permission being given from the copyright owner.

To highlight this, the following wording is included throughout the templates in this document for Councils' consideration, where a report is requested:

"All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009."

Where Council is unable to obtain the copyright owners consent to reproduce the copyright work requested in a GIPA Application, Council may invite the application to inspect the original copyright material held by Council in order to satisfy the access requirements under the GIPA Act. However, the original copyright material must not be reproduced in any way.

1.2 The Contaminated Land Process

The Contaminated Land Process is outlined in the National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 2013), and in several guidelines and technical notes produced or adopted by the NSW EPA under the powers provided to it in the Contaminated Land Management Act 1997.

The process includes several stages of investigations and actions. The level ultimately required is determined by the circumstances and outcomes from the previous stage.

Following an initial review by council indicating that contamination is or may be present, the potential stages of the Contaminated Land Process are:

1. Preliminary site investigation (PSI)
2. Sampling and analysis quality plan (SAQP)
3. Detailed site investigation (DSI)
4. Site specific risk assessment and modelling
5. Remedial action plan (RAP)
6. Site remediation and validation
7. Long-term environmental management plan / Ongoing environmental management plan (LTEMP / OEMP)

NOTES:

- **While largely consistent with the Contaminated Land Process, there are specific guidelines and technical notes outlining the process required for sites containing Underground Petroleum Storage Systems (UPSS). These are included in the UPSS Regulation (2019) and must be addressed when considering development applications involving UPSS (refer Section 4).**
- **Accredited Site Auditors may be requested from the proponent to independently review all, or part, of the process and resulting reports.**

1.3 Assessing Development Applications involving Contamination

When assessing development applications, Council is required to initiate the Contaminated Land Process if it considers that land contamination may be present and could pose a risk to human health and/or the environment in the proposed land use scenario.

An Initial Evaluation is to be completed by Council; further information is available in Conducting an initial review by Council (Hunter JO, 2023). It aims to determine whether there is the potential for contamination to occur on the site and needs to be addressed during the assessment of a development application. This initial evaluation will identify whether further information is required to determine if contamination is present. Depending on the findings of this initial evaluation, council assessment staff may seek to request additional information to identify whether the site is affected by contamination and the extent of that contamination.

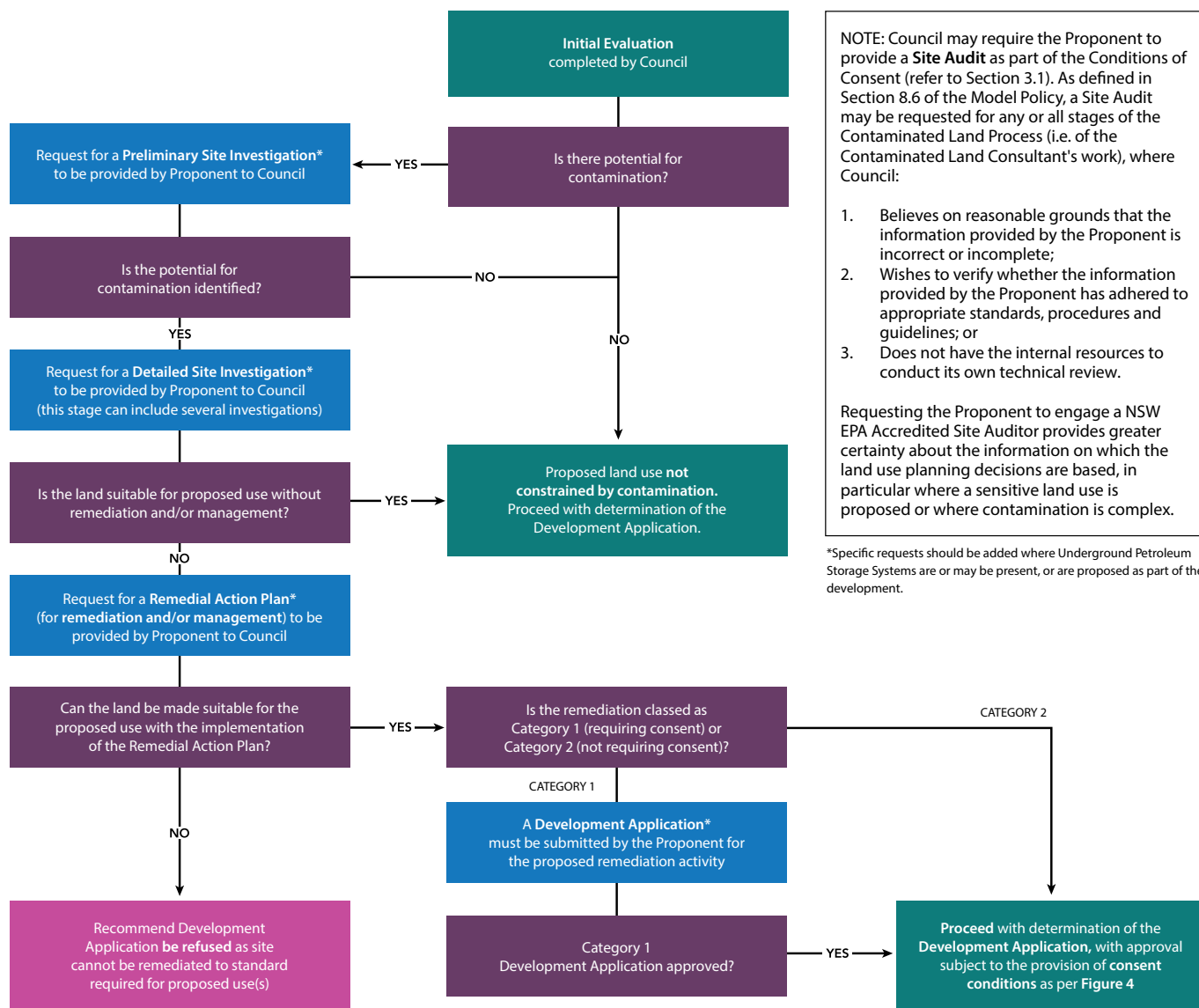
This typically occurs in two stages:

1. Request for Information; and
2. Conditions of Development Consent

1.3.1. Requests for Information

Council is unable to provide consent for a development until it is satisfied that the site is, or can be made, suitable (during the development stage with the implementation of remediation and/or management) for the proposed land use. For that reason, Site Investigation and Remedial Action Plan stages will typically be addressed through a Request for Information process rather than specifying them as conditions of development consent.

Figure 2 shows the typical process for Requests for Information. However, it should be noted that the level of information needed to ensure the land is, or can be made, suitable for the proposed land use needs to be assessed on a case-by-case basis. In some situations, the request for information may include further stages of the Contaminated Land Process than those outlined in Figure 2 if deemed necessary for Council to make a determination on the development application.



NOTE: Council may require the Proponent to provide a **Site Audit** as part of the Conditions of Consent (refer to Section 3.1). As defined in Section 8.6 of the Model Policy, a Site Audit may be requested for any or all stages of the Contaminated Land Process (i.e. of the Contaminated Land Consultant's work), where Council:

1. Believes on reasonable grounds that the information provided by the Proponent is incorrect or incomplete;
2. Wishes to verify whether the information provided by the Proponent has adhered to appropriate standards, procedures and guidelines; or
3. Does not have the internal resources to conduct its own technical review.

Requesting the Proponent to engage a NSW EPA Accredited Site Auditor provides greater certainty about the information on which the land use planning decisions are based, in particular where a sensitive land use is proposed or where contamination is complex.

*Specific requests should be added where Underground Petroleum Storage Systems are or may be present, or are proposed as part of the development.

Figure 2. Process for Determining Requests for Information

This Register provides model wording to support council staff issue Requests for Information for the following components (and associated activities) of the Contaminated Land Process:

Activity/Stage	Application	Section
Site Audit	Where council requires an audit of any or all stages of the Contaminated Land Process (i.e. of the Contaminated Land Consultant's work). A Site Audit must be undertaken by a NSW EPA accredited Site Auditor.	2.1
Overall Contaminated Land Process	Where council wishes to trigger the entire Contaminated Land Process rather than a specific request for each stage of the process.	2.2
Preliminary Site Investigation	Required to identify any past or present potentially contaminating activities; to provide a preliminary assessment of any site contamination; and if required, provide a basis for a Detailed Site Investigation.	2.3
Sampling and Analysis Quality Plan, Detailed Site Investigation, and Site-specific Risk Assessment and Modelling	Required to define the nature, extent and degree of contamination; to assess potential risk posed by contaminants to health and the environment; and to obtain sufficient information to develop a Remedial Action Plan, if required.	2.4
Remedial Action Plan	Required to set the objectives and document the process for remediation and/or management of the site.	2.5
Underground Petroleum Storage Systems (UPSS)	Specific Requests for Information to be applied where UPSS are present or proposed on a Site.	4.1 and 4.3

1.3.2. Conditions of Development Consent

Conditions of Consent accompany a development approval (issued when council is satisfied that the site is, or can be made, suitable for the proposed land use), to identify the actions and information required by the Proponent before and during construction, or that will apply to ongoing management and monitoring of the site beyond the construction stage.

Figure 3 shows the typical process through which Conditions of Consent are applied for contaminated land matters. However, it should be noted that the level of information and actions needed to ensure the land is suitable for the proposed land use needs to be assessed on a case-by-case basis. In some situations, consent may be given at an earlier or later stage of the process than indicated in Figure 3, if deemed appropriate by council.

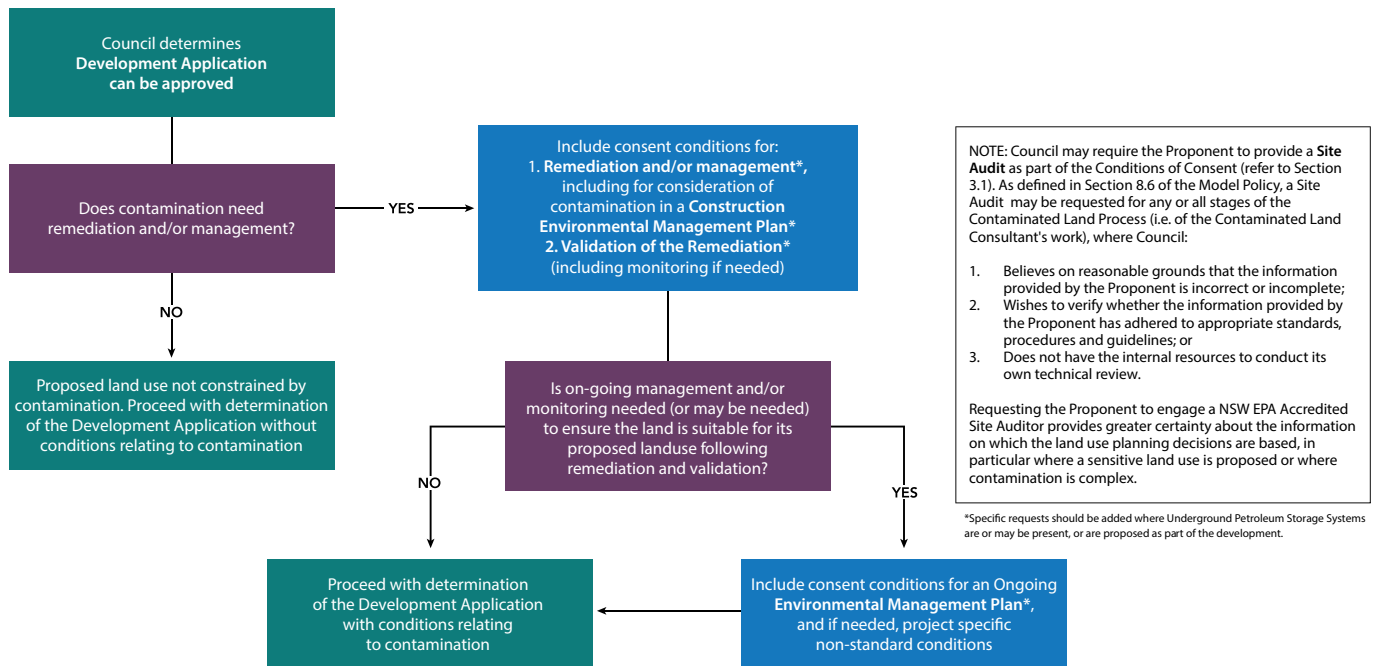


Figure 3. Process for Determining Conditions of Development Consent

This Register provides model wording to support council staff impose Conditions of Development Consent for the following components (and associated activities) of the Contaminated Land Process:

Activity/Stage	Application	Section
Site Audit	Where council requires an audit of any or all stages of the Contaminated Land Process (i.e. of the Contaminated Land Consultant's work). A Site Audit must be undertaken by a NSW EPA accredited Site Auditor.	3.1
Remediation	Applied to specify the actions and standards required to mitigate the risks associated with contamination on a site.	3.2
Validation	Applied to confirm whether the predetermined remediation objectives have been attained and whether any further remediation work or restrictions on land use are required.	3.3
Ongoing Monitoring and Management	Applied where contamination remains on site and there is uncertainty relating to its potential to migrate and/or the effectiveness of the management measures implemented to contain the contamination.	3.4
Underground Petroleum Storage Systems (UPSS)	Applied to prevent potential contamination from UPSS, both current and proposed.	4.2 and 4.3

1.4 Links to Hunter JO Model Policy

The *Model Regional Contaminated Land Policy - Land Use Planning* (Hunter JO, 2023) incorporates a number of policy requirements that can relate to one or more of the stages of the Contaminated Land Process. These aim to:

1. Ensure that all contaminated land reports provided to council exempt it from any claim for copyright that may restrict council's ability to provide the information to the public (refer section 8.2 of the Model Policy). This is to assist council meeting its obligations under the *NSW Government Information (Public Access) Act 2009*.
2. Ensure that contaminated land professionals participating in the Contaminated Land Process have the relevant qualifications, competencies and experience for investigating and managing contaminated sites (refer section 8.4 of the Model Policy). The Policy requires that contaminated land reports are prepared or reviewed and approved by an appropriately qualified and certified Environmental Consultant. The certification schemes acknowledged by the EPA are defined in the Model Policy.
3. Ensure that a Summary Report presenting project background, scope, objectives, key issues, investigation findings and recommendations, is provided with each contaminated land technical report provided to Council (refer section 8.4 of the Model Policy).
4. Confirm the requirements around the Duty to Report contamination to the NSW EPA (refer section 8.8 of the Model Policy). Given the Duty to Report is a legal obligation, there is no need for a consent condition to require a proponent to do so. However, council may wish to reinforce obligations around the Duty to Report in correspondence it provides to a Proponent, for example as a note accompanying Requests for Information or in Consent Conditions relating to site investigations, or Council may request to be informed if the proponent does indeed notify the EPA under Section 60 of the *Contaminated Land Management Act 1997*.

NOTES:

Many of the conditions included in this Register across all stages of the Contaminated Land Process will include wording that reflects these Hunter JO Model Policy statements. Where council has amended the Hunter JO Model Policy when adapting it into a council contaminated land policy, care should be taken to ensure the model wording is adapted to reflect council's local policy – not the Hunter JO Model Policy.



Part Two

Part 2: Requests for Information

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Requests for Information

2.1 Site Audit

A Site Audit is an independent review of a Contaminated Land Consultant's investigations and reports for any or all stages of the Contaminated Land Process. A Site Audit must be undertaken by a NSW EPA accredited Site Auditor, and be conducted in accordance with the *Contaminated Land Management Act 1997*. The cost of the audit is borne by the proponent. Section 4 of the Act defines a Site Audit as a review:

- a) *“that relates to management, carried out in respect of the actual or possible contamination of land; and*
- b) *that is conducted for the purpose of determining any one of the following matters:*
 - i. *the nature and extent of any contamination of the land;*
 - ii. *the nature and extent of any management of actual or possible contamination of the land;*
 - iii. *whether the land is suitable for any specified use or range of uses;*
 - iv. *what management remains necessary before the land is suitable for any specified use or range of uses; or*
 - v. *the suitability and appropriateness of a plan of management, a long-term management plan, a voluntary management proposal”.*

Engaging a Site Auditor to provide a statement about the suitability of the site for its proposed land use, or any of the other purposes identified above, can provide greater certainty about the information on which the planning authority is basing its decision, particularly where sensitive uses are proposed. A Site Auditor ensures that the methodology used by Consultants, and their interpretation of data, are consistent with current NSW EPA regulations and guidelines.

A Site Audit will lead to the provision of a Site Audit Statement. Only Site Auditors accredited by the NSW EPA can issue a Site Audit Statement. Site Auditors are also required to provide a Site Audit Report, which contains the key information and the basis of consideration leading to the issue of the Site Audit Statement.

In accordance with the Managing Land Contamination – Planning Guidelines, council may require an audit where it:

1. believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete
2. wishes to verify that the information provided by the proponent adheres to appropriate standards, procedures and guidelines
3. does not have the internal resources to conduct its own technical review

When requesting a Site Audit, it is important to clarify the purpose of the Audit. This will ensure that the information provided from the Audit is clear and appropriate to the requirements of council. The specific purposes of a Site Audit as identified in the Site Audit Statement are:

- a) A1 To determine land use suitability (define proposed use of the land)
- b) A2 To determine land use suitability subject to compliance with either an active or passive environmental management plan (define proposed use of the land)
- c) B1 To determine the nature and extent of contamination
- d) B2 To determine the appropriateness of:
 - i. an investigation plan
 - ii. a remediation plan
 - iii. a management plan

- e) B3 To determine the appropriateness of a site testing plan to determine if groundwater is safe and suitable for its intended use as required by the Temporary Water Restrictions Order for the Botany Sands Groundwater Resource 2017
- f) B4 To determine the compliance with an approved:
 - i. voluntary management proposal or
 - ii. management order under the Contaminated Land Management Act 1997
- g) B5 To determine if the land can be made suitable for a particular use (or uses) if the site is remediated or managed in accordance with a specified plan (define proposed use of the land)

A staged approach to an Audit may be appropriate in some cases. Sign-off on each stage may occur as an Interim Opinion (IO) given by the Site Auditor, with a Site Audit Statement and Site Audit Report produced in the final stage of the Audit. This can be a cost and time effective approach in some cases, however; it is important to note that the end result of an Audit must be a Site Audit Statement and Site Audit Report.

Table 1. Site Audit

No.	Model Requests for Information
1	<p>Contaminated Site Audit of the Contaminated Land Process</p> <ol style="list-style-type: none"> 1. A NSW Environment Protection Authority accredited Site Auditor must be appointed to Audit reports compiled as part of the contaminated land assessment, remediation, and validation process. 2. Prior to consideration of development consent, a Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor that clearly states that the site is, or can be made, suitable for the intended use. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. 3. The Site Audit Statement and Site Audit Report must be submitted to Council within [INSERT NUMBER] days from finalisation of the relevant contaminated land reports, or as otherwise agreed with Council in writing. 4. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. <div style="border: 1px solid black; padding: 10px; margin-top: 20px;"> <p>NOTE:</p> <p>The Contaminated Site Process entails a number of steps. Depending on the potential or actual contamination present, one or more of these steps will be needed to confirm if the site is, or can be made, suitable for the proposed land use:</p> <ol style="list-style-type: none"> 1. Preliminary site investigation 2. Sampling and analysis quality plan 3. Detailed site investigation 4. Site specific risk assessment and modelling 5. Remedial action plan 6. Site remediation and validation 7. Long Term Environmental management plan 8. Ongoing monitoring </div>

<p>2</p>	<p>Contaminated Site Audit of Site Investigations</p> <ol style="list-style-type: none"> 1. The [INSERT TYPE OF INVESTIGATION] must be reviewed by a NSW Environment Protection Authority Accredited Site Auditor. 2. A Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor stating that the [INSERT TYPE OF INVESTIGATION] [INSERT PURPOSE] is appropriate. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. 3. The Site Audit Statement and Site Audit Report must be submitted to Council within [INSERT NUMBER] days from finalisation of the [INSERT TYPE OF INVESTIGATION], or as otherwise agreed with Council in writing. 4. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. <div data-bbox="363 663 1329 875" style="border: 1px solid black; padding: 10px; text-align: center;"> <p>Refer to the NSW EPA webpage for the most up to date information and version of the Site Audit Statement form, which includes the list of potential purposes of an audit: http://www.epa.nsw.gov.au/clm/auditorscheme.htm</p> </div>
<p>3</p>	<p>Contaminated Site Audit of Remedial Action Plan</p> <ol style="list-style-type: none"> 1. The Remedial Action Plan (RAP) must be reviewed by a NSW Environment Protection Authority Accredited Site Auditor. 2. Prior to consideration of development consent, a Site Audit Statement and Site Audit Report, which clearly states that the RAP [INSERT PURPOSE], must be provided to Council from the Site Auditor. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. 3. The Site Audit Statement and Site Audit Report must be submitted to Council within [INSERT NUMBER] days from finalisation of the RAP, or as otherwise agreed with Council in writing. 4. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. <div data-bbox="363 1424 1329 1637" style="border: 1px solid black; padding: 10px; text-align: center;"> <p>Refer to the NSW EPA webpage for the most up to date information and version of the Site Audit Statement form, which includes the list of potential purposes of an audit: http://www.epa.nsw.gov.au/clm/auditorscheme.htm</p> </div>
<p>4</p>	<p>Audit of Conceptual Design of a Containment Cell</p> <ol style="list-style-type: none"> 1. The conceptual design, including the location and function of the containment cell must be audited by the NSW Environment Protection Authority accredited Site Auditor as part of the overall Site Audit process.

2.2 Overall Contaminated Land Process

Council may wish to include a Request for Information to trigger the overall Contaminated Land Process (refer to Section 1.2), rather than a specific request for each stage of the process. Table 2 below provides model wording for such a request.

NOTE:

1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform “Requests for Information” or “Conditions of Development Consent”.
2. Where Underground Petroleum Storage Systems are or may be present, include relevant “Requests for Information” from Section 4.1.

Table 2. Overall Contaminated Land Process

No.	Model Requests for Information
5	<p>Contaminated Site Investigations</p> <ol style="list-style-type: none"> 1. Prior to further assessment of [INSERT DA NUMBER/YEAR] the contaminated site investigation process must be carried out to a stage where it is considered that the site is, or can be made (during or before the development stage), suitable for the proposed land use as [INCLUDE SPECIFIC LAND USE]. Reports must be submitted to Council. The process must be carried out in accordance with: <ol style="list-style-type: none"> a. Council’s Contaminated Land Policy, b. Managing Land Contamination Planning Guidelines (1998), c. Relevant NSW EPA Guidelines, in particular NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines, and d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). 2. All reports associated with the Contaminated Land Process must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the reports must include the details of the consultant’s certification. 3. The requested information must be submitted to Council within [INSERT NUMBER] days from the date of this correspondence, or as otherwise agreed with Council. 4. The contaminated site report(s) provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 5. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. 6. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority.

NOTE:

The Contaminated Land Process entails a number of steps. Depending on the potential or actual contamination present, one or more of these steps will be needed to confirm if the site is, or can be made, suitable for the proposed land use:

1. Preliminary site investigation
2. Sampling and analysis quality plan
3. Detailed site investigation
4. Site specific risk assessment and modelling
5. Remedial action plan
6. Site remediation and validation
7. Long Term Environmental management plan
8. Ongoing monitoring

2.3 Preliminary Site Investigation

The main objectives of the Preliminary Site Investigation (PSI) are to:

1. Identify any past or present potentially contaminating activities; and
2. Provide a preliminary assessment of any site contamination and whether further investigation is needed. The PSI provides a basis for a Sampling and Analysis Quality Plan and Detailed Site Investigation, if required.

A Preliminary Site Investigation report is to contain a detailed appraisal of the site's history, information gathered from a site inspection, and compilation of information from a number of sources in accordance with the NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines, and other guidance adopted by the NSW EPA.

The SEPP (Resilience and Hazards) 2021 requires a preliminary site investigation is prepared before determining an application that would involve a change of use of any land, where the land concerned is:

- land that is within an investigation area,
- land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital on land:
 - in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

NOTE:

1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording for "Requests for Information" or "Conditions of Development Consent".
2. Where Underground Petroleum Storage Systems are or may be present, include relevant "Requests for Information" from Section 4.1.

Table 3. Preliminary Site Investigation

No.	Model Requests for Information
6	<p>Preliminary Contaminated Site Investigation</p> <ol style="list-style-type: none"> 1. A preliminary contaminated site investigation is required to be submitted prior to further assessment of [INSERT DA NUMBER/YEAR]. The preliminary investigation must be carried out by a duly qualified contaminated land consultant in accordance with: <ol style="list-style-type: none"> a. Council’s Contaminated Land Policy, b. Managing Land Contamination Planning Guidelines (1998), c. Relevant EPA Guidelines, in particular NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines, and d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). 2. The preliminary contaminated site investigation report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. 3. The requested preliminary site investigation report must be submitted to Council within [INSERT NUMBER] days from the date of this correspondence, or as otherwise agreed with Council in writing. 4. The preliminary contaminated site investigation report provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 5. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. 6. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority. <div style="border: 1px solid black; padding: 10px; margin-top: 20px;"> <p>NOTE: Should the preliminary contaminated site investigation indicate that contamination is potentially present, further stages in the contaminated site assessment and management process may be triggered in accordance with the <i>National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013 (ASC NEPM, 2013)</i>, and NSW EPA approved guidelines.</p> </div>

2.4 Sampling and Analysis Quality Plan, Detailed Site Investigation, and Site-specific Risk Assessment and Modelling

2.4.1. Sampling and Analysis Quality Plan

A Sampling and Analysis Quality Plan (SAQP) is a requirement for contaminated site investigations. The Sampling and Analysis Quality Plan should be prepared prior to the investigation(s) proposed. The Sampling and Analysis Quality Plan ensures that the Consultant targets the investigation to meet the objectives, and pre-determines (amongst other things) criteria, data quality parameters and acceptance levels, and where, how and what to sample to answer the questions relating to site contamination.

Note that a Sampling and Analysis Quality Plan is a living document and changes may be made to respond to specific conditions on site (such as location of sub-surface utilities) or evidence of more widespread contamination than expected.

The model wording relating to the Sampling and Analysis Quality Plan specifically mentions that it must include the seven step Data Quality Objective Process, and a Conceptual Site Model. These are essential tools in planning an investigation and are described further below.

Data Quality Objectives

The Data Quality Objective (DQO) process is a seven-step planning approach that is used to define the type, quantity and quality of data needed to inform decisions relating to the contamination status of a site. The seven steps in the Data Quality Objective process are:

Step 1: State the problem

Step 2: Identify the decision/goal of the study

Step 3: Identify the information inputs

Step 4: Define the boundaries of the study

Step 5: Develop the analytical approach

Step 6: Specify performance or acceptance criteria

Step 7: Develop the plan for obtaining data

Conceptual Site Model

A Conceptual Site Model should organise and visualise the available information about a site, to enable an assessment of the required information and risks associated with contamination. A Conceptual Site Model figure can be a 2D or 3D representation of the (potential and established) sources (e.g. a leaking tank), pathways (e.g. groundwater, service trench, air), and receptors (e.g. people, ecosystems, property) at a site, known as the SPR-linkages. Where there is no pathway (or an incomplete one) between a source and a receptor, the receptor would not be affected unless a pathway was created by, for example, extraction of contaminated groundwater, or removal of a concrete slab that capped the contamination.

The Conceptual Site Model should be updated by the Consultant throughout the Contaminated Land Process as new information becomes available.

NOTE:

1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording for "Requests for Information" or "Conditions of Development Consent".
2. Where Underground Petroleum Storage Systems are or may be present, include relevant "Requests for Information" from Section 4.1.

2.4.2. Detailed Site Investigation, Site Specific Risk Assessment and Modelling

The objectives of a Detailed Site Investigation (DSI) are to:

1. Define the nature, extent and degree of contamination;
2. Assess potential risk posed by contaminants to health and the environment; and
3. Obtain sufficient information to develop a Remedial Action Plan (RAP), if required.

It should be noted that several investigations and associated reporting such as delineation, site specific risk assessments and monitoring may be needed in this stage of the process.

A Detailed Site Investigation Report should be prepared in accordance with the NSW EPA (2020) *Consultants Reporting on Contaminated Land – Contaminated Land Guidelines*. It should include an assessment of the risk posed by the contaminants to human health and the environment, which is a tiered approach. Generally, Tier 1 Risk Assessments can be undertaken by comparing the levels of contamination on-site with appropriate predetermined thresholds for various media (e.g. soil, groundwater, surface water, sediment and vapour) specified in National Environment Protection (*Assessment of Site Contamination*) Measure 1999, amended in 2013 (ASC NEPM, 2013) and relevant NSW EPA guidelines and Technical Notes. More detailed, site-specific risk assessments (Tier 2 and 3) and modelling can be undertaken by the Proponent’s Consultant should uncertainties around the risks remain after the Tier 1 assessment.

Table 4. Sampling and Analysis Quality Plan, Detailed Site Investigation, and Site-specific Risk Assessment and Modelling

No.	Model Requests for Information
7	<p>Sampling and Analysis Quality Plan (Contaminated Land)</p> <ol style="list-style-type: none"> 1. Prior to any fieldwork undertaken as part of the detailed site investigation, a Sampling and Analysis Quality Plan (SAQP) must be submitted to Council for approval. 2. The SAQP must be carried out by a duly qualified contaminated land consultant in accordance with: <ol style="list-style-type: none"> a. Council’s Contaminated Land Policy, b. Managing Land Contamination Planning Guidelines (1998), c. Relevant EPA Guidelines, in particular: <ul style="list-style-type: none"> • NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines; • NSW EPA (2022) Sampling Design Guidelines: Sampling Design Part 1 – Application, and Sampling Design Part 2 – Interpretation; and • National Environment Protection (<i>Assessment of Site Contamination</i>) Measure (ASC NEPM, 1999 as amended 2013). 3. The SAQP must include (but is not limited to) the seven step Data Quality Objective (DQO) process including Quality Assurance and Quality Control (QA/QC) details, and a Conceptual Site Model (CSM), including a figure visualising the potential Source – Pathway – Receptor linkages for the site. 4. The SAQP must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. 5. The requested SAQP must be submitted to Council within [INSERT NUMBER] days from the date of this correspondence, or as otherwise agreed with Council in writing. 6. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

No.	Model Requests for Information
8	<p>Detailed Contaminated Site Investigation and Potential Site-specific Risk Assessment and Modelling</p> <ol style="list-style-type: none"> 1. A detailed contaminated site investigation is required to be submitted prior to further assessment of [INSERT DA NUMBER/YEAR]. The detailed site investigation must be carried out by a duly qualified contaminated land consultant in accordance with: <ol style="list-style-type: none"> a. Council's Contaminated Land Policy, b. Managing Land Contamination Planning Guidelines (1998), c. Relevant EPA Guidelines, in particular: <ul style="list-style-type: none"> • NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines; • NSW EPA (2022) Sampling Design Guidelines: Sampling Design Part 1 – Application, and Sampling Design Part 2 – Interpretation; and • National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). 2. The detailed contaminated site investigation report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 3. The requested detailed contaminated site investigation report must be submitted to Council within [INSERT NUMBER] days from the date of this correspondence, or as otherwise agreed with Council in writing. 4. The detailed contaminated site investigation report provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 5. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. 6. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority. <p>Note:</p> <p>Several investigations and associated reporting such as contamination delineation, site specific risk assessments and monitoring may be needed in this stage of the process, in accordance with National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013 (ASC NEPM, 2013), NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines, and any other relevant guidelines adopted by the NSW EPA.</p>

2.5 Remedial Action Plan

The aim of a Remedial Action Plan (RAP) is to set objectives and document the process to remediate the site. A Remedial Action Plan should be based on the information from investigations and on the proposed land use. The objectives of the remediation strategy and the recommended clean-up criteria should be clearly stated. The Remedial Action Plan should demonstrate how the Proponent (and their Consultant) proposes to reduce risks to acceptable levels, making the site suitable for its proposed land use. Remediation of contaminated land is considered to be development and may require planning approval ("Category 1" Remediation), even if the proposed land use does not require approval. If development consent is required, remediation work must be carried out in accordance with a Remedial Action Plan approved by the consent authority and this should be submitted with the development application (refer to SEPP R&H and Planning Guidelines). For remediation not requiring consent ("Category 2" Remediation), Council must be notified prior to commencement and upon completion in accordance with the provisions of the SEPP.

2.5.1. Sustainable remediation

Sustainable remediation is a concept that considers the environmental, economic, and social factors when assessing options for remediation and development of contaminated land. It is important to note that sustainable remediation is about how to remediate, not whether or how much to remediate. Council may wish to refer to the Australian Standard (AS ISO 18504:2022 Soil quality – sustainable remediation) for sustainable remediation in the request for information to ensure the principles have been considered when selecting the preferred option.

NOTE:

A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform "Requests for Information" or "Conditions of Development Consent".

- 2. If the remediation is considered Category 1 Remediation Works, it will require a Development Application.**
- 3. Where Underground Petroleum Storage Systems are or may be present, include relevant conditions from Section 4.**

Table 5. Remedial Action Plan

No.	Model Requests for Information
9	<p>Remedial Action Plan</p> <ol style="list-style-type: none"> 1. Prior to further assessment of [INSERT DA NUMBER/YEAR], a Remedial Action Plan (RAP), which addresses the contamination identified in [REPORT(S) REFERENCE, TITLE, AUTHOR, DATE], must be prepared and submitted to Council. The process must be carried out in accordance with: <ol style="list-style-type: none"> a. Council’s Contaminated Land Policy, b. Managing Land Contamination Planning Guidelines (1998), c. Relevant EPA Guidelines, in particular NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines, and d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). 2. The concept of sustainable remediation must be considered in accordance with AS ISO 18504:2022 Soil quality – Sustainable remediation. 3. The RAP must identify that the site can be made suitable for the proposed land use as [INCLUDE SPECIFIC LAND USE] with the implementation of the RAP. 4. The RAP must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. 5. The RAP must be submitted to Council within [INSERT NUMBER] days from the date of this correspondence, or as otherwise agreed with Council in writing. 6. The RAP provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 7. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the <i>Government Information (Public Access) Act 2009</i>. 8. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the <i>Contaminated Land Management Act 1997</i> is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority. 9. The RAP must identify if the remediation works are considered Category 1 Remediation or Category 2 Remediation in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021, and Council’s Contaminated Land Policy.



Part Three

Part 3: Conditions of Consent

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Conditions of Consent

3.1 Site Audit

A Site Audit is an independent review by a Site Auditor accredited by the NSW EPA of any or all stages of the site investigation process, conducted in accordance with the Contaminated Land Management Act 1997. Section 2.1 of this register outlines the details and process of Site Audits and should be read as context for the conditions included in this section.

Table 6. Site Audit

No.	Model Conditions of Consent
10	<p>Contaminated Site Audit for the Contaminated Land Process</p> <ol style="list-style-type: none">1. The contaminated land assessment, remediation, and validation process and associated reports must be audited by a NSW Environment Protection Authority Accredited Site Auditor.2. Prior to issue of the [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE], a Site Audit Report and Site Audit Statement stating that the land has been remediated in accordance with the approved Remediation Action Plan, and is suitable for the proposed development as [INSERT TYPE] land use must be provided to Council. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. The purpose of the Site Audit must be one of the following:<ol style="list-style-type: none">a. A1: To determine land use suitability [DEFINE PROPOSED LAND USE]b. A2: To determine land use suitability subject to compliance with either an active or passive environmental management plan [DEFINE PROPOSED LAND USE]3. The Site Auditor must review any new contamination information potentially revealed during implementation of the Remedial Action Plan (RAP).4. Implementation of an Auditor approved Long Term Environmental Management Plan / Ongoing Environmental Management Plan, ongoing monitoring, and any other conditions on the Site Audit Statement must be adhered to and interpreted to form part of the consent.5. The Site Audit Report(s) provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

No.	Model Conditions of Consent
11	<p>Contaminated Site Audit of Site Investigations</p> <ol style="list-style-type: none"> 1. The [INSERT TYPE OF INVESTIGATION] must be reviewed by a NSW Environment Protection Authority Accredited Site Auditor. 2. A Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor stating that the [INSERT TYPE OF INVESTIGATION] [INSERT PURPOSE] is appropriate. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. 3. The Site Audit Statement and Site Audit Report must be submitted to Council within [INSERT NUMBER] days from finalisation of the [INSERT TYPE OF INVESTIGATION], or as otherwise agreed with Council in writing. 4. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. <div style="border: 1px solid black; padding: 10px; text-align: center; margin-top: 20px;"> <p>Refer to the NSW EPA webpage for the most up to date information and version of the Site Audit Statement form, identifying the pre-defined options of the purposes for an audit:</p> <p>http://www.epa.nsw.gov.au/clm/auditorscheme.htm</p> </div>

3.2 Remediation

Remediation can be broadly considered as an action, or combination of actions taken to mitigate the risks associated with contamination. Remediation can range from administrative procedures (such as rules around site activities allowed), to engineering controls (such as fencing, signage and capping) through to elimination (such as active removal or treatment of contamination).

SEPP (R&H) provides consistent state-wide planning and development controls for the remediation of contaminated land. Remediation work which requires development consent is known as Category 1 Remediation Work. All other remediation work may be carried out without development consent and is known as Category 2 Remediation Work.

This section of the Register provides model consent conditions for a range of factors relating to remediation, as follows:

1. Notice of Category 2 Remediation Works
2. Construction Environmental Management Plans
3. Specific Requirements for:
 - a. Pollution Prevention, Environmental and Safety Controls
 - b. Vehicles and Equipment
 - c. Site Access and Site Management
 - d. Acid Sulphate Soils
 - e. Contamination Containment Areas/Cells
 - f. Water Management
 - g. Community Consultation
4. Compliance with Remedial Action Plan
5. Compliance with Construction Environmental Management Plan
6. New Information/unexpected finds
7. Waste
8. Imported Fill
9. Complaint Management

3.2.1. Notice of Category 2 Remediation Works

For Category 2 Remediation Works (not needing consent), notification must be provided to Council at least 30 days prior to commencement. If the remediation is undertaken as a component of a broader development, Council can include model conditions as provided in Table 7 to highlight and specify the requirements.

NOTE:
 These conditions should be used in combination with the conditions for notice of completion for Category 2 Remediation Works, provided in Section 3.3.

Table 7. Notice of Category 2 Remediation Works

No.	Model Conditions of Consent
12	<p>Notice of Category 2 Remediation Works</p> <ol style="list-style-type: none"> 1. At least 30 days prior to any remediation works commencing on site, written notice must be given to council describing the details and proposed remediation work to be undertaken and outlining why the works are category 2, by reference to sections 4.8, 4.11 and (if it applies) 4.12(1) of the SEPP (Resilience and Hazards) 2021. This notice must include the proposed commencement and completion dates, contact details (name, address and phone number) of the responsible supervising person overseeing the implementation of the remediation works, specify, by reference to its property description and street address (if any), the land on which the work is to be carried out, and provide a map of the location of the land. 2. Contact details must include telephone number, including after hours contact, postal address and email contact details. 3. All Category 2 remediation works must be carried out in accordance with the site management requirements defined in [INSERT RELEVANT SECTION OR ATTACHMENT] of Council’s Contaminated Land Policy.

3.2.2. Introduction to Environmental Management Plans

An Environmental Management Plan (EMP) is a site or project specific plan developed to ensure that appropriate environmental management practices are followed during a development’s construction and/or organisation’s operation. There are various types of EMPs; Construction Environmental Management Plan (CEMP), Operational Environmental Management Plan (Operational EMP), and Long Term Environmental Management Plan (LTEMP, also known as Ongoing Environmental Management Plan (OEMP)).

The NSW EPA (2022) document Practice Note – *Preparing Environmental Management Plans for Contaminated Land*, describes roles and responsibilities for LTEMPs, content requirements, and ways to ensure the document is legally enforceable.

The below Section deals with Construction Environmental Management Plans only. Refer to Section 3.4.1 for conditions relating to Long Term Environmental Management and Monitoring / Ongoing Environmental Management Plans. Operational Environmental Management Plans are not part of this register as they deal with pollution prevention rather than contamination.

3.2.3. Construction Environmental Management Plans

The purpose of a Construction Environmental Management Plan is to ensure appropriate environmental management practices are followed during the construction phase of a project, regardless of whether contamination is present or not. Where contamination is present, the Construction Environmental Management Plan needs to specifically consider the contamination and its potential impacts during the construction stage. Model wording for Construction Environmental Management Plans for contaminated sites are presented in Table 8.

NOTE:

Council may wish to include a requirement for the CEMP to be prepared, or reviewed and approved by a certified consultant, depending on the extent to which the CEMP needs to address the contamination.

Table 8. Construction Environmental Management Plan for Contaminated Sites

No.	Model Conditions of Consent
13	<p>Construction Environmental Management Plan (Contaminated Sites)</p> <ol style="list-style-type: none"> 1. Prior to [ISSUE OF A CONSTRUCTION CERTIFICATE, OR; COMMENCEMENT OF REMEDIATION], a Construction Environmental Management Plan (CEMP) for the [DEVELOPMENT, OR; REMEDIATION] must be provided to Council for approval. 2. The CEMP must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant. 3. The CEMP must include management strategies for the potential risks to on-site workers and visitors, off-site receptors, and the environment from the contamination identified in [INSERT REFERENCE TO REPORT(S)]. 4. The environmental site management measures must remain in place and be maintained throughout the period of the [DEVELOPMENT, OR; REMEDIATION], until completion of [DEVELOPMENT, OR; REMEDIATION AND UNTIL THE REMEDIATION HAS BEEN VALIDATED]. 5. The CEMP must address all environmental aspects of the development’s construction phases, and include where relevant, but not be limited to, the following: <ol style="list-style-type: none"> a) Asbestos Management Plan b) Project Contact Information c) Site Security Details d) Timing and Sequencing Information e) Site Soil and Water Management Plan f) Noise and Vibration Control Plan g) Dust Control Plan h) Air Monitoring i) Odour Control Plan j) Health and Safety Plan k) Waste Management Plan l) Incident Management Contingency m) Unexpected Finds Protocol 6. The CEMP must be kept on site from the commencement and for the duration of the proposed works, and must be available to Council officers upon request. 7. The CEMP provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

No.	Model Conditions of Consent
14	<p>Implementation of Construction Environmental Management Plan (Contaminated Sites)</p> <ol style="list-style-type: none"> 1. The Construction Environmental Management Plan (CEMP) must be adhered to during the [CONSTRUCTION STAGE, OR; REMEDIATION WORKS]. 2. A suitably qualified and experienced environmental consultant must be employed to supervise the implementation of the contaminated sites aspects of the development in accordance with the relevant parts of the approved CEMP for each phase of the [DEVELOPMENT, OR; REMEDIATION]. 3. Details (including contact details) of the environmental consultant employed to oversee the contaminated sites aspects of the development must be submitted to [INSERT COUNCIL NAME] [WITH THE NOTICE OF COMMENCEMENT FOR CATEGORY 2 REMEDIATION, OR; AT LEAST [INSERT NUMBER] DAYS] before any works are to commence on site. 4. Any new information which comes to light during the [CONSTRUCTION, OR; REMEDIATION] which has the potential to alter previous conclusions about site contamination must be immediately notified to Council and the Principal Certifying Authority [AND/OR ACCREDITED SITE AUDITOR IF REQUIRED BY COUNCIL] in writing. 5. Any changes to the approved CEMP must be submitted to Council and the Principal Certifying Authority [AND ACCREDITED SITE AUDITOR IF REQUIRED BY COUNCIL] prior to the implementation of the changes. 6. All contaminated site reports provided to Council must exempt Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. 7. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority.

3.2.4. Specific Requirements

This section provides examples for requirements that Council may wish to impose in the conditions of consent depending on the details of the specific project and broader environmental and community standards that are deemed appropriate for the location. These conditions were updated in 2023 to include the DRAFT Standard Operational Requirements from the DRAFT Planning Guidelines. Conditions are included for the following:

- c) Pollution Prevention, Environmental and Safety Controls
- d) Vehicles and Equipment
- e) Site Access and Site Management
- f) Acid Sulphate Soils
- g) Contamination Containment Areas/Cells
- h) Water Management
- i) Community Consultation

Table 9. Pollution Prevention, Environmental and Safety Controls

No.	Model Conditions of Consent
15	<p>Preventing Pollution</p> <p>1. All activities associated with the development must be carried out so as not to create a “pollution” incident as defined by the Protection of the Environment Operations (POEO) Act 1997.</p>
16	<p>Dust Mitigation</p> <p>1. Dust mitigation measures must be documented in the Construction Environmental Management Plan (CEMP) to be implemented during the [CONSTRUCTION, OR; REMEDIATION]. Dust mitigation measures must adopt industry best practice and be maintained during [CONSTRUCTION, OR; REMEDIATION] as appropriate for the environmental risk.</p> <p>2. The dust mitigation measures must be designed and implemented so as to minimise particulate dust emissions leaving the site during construction at all times including when no activities are taking place on the site.</p>
17	<p>Dust control</p> <p>1. Work must be programmed to minimise the exposed soil surface at any time.</p> <p>2. Work must be delayed or limited during periods of high wind to prevent materials becoming airborne.</p> <p>3. Dust generation must be controlled by water spraying [particularly on haulage roads and high-volume non-tarmac areas].</p> <p>4. Shade cloth must be placed on perimeter fences, fence extensions of immediate works zones.</p> <p>5. Operators must monitor the dust conditions within the site along the site boundary during works likely to generate dust and ensure on-site work is not causing off-site impacts.</p>
18	<p>Contaminated Dust</p> <p>1. The Construction Environmental Management Plan (CEMP) must address the removal and decontamination of structures with contaminated dust, dust suppression, prevention of dust contamination to adjacent properties or the atmosphere (during excavation or demolition works, including when no activities are taking place on the site), and the removal, storage, and disposal of contaminated soil or materials.</p>
19	<p>Vapours</p> <p>1. The Construction Environmental Management Plan (CEMP) must address the risks associated with vapour to on-site workers and visitors, and to adjacent properties during the [CONSTRUCTION AND/OR REMEDIATION ACTIVITIES]. The CEMP must also describe how vapour risks will be monitored.</p>

No.	Model Conditions of Consent
20	<p>Asbestos</p> <ol style="list-style-type: none"> 1. Given the widespread use of asbestos-containing materials (ACM) in construction materials and in industry throughout NSW, asbestos contamination must be anticipated during the assessment or remediation of any potentially contaminated land, even when it has not been identified as a primary contaminant of concern during previous investigations. 2. If ACM or soil containing asbestos is encountered during remedial work, it must be removed from the site as asbestos waste or appropriately managed on site. 3. A site-specific asbestos management plan must be prepared to ensure compliance with the regulations and protection of the site and members of the public. SafeWork NSW must be consulted regarding the need for asbestos monitoring at the site boundary. 4. The regulatory framework, and essential guidance, to be followed is: <ul style="list-style-type: none"> - Work Health and Safety Act 2011 - Work Health and Safety Regulation 2017 – Chapter 8 - Protection of the Environment (Waste) Regulation 2014 - Managing Asbestos Waste in or on Soil (WorkCover 2014) - National Environment Protection (Assessment of Site Contamination) Measure 1999, as revised 2013 (ASC NEPM) - How to manage and control asbestos in the workplace: Code of Practice (SafeWork 2016) - How to safely remove asbestos: Code of Practice (SafeWork 2016) - Code of Practice for the Management and Control of Asbestos in Workplaces (NOHSC: 2018 (2005)) - Code of Practice for the Safe Removal of Asbestos, 2nd edition (NOHSC: 2002 (2005)) 5. Asbestos assessment and management on contaminated land must be carried out by a competent person. A competent person in the context of asbestos and the ASC NEPM (and also the NSW regulation) is a person who has acquired, through training or experience and qualification, the knowledge and skills to identify, investigate and assess asbestos in the context of an environmental site assessment. This includes identifying the potential for asbestos contamination from site history information. 6. Removal (including removal from contaminated land) of the following must be carried out by a person who holds either a Class A or a Class B asbestos removal licence (Work Health and Safety Regulation 2011 Clause 487): <ul style="list-style-type: none"> - More than 10 m² of non-friable asbestos or ACM - Asbestos containing debris associated with the removal of more than 10 m² of non-friable asbestos or ACM 7. Removal of friable asbestos (including from contaminated land) must be carried out by a person who holds a Class A asbestos removal licence (Work Health and Safety Regulation 2011 Clause 485) 8. A person disposing of asbestos waste off the site at which it is generated must do so at a landfill site that can lawfully receive the waste (Protection of the Environment (Waste) Regulation 2014 Clause 80) 9. Requirements regarding the transport of asbestos waste must be in accordance with the Protection of the Environment (Waste) Regulation 2014 clauses 77 to 79.
21	<p>Asbestos (CEMP)</p> <ol style="list-style-type: none"> 1. The Construction Environmental Management Plan (CEMP) must address the risks associated with asbestos to on-site workers and visitors, and to adjacent properties during the [CONSTRUCTION AND/OR REMEDIATION ACTIVITIES]. 2. The CEMP must describe how asbestos risks will be monitored, and how cross contamination of non-contaminated areas will be avoided.

No.	Model Conditions of Consent
22	<p>Contaminated Groundwater</p> <p>1. The Construction Environmental Management Plan (CEMP) must address the risks associated with contaminated groundwater to on-site workers and visitors, and to adjacent properties during the [CONSTRUCTION AND/OR REMEDIATION ACTIVITIES].</p>
23	<p>Contaminated Surface Water</p> <p>1. The production or generation of water or wastewater arising from [CONSTRUCTION AND/OR REMEDIATION ACTIVITIES] on the site must be managed and/or disposed of in a manner that is approved by council, and ensures that pollution of water does not occur, as defined by the Protection of the Environment Operations (POEO) Act 1997.</p>
24	<p>Air Quality</p> <p>1. Remediation activities must be managed to ensure that dust, odour, gases or fumes are not emitted beyond the boundary of the remediation site, including when no activities are taking place on the site, to the extent that such emissions would constitute a pollution incident as defined under the provisions of the Protection of the Environment Operations (POEO) Act 1997.</p>
25	<p>Run-off, Erosion and Sediment Control</p> <p>1. All sediment and erosion controls must be implemented [PRIOR TO WORKS, OR; PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE] and maintained in accordance with the document titled Managing Urban Stormwater Soils & Construction Volume 1 (Landcom, 2004) until the issuing of the Occupation Certificate or council's approval of the contamination Validation Report.</p> <p>2. Sediment control structures must be maintained throughout remediation works to prevent run-off of any potentially contaminated water or soil to surrounding environment.</p>
26	<p>Erosion and Sediment Control</p> <p>1. All measures specified in [INSERT COUNCIL POLICY, GUIDELINE, OR OTHER REFERENCE DOCUMENT] to minimise the effects of soil erosion and pollution must be installed and maintained until disturbed areas are rehabilitated and landscaped in accordance with the conditions of development consent and approved plans as endorsed by council.</p> <p>2. Erosion and sediment control measures must address and incorporate general site management material handling practices, soil stabilisation, wind erosion, access measures and must provide for:</p> <ol style="list-style-type: none"> The diversion of uncontaminated run-off around cleared or disturbed areas. The erection of a silt fence to prevent debris escaping into drainage systems or waterways. The prevention of tracking of sediment by vehicles onto roads. Covering of vehicles entering/exiting the site with material. The stockpiling of topsoil, excavated material, construction and landscaping supplies and debris within the site, and the removal or utilisation (where appropriate) of that stockpile after completion of the works. Maintenance of control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction.

No.	Model Conditions of Consent
27	<p>Tree protection measures</p> <ol style="list-style-type: none"> 1. Appropriate measures must be adopted to safeguard protected trees and generally protect vegetation during remedial works. 2. Where it is proposed to undertake works within the canopy drip line of a protected tree (being a tree that requires a permit or development consent for pruning or removal), then the advice of an arborist must be sought on suitable protection measures and those measures must be implemented.
28	<p>Services within the remediation area</p> <ol style="list-style-type: none"> 1. Any drains, sewers or water services must be disconnected and sealed at the boundary of the remediation area by a licenced plumber, in accordance with the requirements of the relevant authority. For any underground excavation, a dial before you dig query must be submitted to establish any underground utilities and services. Where dial before you dig does not extend into the site boundary a service locator should be engaged to identify any potential service locations within the remediation area.
29	<p>Stockpile management</p> <ol style="list-style-type: none"> 1. Stockpile management should ensure it does not cause any contamination of underlying soils. 2. Stockpiles of potentially contaminated soil should be placed on hardstand or otherwise on polyethylene sheeting. 3. Stockpiles must be bunded to prevent run-off of potentially contaminated soil. 4. Stockpiles must be stabilised by compacting and contouring to control wind exposure and allow access for the water truck. 5. Stockpiles should not exceed the height of the fencing to reduce dust and odours spreading to the surrounding environment. 6. Stockpiles should be clearly labelled with a unique identification number and a record of the volume and origin of soil to enabling tracking of soils from excavation to final disposal or re-use on site.
30	<p>Noise and vibration control</p> <ol style="list-style-type: none"> 1. Remediation works must be carried out in such a way as to minimise disturbance to neighbours and other members of the public. In any event noise levels, should be maintained below the maximum levels specified in Australian Standard AS 2436 - Guide to noise and vibration control on construction, demolition and maintenance sites, the Protection of the Environment Operations (Noise Control) Regulation 2017 and the EPA's Interim Construction Noise Guideline 2009.
31	<p>Odour control</p> <ol style="list-style-type: none"> 1. Remedial activities must be controlled such that all equipment used, and all facilities constructed are designed and operated to control the emission of smoke, fumes and vapour into the atmosphere, and emissions from odorous soils and liquids in excavations and stockpiles in minimised. 2. Control measures may include: <ol style="list-style-type: none"> a. Construction equipment being properly maintained so that exhaust emissions comply with the Clean Air Regulations issued under the Protection of the Environment Act Operations 1997; and b. The spraying or misting of odour suppressants on exposed soil surfaces, stockpiles and at the site boundary. 3. When odour is an issue, site activities should be planned and carried out based on forecast and observed odour-significant weather conditions.

No.	Model Conditions of Consent
32	<p>Impact of Remediation Activities</p> <p>1. Remediation activities must not cause any environmental harm outside of the area nominated for remediation.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>NOTE: Environment means components of the earth, including:</p> <ul style="list-style-type: none"> a. land, air and water, and b. any layer of the atmosphere, and c. any organic or inorganic matter and any living organism, and d. human-made or modified structures and areas </div>
33	<p>Archaeology discovered during excavation</p> <p>1. If any object of interest due to its age or association with the past is uncovered during the work:</p> <ul style="list-style-type: none"> a. all work must stop immediately in that area, and b. the Environment, Energy and Science division of the Department of Planning, Industry and Environment must be advised of the discovery. <p>2. Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the Heritage Act 1977 may be required before further work can continue.</p>
34	<p>Aboriginal objects discovered during excavation</p> <p>1. If an Aboriginal object (including evidence of habitation or remains) is discovered during the work:</p> <ul style="list-style-type: none"> a. all excavation or disturbance of the area must stop immediately, and b. the person making the discovery must advise the Chief Executive (within the meaning of the National Parks and Wildlife Act 1974) of the discovery in accordance with section 89A of that Act. <p>2. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.</p>

Table 10. Vehicles and Equipment

No.	Model Conditions of Consent
35	<p>Loading and Unloading of Vehicles</p> <p>1. The loading and unloading of all vehicles associated with the [DEVELOPMENT, AND/OR; REMEDIATION] must be undertaken within the property boundary of the premises subject to this consent.</p> <p>2. Measures must be implemented to prevent tracking of sediment by vehicles onto roads.</p> <p>3. Vehicle loads must be covered when entering and exiting the site with material.</p>
36	<p>Vehicle Entry and Exit Points</p> <p>1. Vehicle entry and exit points must be stabilised with suitable aggregate to prevent erosion and tracking of sediment onto roads and footpaths. An appropriate system such as a wheel-wash station and sediment controls must be installed at the exit point to prevent the tracking of soil, sediments, and other materials onto public roads and into stormwater drains.</p>

No.	Model Conditions of Consent
37	<p>Equipment and Material Storage</p> <ol style="list-style-type: none"> 1. All materials and equipment that are to be stored on site must be kept fully within the property boundary and remain secure until [INSERT TIMEFRAME]. 2. No material or equipment must be stored on the Road Reserve without prior consent of Council.
38	<p>Noise from Equipment</p> <ol style="list-style-type: none"> 1. Operations on the site including all plant and equipment must not give rise to any offensive noise defined under the <i>Protection of the Environment Operations Act 1997</i>.

Table 11. Site Access and Site Management

No.	Model Conditions of Consent
39	<p>Owner to Restrict Access to the Site</p> <ol style="list-style-type: none"> 1. The owner/occupier must ensure that access to the site is restricted by the application of a 1.8m steel mesh fence and Geofabric dust shield. The site must be monitored to prevent the unauthorised deposition of material, or public access to the site. 2. The barrier must be installed prior to commencement of any remediation works and must remain in place until completion of all remediation works. 3. Any required temporary removal of the required fencing for works purposes, must be monitored with person(s) appointed to ensure no access can be gained to the restricted area. 4. Access must be restricted solely to authorised staff and contractors who have appropriate site safety induction and any personal protective equipment required for the remediation works. The site supervisor must control site access and induct authorised visitors on an 'as needed' basis. 5. Signage, explaining the purpose of the work and displaying site manager, contractor and consultant details and contact numbers should be erected near the entrance to the remediation area. The signage must remain displayed throughout the duration of the works.
40	<p>Hours of Operation</p> <ol style="list-style-type: none"> 1. Works must only be undertaken during the following times: [INSERT COUNCILS HOURS OF OPERATION].
41	<p>Earthworks, Retaining Walls and Structural Support</p> <ol style="list-style-type: none"> 1. Any excavation must be carried out in accordance with Excavation Work: Code of Practice (SafeWork NSW 2015), or subsequent revisions of that code. 2. Any excavation left open overnight or when the site is unattended must be individually fenced with barrier mesh.

Table 12. Acid Sulphate Soils

No.	Model Conditions of Consent
42	<p>For Land Impacted by Acid Sulphate Soils (ASS):</p> <ol style="list-style-type: none"> 1. An Acid Sulphate Soil Management Plan must be submitted to, and approved by Council prior to issuing a Construction Certificate and the commencement of building works onsite. 2. The plan must be prepared by a consultant duly qualified in acid sulphate soil management. 3. All works on site must be performed in accordance with the Acid Sulphate Soil Management Plan. 4. If the acid sulphate soil is removed or remediated, a validation report must be submitted to Council. The report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE IDENTIFIED SCHEMES HERE] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. The report must be submitted to Council prior to works proceeding for areas affected.
No.	Model Conditions of Consent
43	<p>Potential Acid Sulphate Soil</p> <ol style="list-style-type: none"> 1. Prior to commencement of remediation works the proponent must review the assessment as to the likely presence of acid sulfate soils provided in the Investigation Reports or, if no such assessment is provided therein, carry out an assessment in accordance with the recommendations of the Assessment Guidelines in the Acid Sulfate Soils Manual (Acid Sulfate Soils Management Advisory Committee, NSW Agriculture 1998). 2. If indicated to be necessary by the results of the assessment, an acid sulphate soil management plan must be prepared for the proposed remedial works.

Table 13. Containment Areas/Cells

No.	Model Conditions of Consent
44	<p>Survey of Contamination Containment Area</p> <ol style="list-style-type: none"> 1. The contamination containment area must be delineated and surveyed by a Registered Surveyor and identified on a survey drawing. 2. The survey drawing must be submitted to the satisfaction of the supervising environmental consultant and be included in the Validation Report, prior to [CONSTRUCTION WORKS/ISSUE OF A CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE].

NOTE:

Where contamination remains on site contained in certain areas or placed in purpose built containment cells, a Long Term Environmental Management Plan should be implemented to ensure that the integrity of the system is assessed and that the system is maintained and monitored over time. Refer to Section 3.4.1 for Conditions relating to Long Term Environmental Management Plans.

No.	Model Conditions of Consent
45	<p>Stockpiling of grass and topsoil for re-use</p> <ol style="list-style-type: none"> 1. During excavation works for the purpose of implementing the Remedial Action Plan (RAP), all grass and topsoil on the proposed fill area must be stripped and stockpiled for re-use on the disturbed area and batter slopes. 2. Stockpiled areas must have sedimentation and erosion control barriers installed in accordance with Council policy [INSERT POLICY NAME]. Barriers must be installed immediately upon the placement of any stockpiled materials and maintained to limit the movement of sediment.

Table 14. Water Management

No.	Model Conditions of Consent
46	<p>Diversion of Uncontaminated Water</p> <ol style="list-style-type: none"> 1. Uncontaminated surface water must be diverted away from stockpile and/or remediation areas and all exposed/non-stabilised surfaces on the site. 2. Stormwater diversion devices must be installed prior to the stockpiling of materials or the exposure of ground surfaces, and must be maintained until stockpile(s) are removed and/or ground surfaces are stabilised.
47	<p>Criteria for Discharge of Water</p> <ol style="list-style-type: none"> 1. Prior to issue of a Construction Certificate, a report that identifies threshold criteria for the discharge of any water from the site must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Councils Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 2. The report must include measures and contingencies for any water that cannot meet threshold criteria. This must include method of collection, storage and disposal/redistribution.
48	<p>Management of Onsite Water</p> <ol style="list-style-type: none"> 1. Water must not be allowed to accumulate in any excavation, but must be removed by pumping. Excavation pump-out water must be transported to an appropriately licenced facility for disposal or discharged to sewer under a trade waste agreement.

Table 15. Community Consultation

No.	Model Conditions of Consent
49	<p>Community Consultation</p> <ol style="list-style-type: none"> 1. Prior to [COMMENCEMENT OF REMEDIATION, OR; ISSUE OF A CONSTRUCTION CERTIFICATE] A Community Consultation Plan must be submitted to Council for approval.

3.2.5. Compliance with Remedial Action Plan

Conditions to ensure that the remediation is undertaken in accordance with the approved Remedial Action Plan, and that the implementation of the plan is managed adequately, are included in Table 16.

NOTE:

1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform "Requests for Information" or "Conditions of Development Consent".
2. Where Underground Petroleum Storage Systems (UPSS) are present, additional conditions are to be inserted as per Section 4.

Table 16. Compliance with Remedial Action Plan

No.	Model Conditions of Consent
50	<p>Implementation of Remedial Action Plan</p> <ol style="list-style-type: none"> 1. Prior to the commencement of any work and prior to the issue of a [CONSTRUCTION CERTIFICATE, OR; SUBDIVISION CERTIFICATE, OR; OCCUPATION CERTIFICATE], the site must be remediated in accordance with: <ol style="list-style-type: none"> a. Remedial Action Plan, prepared by [INSERT NAME] dated [INSERT DATE] reference [INSERT REFERENCE]; b. Council's Contaminated Land Policy; c. State Environmental Planning Policy (Resilience and Hazards) 2021; d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and e. The guidelines in force under the Contaminated Land Management Act 1997. 2. The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation. The environmental consultant must supervise all aspects of the remediation and validation works in accordance with the approved Remedial Action Plan. 3. Any reports relating to contamination must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 4. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to Council and the Principal Certifying Authority in writing. 5. Any variations to the approved Remediation Action Plan must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, and submitted to [COUNCIL AND/OR ACCREDITED SITE AUDITOR IF REQUIRED BY COUNCIL] prior to the commencement of such work. 6. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009. 7. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority.

No.	Model Conditions of Consent
51	<p>Groundwater Remediation</p> <ol style="list-style-type: none"> 1. Groundwater remediation must be undertaken in accordance with the [INSERT REMEDIAL ACTION PLAN DETAILS] approved in writing by Council. 2. The remediation must be supervised by an adequately experienced and qualified consultant. 3. Any associated reports must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification.
52	<p>Variation(s) to Remedial Action Plan</p> <ol style="list-style-type: none"> 1. Any variation to the approved Remediation Action Plan [INCLUDE DETAILS] must be approved in writing by an appropriately qualified and certified environmental consultant [and/or Accredited Site Auditor if required by Council] and submitted to Council before substantially commenced to determine if any proposed variation will require reassessment under the Environmental Planning and Assessment (EP&A) Act 1979.

3.2.6. New Information/Unexpected Finds

Conditions to address the management and notification of any new information or unexpected finds potentially encountered during the construction or remediation stages are included in Table 17.

Table 17. New Information/Unexpected Finds

No.	Model Conditions of Consent
53	<p>New Information/Unexpected Finds</p> <ol style="list-style-type: none"> 1. In the event that [REMEDICATION AND/OR CONSTRUCTION WORKS] cause the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease, Council and the Principal Certifying Authority [AND/OR ACCREDITED SITE AUDITOR IF REQUIRED BY COUNCIL] must be notified in writing within [INSERT TIMEFRAME] and an appropriately qualified and certified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm. 2. If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within [INSERT NUMBER] days of the notification to the NSW Environment Protection Authority.
54	<p>Unexpected finds</p> <ol style="list-style-type: none"> 1. It is always possible that contamination has been missed, and unexpected finds during site remediation are common. An unexpected finds protocol [note that this may already be in the RAP] must be in place that specifies what action should be taken when this occurs. 2. Where during works, unexpected contamination is discovered, all works in that area must stop and a certified contaminated land consultant (certified consultant) advised of the find. 3. Category 2 works may only re-commence after the certified consultant has assessed the land and determined if it requires remediation, and if so, how it should be conducted. 4. Councils should be notified within 2 days of unexpected finds that are category 1 works or if the RAP does not address the remediation of the category 2 unexpected find discovered. A development

3.2.7. Waste

Any contaminated material(s) transported off-site for disposal must be classified, handled, and transported as waste in accordance with the Protection of the Environment (Waste) Regulation 2014 and related guidelines, in particular NSW EPA Waste Classification Guidelines (2014), Table 18 provides conditions for the appropriate management of contaminated waste.

Table 18. Waste

No.	Model Conditions of Consent
55	<p>Waste Classification and Disposal of Contaminated Soil and Material(s), Solid and Liquid</p> <ol style="list-style-type: none"> 1. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment (Waste) Regulation 2014 and related guidelines, in particular NSW EPA Waste Classification Guidelines (2014), prior to off-site disposal. 2. A waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to [AND APPROVED] by Council before [OFF-SITE DISPOSAL, OR; INSERT TIMEFRAME]. An appropriately qualified and certified environmental consultant must be certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Councils Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 3. All waste must be taken to a suitable waste disposal facility that can lawfully accept the waste types and disposal dockets kept and attached to the Notice of Completion. 4. All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage, and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site. 5. Waste tracking must be undertaken in accordance with [INSERT RELEVANT STANDARD OR SPECIFIC PLAN]. 6. All waste transport routes must avoid where possible all sensitive land uses such as residential areas, schools, preschools, [INSERT COUNCIL SPECIFIC AREAS], and avoid bus routes, particularly school bus pick up and drop off periods. 7. All reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

NOTE:

Model wording for inclusion of waste classification, disposal and handling in the Validation Report is included in Section 3.3, and should be used in combination with this set of conditions.

No.	Model Conditions of Consent
56	<p>Discharge of Water</p> <ol style="list-style-type: none"> 1. Waters likely to be contaminated (including water from excavations) must be discharged to [INSERT APPROPRIATE RECEIVING LOCATION]. 2. Prior to any discharge, all appropriate licences and approvals must be obtained, and any requirements of the relevant Authority must be met, to the satisfaction of the Authority.

No.	Model Conditions of Consent
57	<p>Criteria for Discharge of Water</p> <ol style="list-style-type: none"> 1. Prior to the discharge of any water from the site to the stormwater system, a report must be provided to, and approved by Council that identifies threshold limits for the receiving waters. The report must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 2. All discharge water must meet the agreed requirement outlined within the report. Prior to any discharge of water to stormwater, sample analysis results must be provided to Council for approval.
58	<p>Water Testing for Discharge of Water</p> <ol style="list-style-type: none"> 1. Water testing must be carried out by a suitably qualified consultant to verify that wastewater discharges comply with [INSERT RELEVANT SEWAGE MANAGEMENT AUTHORITY'S GUIDELINES/ STANDARD]. 2. Water that does not comply with the above standards must not be discharged to the sewer system and shall be disposed of using alternative appropriate means. Viable alternative options must be identified in the CEMP. 3. Details of methods of disposal shall be approved by Council/relevant Water Authority prior to any disposal of waste waters.

3.2.8. Imported Fill

Where importation of fill material is needed for the development or remediation, conditions can be included to ensure that the fill is not contaminated. Table 19 includes model conditions relating to imported fill.

Table 19. Imported Fill

No.	Model Conditions of Consent
59	<p>Imported Fill Materials</p> <ol style="list-style-type: none"> 1. All fill imported onto the site must be certified to ensure it meets relevant classification. To ensure that fill material is suitable, only material classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) is permitted to be imported onsite. 2. Certificates proving that the material imported is ENM or VENM must be [INCLUDED IN THE REMEDIATION VALIDATION REPORT, OR; NOTICE OF COMPLETION, OR; PROVIDED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE, OR; PROVIDED TO COUNCIL PRIOR TO FILLING] 3. Fill imported onto the site must be compatible with the existing soil characteristic for site drainage purposes.

No.	Model Conditions of Consent
60	<p>Limitations on Type of Filling Material Permitted</p> <ol style="list-style-type: none"> 1. Filling material must be limited to the following: <ol style="list-style-type: none"> a. Virgin excavated natural material (VENM) b. Excavated natural material (ENM) certified as such in accordance with the Protection of the Environment Operations (Waste) Regulations 2014. c. Material subject to a Waste exemption under Clauses 91 and 92 Protection of the Environment Operations (Waste) Regulations 2014 and recognised by the NSW Environment Protection Authority as being “fit for purpose” with respect to the development subject of this application. 2. Any waste-derived material that is the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material’s compliance with the exemption conditions and must be provided to the Principal Certifying Authority and the Council [ON REQUEST, OR; PRIOR TO COMMENCEMENT/ISSUE OF CONSTRUCTION CERTIFICATE, OR; PRIOR TO ISSUE OF OCCUPATION CERTIFICATE, OR; INCLUDED IN THE VALIDATION REPORT FOR THE REMEDIATION].
61	<p>Reuse of Soils within the Site</p> <ol style="list-style-type: none"> 1. Any existing soils to be reused within the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with relevant NSW Environment Protection Authority guidelines and National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended in 2013), to ensure that the soil is suitable for the proposed [INSERT TYPE] land use. 2. The results must be included in the Validation Report for the Remediation.

3.2.9. Complaint Management

Where Council chooses to specify conditions relating to the Proponent’s management of complaints relating to the remediation works, conditions are provided in Table 20.

Table 20. Complaint Management

No.	Model Conditions of Consent
62	<p>Complaints Register</p> <ol style="list-style-type: none"> 1. While the remediation activities are undertaken, the principal contractor must maintain a written record of all complaints received in relation to the remediation. 2. The written record must include: <ol style="list-style-type: none"> a. Each complainant’s name and address b. The time and date that each complaint was made c. The nature of each complaint d. The actions taken to address the complaint 3. A copy of the complaints recorded must be kept on site and must be made available to Council when requested during the remediation.
63	<p>Notification of Complaint</p> <ol style="list-style-type: none"> 1. Any complaint received by the contractor in relation to the remediation activities must be notified to Council during Council business hours as soon as possible and in all cases no later than [INSERT NUMBER OF DAYS] following the date that the complaint was received by the contractor.

3.3 Validation

The purpose of validation is to confirm whether the predetermined remediation objectives have been attained and whether any further remediation work or restrictions on land use are required.

SEPP (R&H) requires that a notice of completion of remediation be submitted to the local Council, within 30 days of completion of the remediation for Category 2 Remediation, and as defined by Council for Category 1 Remediation. Validation and associated reporting are essential prerequisites of this notice.

Ideally, validation should be conducted by the same Consultant that conducted the rest of the site investigation and remediation process. Validation must confirm statistically that the remediated site complies with the remediation criteria set for the site. The Consultant should follow the relevant NSW EPA guidelines, and National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended in 2013), when validating the site.

Where monitoring has formed part of the validation process, the monitoring results are typically incorporated into the validation process/report.

The outcomes of the validation process should be presented in a Validation Report, which must assess the results of the post-remediation testing against the remediation criteria stated in the Remedial Action Plan. Where the targets have not been achieved, reasons for such failure must be stated and additional site work proposed that will achieve the original objectives.

The Validation Report should also include information confirming that all licences, approvals and development consents were complied with. In particular, documentary evidence should be provided to confirm that any contaminated soil that was disposed of off-site or removed for re-use was dealt with as specified by the relevant authority.

NOTE:

- 1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform "Requests for Information" or "Conditions of Development Consent".**
- 2. Where Underground Petroleum Storage Systems (UPSS) are present, additional conditions are to be inserted as per Section 4.**

Table 21. Validation

No.	Model Conditions of Consent
64	<p>Validation Report</p> <ol style="list-style-type: none"> 1. Prior to issue of the [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE], the proponent must submit a detailed Validation Report to Council and the Certifying Authority. 2. The Validation Report must be prepared in accordance with: <ol style="list-style-type: none"> a. Council’s Contaminated Land Policy b. NSW Contaminated Land Planning Guidelines (1998) c. Relevant EPA Guidelines, noting in particular the NSW EPA (2020) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines d. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013) 3. The Validation Report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. 4. The Validation Report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the [INSERT REMEDIAL ACTION PLAN NAME, AUTHOR, DATE, AND REFERENCE]. 5. The Validation Report provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 6. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.
65	<p>Notice of Completion for Category 2 Remediation Works</p> <ol style="list-style-type: none"> 1. Within 30 days of completion of the remediation work, a notice of completion Validation Report must be provided to Council as required under SEPP (Resilience and Hazards) 2021, along with a validation report to confirm that the remediation has been carried out in accordance with the Remedial Action Plan, requirement(s) of this consent, and SEPP (Resilience and Hazards) 2021. The notice must, as a minimum: <ol style="list-style-type: none"> a. be in writing prepared and signed by the person who carried out the work, and b. provide the person’s name, address and business telephone number, and c. provide details of the person’s qualifications to carry out the work, and d. specify, by reference to its property description and street address (if any), the land on which the work was carried out, and e. provide a map of the location of the land, and f. state when the work was completed, and g. specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment, and h. specify the uses of the land immediately before the work started, and i. briefly describe the method of remediation used in the work, and j. specify the guidelines that were complied with in the work, and k. specify the standard of remediation achieved (in the light of the use proposed for the land), and l. state what action must be maintained in relation to the land after the completion of the remediation work if the standard of remediation achieved is to be maintained.

No.	Model Conditions of Consent
66	<p>Residual Contamination</p> <p>1. Where contaminated soil remains on site, a detailed survey of all areas where contaminated soil remains must accompany the Validation Report, to be submitted to Council. Any restrictions on land use must also be clearly presented.</p> <div data-bbox="395 376 1299 622" style="border: 1px solid black; padding: 10px; margin: 10px auto; width: fit-content;"> <p>NOTE: Where contamination remains on site, a Long Term Environmental Management Plan may be needed. Refer to Section 3.4 for consent conditions relating to ongoing management and monitoring.</p> </div>
67	<p>Survey of Contaminated Soil Containment and Fill Materials</p> <p>1. A detailed survey prepared by a Registered Surveyor of all areas used for containment of contaminated soil in accordance with the RAP must be included in the Validation Report and submitted to Council. The Plan must clearly show the containment areas in relation to existing roadways and buildings.</p> <p>a. The extent and depth of all fill material in relation to existing roadways and buildings must also be presented on the plan.</p>
68	<p>Waste Material(s) in Validation Report</p> <p>1. Details of material, liquid and solid, removed as part of the implementation of the Remedial Action Plan (RAP) including volume, mass, waste classification, material tracking documents, locations stored and validation of any surfaces where the material was stored must be included in the Validation Report.</p>

3.4 Long Term Environmental Management and Monitoring

Ongoing monitoring and management will be required where contamination remains on site and there is uncertainty relating to its potential to migrate and/or the effectiveness of the management measures implemented to contain the contamination. Ongoing monitoring and management can be undertaken after the Validation Report has been completed and as such, the land use suitability (and associated statement in the Validation Report) for the remediated Site may be subject to the outcomes of an ongoing monitoring and management program. A Long Term Environmental Management Plan (LTEMP) is the document outlining the requirements and specific details of an ongoing monitoring and management program.

The NSW EPA (2022) document Practice Note – Preparing Environmental Management Plans for Contaminated Land, describes roles and responsibilities for LTEMPs, content requirements, and ways to ensure the document is legally enforceable. The Practice Note describes common legal mechanisms in NSW to ensure legal enforceability as follows:

1. Conveyancing Act 1919 (Conveyancing Act) – restrictions or public positive covenants on land (which run with the land), which:
 - a. can be imposed by a prescribed authority (including EPA and Council) on any land not vested in the authority, with landowner consent (section 88E)
 - b. may be created by deed of agreement between private parties owning land (section 88)
2. CLM Act – ongoing maintenance orders (section 28)
3. EP&A Act – development consent conditions (section 4.17)
4. Work Health and Safety Regulation 2017 – asbestos management plan (Part 8.3, cl 429).
5. Orders made under section 124 of the Local Government Act 1993 might also be considered.

3.4.1. Long Term Environmental Management Plan

Table 22 provides model conditions for Long Term Environmental Management Plans.

NOTE:

1. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform “Requests for Information” or “Conditions of Development Consent”.
2. For monitoring and management of Underground Petroleum Storage Systems, specific requirements apply. Refer to Section 4.

Table 22. Long Term Environmental Management Plan

No.	Model Conditions of Consent
69	<p>Long Term Environmental Management Plan</p> <ol style="list-style-type: none"> 1. Where the Validation Report identifies the need for implementation of a Long Term Environmental Management Plan (LTEMP), the plan must be submitted to Council and the Certifying Authority. The LTEMP must be prepared in accordance with: <ol style="list-style-type: none"> a. Councils Contaminated Land Policy b. NSW Contaminated Land Planning Guidelines c. Relevant EPA endorsed guidelines d. NSW EPA (2022) Practice Note – Preparing Environmental Management Plans for Contaminated Land e. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013) 2. The LTEMP must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. 3. The LTEMP must be submitted to, and approved by, Council prior to the issue of a [INSERT TIMEFRAME, or; CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE] 4. The LTEMP must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for this management/monitoring in the long-term. The document must define the legal mechanism intended to make it enforceable. 5. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.
70	<p>Site with Containment Cell</p> <ol style="list-style-type: none"> 1. The LTEMP must specifically outline the construction details, and the requirements of management and monitoring of the containment cell to ensure it is maintained appropriately, its integrity remains intact, and to avoid migration of contamination. The LTEMP must also include a contingency plan in the event that the systems fail.

3.4.2. Monitoring

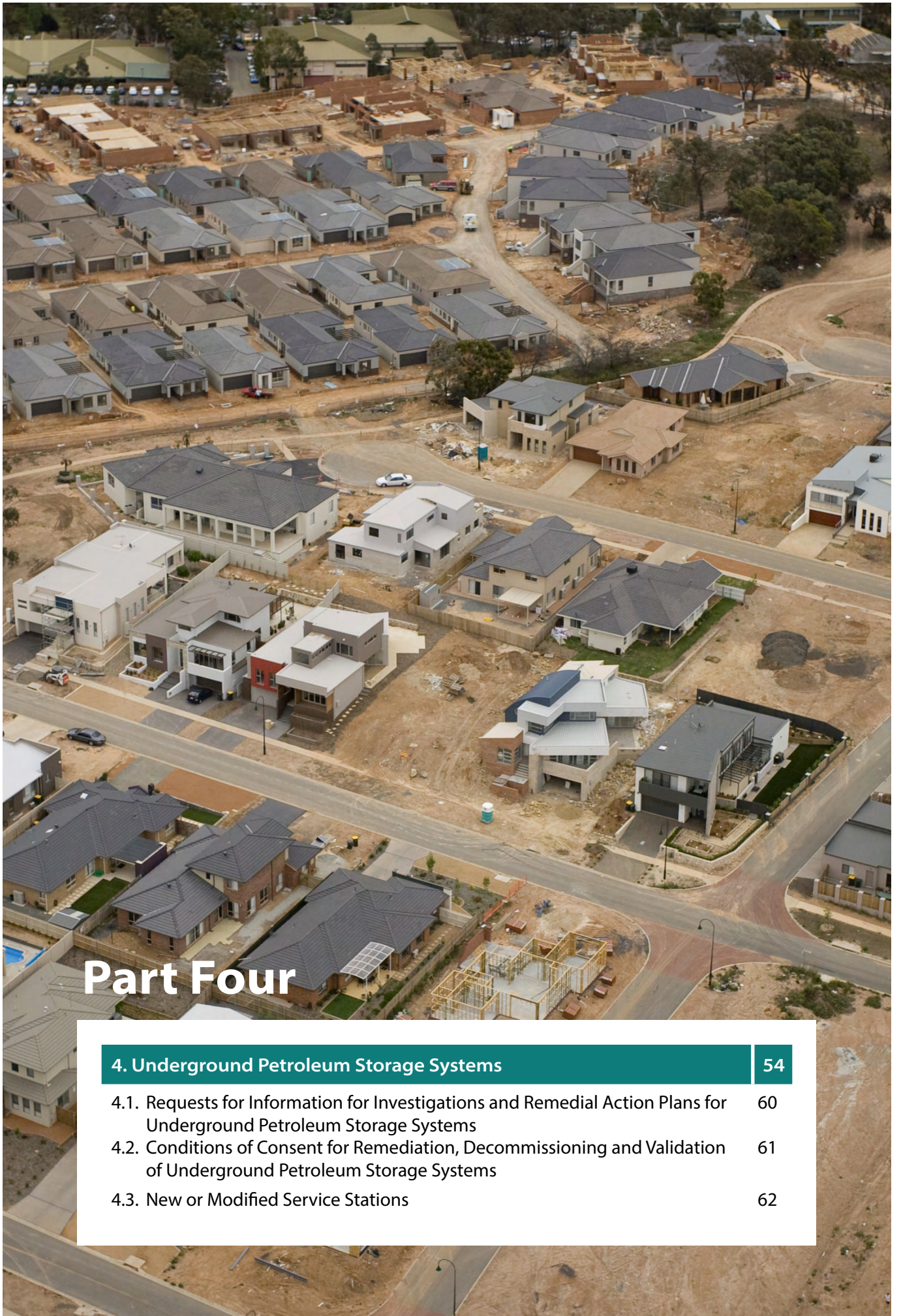
Table 23 provides model conditions for situations where monitoring over time is considered necessary.

<p>NOTE:</p> <ol style="list-style-type: none"> 1. NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and model wording to inform “Requests for Information” or “Conditions of Development Consent”. 2. Where Underground Petroleum Storage Systems (UPSS) are present, specific requirements apply, and relevant conditions are included in Section 4.

Table 23. Monitoring

No.	Model Conditions of Consent
71	<p>Groundwater Monitoring as part of Validation</p> <ol style="list-style-type: none"> 1. On completion of remediation, groundwater monitoring must be undertaken by a suitably qualified and experienced consultant in accordance with the approved [REMEDIAL ACTION PLAN, OR; LONG TERM ENVIRONMENTAL MANAGEMENT PLAN] for the groundwater wells and analytical schedule defined in the plan(s). 2. Where results exceed the adopted trigger levels, Council must be notified of the exceedance(s) and any actions resulting from it within [INSERT TIMEFRAME] of the Consultant obtaining the monitoring results. 3. The groundwater monitoring results must be included in the Validation Report for the remediation. <div data-bbox="363 663 1329 875" style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>NOTE: Model wording for conditions relating to the Validation Report are presented in Section 3.3 and should be used in combination with this condition.</p> </div>
72	<p>Groundwater Monitoring (Specific)</p> <ol style="list-style-type: none"> 1. [INSERT NUMBER] consecutive groundwater monitoring events [INSERT NUMBER] months apart, the first within [INSERT NUMBER] months after removal of the contamination source must be undertaken to demonstrate whether [NATURAL MONITORED ATTENUATION, AND/OR; REMEDIATION WORKS] have been effective. The groundwater samples must be analysed for [INSERT THE ANALYTICAL SCHEDULE]. 2. Monitoring must be undertaken by a suitably qualified and experienced consultant. 3. The monitoring report(s) must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Councils Contaminated Land Policy. The front cover of the report(s) must include the details of the consultant’s certification. 4. A report detailing the groundwater testing results and an indication of remediation effectiveness must be submitted to Council within [INSERT TIMEFRAME] of completion of each monitoring event, or as otherwise agreed with Council. 5. The monitoring report(s) provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 6. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to

No.	Model Conditions of Consent
73	<p>Ongoing Groundwater Monitoring Program</p> <ol style="list-style-type: none"> 1. Prior to the issue of a [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE], an ongoing groundwater monitoring program must be developed as part of the Long Term Environmental Management Plan (LTEMP), and submitted to Council for approval. 2. The groundwater monitoring program plan must include the frequency, location, analytical schedule, sampling methodology, data quality objectives, conceptual site model, and other details as per relevant standards and guidelines endorsed by the NSW Environment Protection Authority. 3. The LTEMP and associated regular monitoring reports must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report(s) must include the details of the consultant's certification. 4. Monitoring must be undertaken by a suitably qualified and experienced consultant. 5. Monitoring reports must be submitted to Council within [INSERT TIMEFRAME] of a monitoring event, or as otherwise agreed with Council, and include, but not be limited to: <ol style="list-style-type: none"> a) A description of the monitoring program; b) Figures presenting the monitoring locations; c) The results of all sampling undertaken as a part of the program; d) A review of such results against the relevant pre-determined criteria; e) Data Quality Objectives for the monitoring program; f) Quality Assurance and Quality Control; and g) An assessment relating to the contamination status including comments on any exceedances of the adopted criteria or increases in contamination levels. 6. The monitoring report(s) provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 7. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.
74	<p>Ongoing Monitoring: Contingency Plan</p> <ol style="list-style-type: none"> 1. Where monitoring of groundwater indicates that the level of groundwater contamination increases or remains the same after [INSERT NUMBER] monitoring events, a suitable groundwater remediation plan must be submitted to Council for approval. 2. The groundwater remediation plan must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 3. Subject to approval by Council, the groundwater remediation plan must be implemented until specified outcomes are achieved. 4. The contaminated site report(s) provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. 5. All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.



Part Four

4. Underground Petroleum Storage Systems	54
4.1. Requests for Information for Investigations and Remedial Action Plans for Underground Petroleum Storage Systems	60
4.2. Conditions of Consent for Remediation, Decommissioning and Validation of Underground Petroleum Storage Systems	61
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Underground Petroleum Storage Systems

Underground Petroleum Storage Systems (UPSS) have the potential to leak, and due to their underground location, leaks are commonly undetected for periods of time. Contamination caused by leaking UPSS can result in harm to human health and the environment, costly remediation projects, and migration of contamination to neighbouring sites.

The Underground Petroleum Storage System (UPSS) Regulation (2019) takes a preventative approach to managing potential contamination from underground petroleum storage tanks and associated pipework. The UPSS Regulation requires owners and operators to regularly check for leaks in the storage systems, including pipework. They also need to meet minimum standards in their day-to-day environmental management of these storage systems.

Under the UPSS Regulation, it is against the law to allow or ignore contamination resulting from a leaking or faulty UPSS. The person responsible for a UPSS (usually the owner/operator) is required to have in place:

1. A system for detecting leaks, most commonly groundwater monitoring wells ;
2. A loss monitoring system ;
3. A Fuel System Operation Plan (FSOP) for the facility; and
4. Systems in place for record keeping, reporting of leaks and notifying the local Council when a UPSS is decommissioned.

When Council receives an application relating to a UPSS, the following information is expected to be provided:

1. Detail of the scope of the proposed works, including;
 - If a new Underground Petroleum Storage System (UPSS) is to be installed, and/or
 - If any modifications or replacement to an existing UPSS system is proposed and/or
 - If it is proposed to decommission any of the existing UPSS system
2. For new or modified systems, the detailed design specification for the management of run-off from the service station forecourt and supporting storm water infrastructure incorporating the physical forecourt design and best practice treatment, developed by a Duly Qualified Person. Requirements are outlined in NSW EPA factsheet-1-fuel-handling-areas.pdf

The design must identify both High and Low Contamination Risk zones and detail the proposed method to manage wastewater and forecourt run-off in these zones. Where onsite treatment and discharge to storm water is proposed from High Contamination Risk Zones, the applicant must address any receiving waters of high conservation or ecological value and justify this having consideration to the level of risk to the environment.

- The design of the service station forecourt is to be consistent with the best practice guidance set out in:
- Australian Standard AS 4897-2008: The design, installation and operation of underground petroleum storage systems;
- Australian Standard AS1940-2017: The storage and handling of flammable and combustible liquids;
- ACAPMA Best Practice Guidelines: Management of hydrocarbons in stormwater at retail fuel outlets – 2017;
- The NSW EPA Underground Petroleum Storage Systems – Best Practice Guide for environmental incident prevention and management; and
- the NSW EPA Practice Note: Managing Runoff from service station forecourts.

The design is to be signed off by the Duly Qualified Person as satisfying this requirement.

3. For new or modified systems, the annual fuel throughput of the service station as proposed in mega litres (ML)

4. Assessment of site history. The information should be as detailed as possible and certified by qualified professionals where possible. The onus is on the applicant to demonstrate that the information is adequate for Council to determine the application. In considering the adequacy of the site's history, Council will take into account:
- If the descriptions of activities on the site are detailed enough.
 - If there are any big gaps in the history of the site.
 - If the sources are reliable.
 - If the information is verified by a professional.

Where past or present potentially contaminating activities are identified for the Site in question, Council must seek further information about contamination as per chapters 2 – 3 in this document.

NOTE:

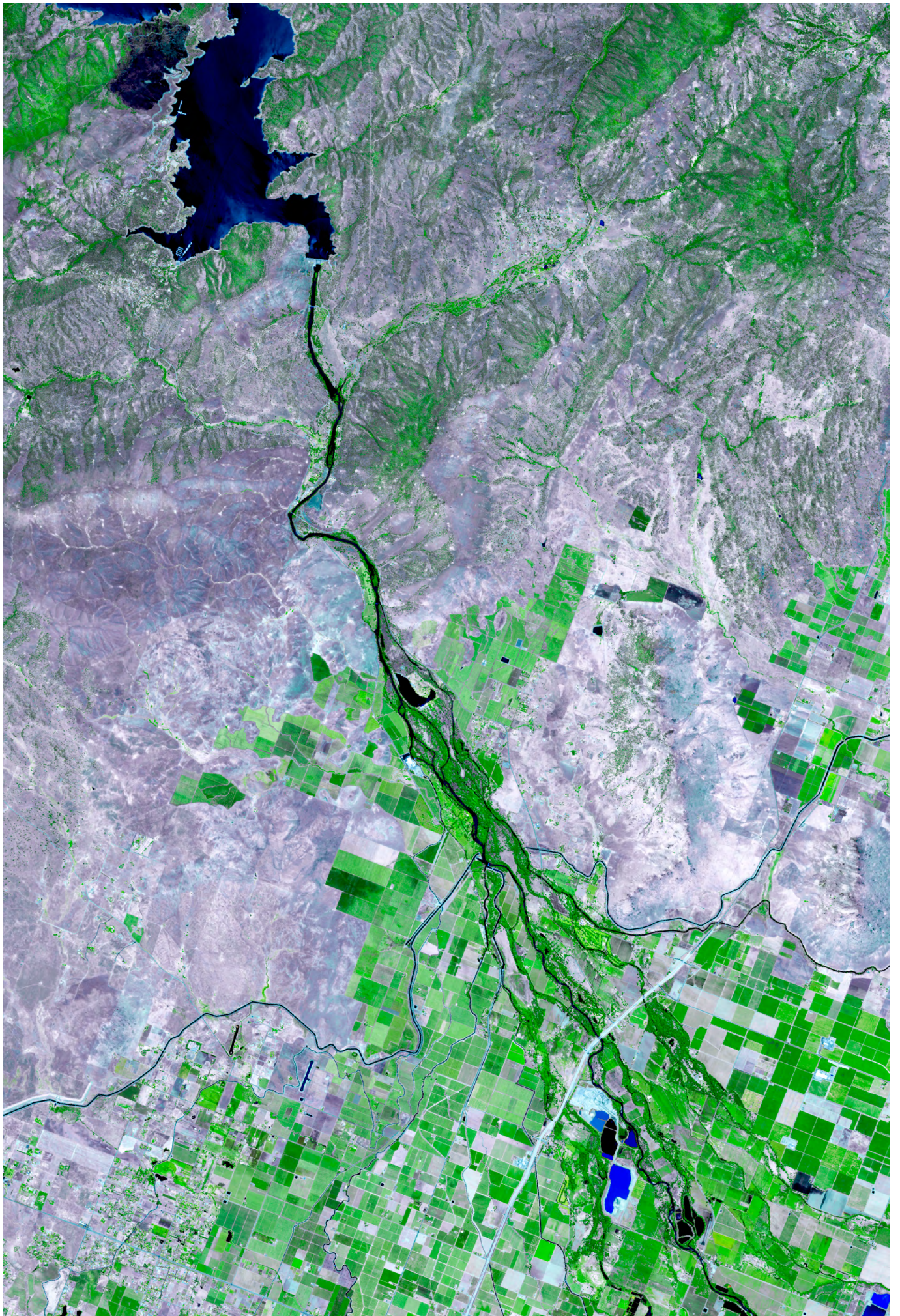
In cases where a sensitive land use is proposed or where contamination identified is complex it is reasonable for Council to request the proponent engage a NSW EPA Accredited Site Auditor to provide greater certainty about the information on which land use planning decisions are based. Template wording for requesting Site Audits are included in Chapter 2.1 and 3.1 of this document.

As outlined in DECCW, 2009, Planning and Development Process for Sites with Underground Petroleum Storage Systems, it is essential that an evaluation be made at the planning consent stage to ensure that the appropriate level of equipment is installed. As such, DECCW (2009) presents conditions to be included in development approvals for Sites with UPSS, which have been considered in the model conditions presented herein. To ensure that the required consent conditions have been considered for various development approval scenarios, Table 24 can be used as a checklist.

Table 24. Issues to be considered by Consent Authorities under the UPSS Regulation (adapted from DECCW (2009))

Scenario	Planning Conditions should consider:
<p>Installation and commissioning of a new UPSS</p>	<p>A new UPSS must meet the following requirements before commissioning:</p> <ol style="list-style-type: none"> 1. Be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation; 2. Includes the equipment required by AS 4897-2008: The design, installation and operation of underground petroleum storage systems, as in force from time to time; 3. A leak detection system is installed on the storage site in accordance with Part 3 of the UPSS Regulation; and 4. Have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.
<p>Installation of groundwater monitoring wells on UPSS sites</p>	<p>All sites must have groundwater monitoring wells designed and installed by duly qualified persons in accordance with relevant industry standards. The person responsible for the system must ensure that the duly qualified persons provide details of specifications relevant to the design and installation of the wells.</p> <p>Groundwater monitoring wells must be:</p> <ol style="list-style-type: none"> 1. Sealed to exclude surface water; 2. Constructed to prevent cross-contamination with other groundwater monitoring wells; 3. Properly secured and clearly marked to indicate their presence; and 4. Tested for hydrocarbon contamination at minimum intervals of six months.

<p>Operational management of a new UPSS</p>	<p>All sites with operating UPSS must have a Fuel System Operation Plan (FSOP) available on Site. Procedures must also be prepared and documented for loss monitoring and detection, and incident management. FSOP requirements are:</p> <ol style="list-style-type: none"> 1. Information about the UPSS, including the person responsible 2. 24-hour contacts and site access details in the event of an incident 3. A loss monitoring system 4. An incident management procedure that sets out the procedure to be followed in dealing with any leaks and spills from the UPSS 5. System maintenance details 6. The current 'as built' drawings 7. A plan of the storage site, including drainage and services 8. Buildings and associated infrastructure (above and below ground) 9. Groundwater monitoring wells 10. A copy of industry standards that have been followed in constructing and maintaining the UPSS 11. A copy of the specifications for the design, installation and operation of the UPSS. <p>See clause 18 of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (PDF 311KB) for more information.</p>
<p>Modification of a UPSS</p>	<p>A modified UPSS must meet the following requirements before commissioning:</p> <ol style="list-style-type: none"> 1. Be appropriately designed, implemented and commissioned by duly qualified persons in accordance with the UPSS Regulation; 2. Includes the equipment required by AS 4897-2008: The design, installation and operation of underground petroleum storage systems, as in force from time to time; 3. A leak detection system is installed on the storage site in accordance with Part 3 of the UPSS Regulation; and 4. Have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons. <p>If the activity is one that triggers development approval from the local authority, consent conditions should consider whether the installation of mandatory pollution protection equipment and groundwater monitoring wells are required.</p> <p>The system cannot be recommissioned without certification that an Equipment Integrity Test (EIT) has been performed in line with the written directions of a duly qualified person. The person responsible must also be in possession of documentation showing appropriate design, installation and testing/commissioning, including current as-built drawings and dates of commencement and completion of modification, as provided by a duly qualified person. If a modification of a storage system involves the removal or replacement of any tank, the person responsible must not authorise or permit the commissioning of the system, unless a validation report has been submitted to the relevant local authority:</p> <ol style="list-style-type: none"> 1. No later than 60 days after a tank's removal or replacement; or 2. No later than 60 days after remediation of the site is completed, where this is required. <p>Validation reports must be produced by a duly qualified person and kept by the person responsible for seven years from the date of creation or seven years after the decommissioning of the tank.</p>
<p>Repair to a UPSS</p>	<p>Depending on the nature of the activity, repairs may not trigger consent. However, if a UPSS leaks and repair work is undertaken, the system cannot be recommissioned unless it satisfies the requirements outlined in the UPSS Regulation.</p>



**Decommissioning
UPSS sites and
tank removal**

Validation and reporting of the condition of a UPSS site following tank removal or site decommissioning must address all areas of the site consistent with the requirements of the UPSS Regulation and SEPP (Resilience and Hazards) 2021.

If a storage system is to be decommissioned, the person responsible for the storage system must notify the local planning authority no later than 30 days before the system is decommissioned or removed. In the case of urgent and unforeseen decommissioning, the person responsible must notify the local planning authority as soon as reasonably practicable after the decision to decommission the system is made.

A validation report for tanks that are removed or decommissioned must be submitted to the local planning authority no later than 60 days after the completion of works or, where site remediation is required, within 60 days of its completion. The purpose of the validation report is to assist planning consent authorities with future planning decisions.

NOTE:

For the purpose of a DA, all potentially contaminating activities and areas of concern on the site must be considered in accordance with the Development Application Process (refer to Sections 1.1 and 1.3) and Contaminated Land Process (refer to Section 1.2). However, since UPSS has specific requirements and regulation, the relevant conditions and requests for information presented in this Section are to be added for sites that have known or suspected UPSS.

Section 4.1 presents model Requests for Information for Investigations and Remediation Action Plans where UPSS is or may be present. Section 4.2 presents conditions of consent for remediation, decommissioning and validation of UPSS, and Section 4.3 presents conditions of consent for new or modified service stations.

4.1 Requests for Information for Investigations and Remedial Action Plans for Underground Petroleum Storage Systems

Where Council needs further information relating to known or suspected UPSS prior to making a determination on a development application, the model wording in Table 25 can be used.

NOTE:

For sites where UPSS are or may be present, these conditions should be added to the model wording provided in Section 2. These conditions should not be used on their own.

Table 25. Investigations and Remedial Action Plans for sites with Underground Petroleum Storage Systems

No.	Model Conditions of Consent
75	<p>Underground Petroleum Storage Systems (UPSS): Contamination Investigation(s)</p> <ol style="list-style-type: none"> 1. The Contamination Investigation(s) relating to the UPSS must follow relevant Regulations and NSW Environment Protection Authority Guidelines, in particular: <ol style="list-style-type: none"> a) the UPSS Regulation 2019 b) Guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (EPA, 2020) c) Consultants reporting on contaminated land: contaminated land guidelines (EPA, 2020) d) Contaminated land guidelines: Sampling Design (EPA, 2022) 2. [FOR SERVICE STATION SITES ONLY] Contamination assessment of service station sites – Minimum sampling requirements (EPA, 2023).
76	<p>Underground Petroleum Storage Systems (UPSS): Remedial Action Plan (RAP)</p> <ol style="list-style-type: none"> 1. For the UPSS removal and remediation, the RAP must comply with relevant Regulation and NSW Environment Protection Authority Guidelines, in particular: <ol style="list-style-type: none"> a) Guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (EPA, 2020) 2. Consultants reporting on contaminated land: contaminated land guidelines (EPA, 2020).

The conditions for remediation, decommissioning and validation of UPSS presented in Table 26 should be used where UPSS are present.

NOTE:

For sites where UPSS are or may be present, these conditions should be added to the model wording provided in Section 3. These conditions should not be used on their own.

Table 26. Underground Petroleum Storage Systems Remediation, Decommissioning and Validation

No.	Model Conditions of Consent
77	<p>Underground Petroleum Storage Systems (UPSS): Remediation</p> <ol style="list-style-type: none"> 1. Prior to [CONSTRUCTION CERTIFICATE, OR; INSTALLATION OF THE NEW UPSS, OR; OCCUPATION CERTIFICATE] the UPSS and related contamination must be remediated in accordance with the approved Remedial Action Plan, prepared by [INSERT NAME] and dated [INSERT DATE] and Australian Standard (AS4976-2008). 2. Supervision of the remediation must be undertaken by a duly qualified person, in accordance with the UPSS Regulation.
78	<p>Underground Petroleum Storage Systems (UPSS): Validation of Decommissioning or Remediation</p> <ol style="list-style-type: none"> 1. Prior to [CONSTRUCTION CERTIFICATE, OR; INSTALLATION OF THE NEW UPSS, OR; OCCUPATION CERTIFICATE], validation of the UPSS [REMOVAL AND REMEDIATION, OR; DECOMMISSIONING] must be reported in the final Validation Report. 2. Validation of the UPSS remediation must be undertaken in accordance with relevant Regulation and NSW Environment Protection Authority Guidelines, in particular: <ol style="list-style-type: none"> a) Reporting requirements of clause 24 of the UPSS Regulation 2019 b) Guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (EPA, 2020) c) Consultants reporting on contaminated land: contaminated land guidelines (EPA, 2020). 3. The UPSS Validation Report must be provided to Council no later than 60 days after the [UPSS REMOVAL AND REMEDIATION, OR; DECOMMISSIONING]. 4. The UPSS Validation Report must be kept for seven years from the date of creation or decommissioning of the tank.

4.3 New or Modified Service Stations

Specific requirements for new and modified service stations are included in the UPSS Regulation 2019. The requirements relate to minimum standards of the equipment and systems and for the ongoing management of UPSS. Model conditions are provided in Table 27.

NOTE:

1. Requests for information and conditions of consent for the Contaminated Land Process in general must also be considered for sites with UPSS present or proposed.
2. A NSW EPA accredited Auditor can be requested to undertake a Contaminated Sites Audit of the process (or parts thereof) and associated reports. Refer to Sections 2.1 and 3.1 for information relating to the Site Audit process, and suggested wording to inform "Requests for Information" or "Conditions of Development Consent".

Table 27. New or Modified Service Stations

No.	Model Conditions of Consent
79	<p>Underground Petroleum Storage Systems (UPSS): New or Modified Service Stations Design (Prior to CC)</p> <ol style="list-style-type: none"> 1. Prior to issue of the Construction Certificate, the detailed design specification of the Underground Petroleum Storage System (UPSS) and leak detection system must be submitted to the Certifying Authority showing compliance with the UPSS Regulation and consistency with industry best practice as set out in Australian Standard AS 4897-2008: <i>The design, installation and operation of underground petroleum storage systems and the Guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019</i> (EPA, 2020). This includes, but is not limited to, provision of ground water monitoring wells, loss monitoring and mandatory pollution protection equipment comprising of non-corrodible secondary containment tanks and associated pipework and over fill protection devices. 2. The applicant must ensure that the design of the UPSS and leak detection system is undertaken by a Duly Qualified Person, as defined in ACAPMA, The Duly Qualified Person Continuing Professional Development Program, in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (UPSS Regulation 2019). The design is to be certified by the Duly Qualified Person as satisfying this requirement prior to the issue of CC.

No.	Model Conditions of Consent
	<p>Installation (During Works)</p> <p>3. The UPSS and leak detection system must be installed by a Duly Qualified Person in accordance with the detailed design specification [ENTER DETAILS TO IDENTIFY DOCUMENT].</p> <p>4. The groundwater monitoring wells must be:</p> <ol style="list-style-type: none"> Sealed to exclude surface water; Properly installed to target the hydrocarbon contamination of concern; Constructed to prevent cross-contamination with other groundwater monitoring wells; Clearly marked to indicate their presence and properly secured; and Tested for hydrocarbon contamination at minimum intervals of six months. <p>[In the case of an alternative leak detection system (Clause 15(3) of the UPSS Regulation 2019), that system is to be endorsed by a duly qualified person as being an appropriate system for leak detection for the storage site.]</p> <p>Commissioning (Prior to OC)</p> <p>5. Prior to the issue of any Occupation Certificate, a commissioning report must be submitted to the Principal Certifying Authority, and must certify that the UPSS was:</p> <ol style="list-style-type: none"> Installed, tested (including Equipment Integrity Testing (EIT)) and commissioned by duly qualified persons in accordance with the UPSS regulation 2019; For modified UPSS, the person responsible must also include current “as built” drawings, dates of commencement and completion of the modification; and If a UPSS is removed, replaced or decommissioned, a Report must be provided to Council within 60 days of the removal or the completion of remediation. A report must be kept a minimum seven years from the date of creation or after the decommissioning of a UPSS. <p>6. Prior to the issue of any Occupation Certificate, a report must be submitted to the Principal Certifying Authority and Council relating to the design, installation and testing of the groundwater monitoring wells. The report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section [INSERT RELEVANT SECTION, OR INSERT THE SCHEMES] of Council’s Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification.</p> <p>7. Prior to the issue of any Occupation Certificate, a Fuel System Operation Plan (FSOP) in accordance with Clause 18 of the UPSS Regulation 2019 must be submitted to and approved by the Certifying Authority.</p> <p>The FSOP must, as a minimum, address the following matters:</p> <ol style="list-style-type: none"> Specific information about the storage system, including identifying the ‘person responsible’ for the system; Loss monitoring and detection procedures; Incident management procedures; Details about system maintenance; Current ‘as built’ drawings for the system; A plan of the storage site. The plan must also include information on storage system, all buildings and associated infrastructure, all fences and gates, all groundwater monitoring wells, any unsealed ground surfaces and all drainage and services; A copy of industry standards that have been followed in constructing and maintaining the UPSS; and A copy of the specifications of the design and installation of the system and any modification; and An inventory of employee site induction and incident management training that has been undertaken on site.

80 Underground Petroleum Storage Systems (UPSS): Vapour Recovery

NOTE:

Different requirements apply for vapour recovery (VR) depending which VR zone a LGA falls within. The Hunter has councils falling into different VR zones. At the time of preparing this document, these are:

For Port Stephens, Maitland and Cessnock Councils - Vapour recovery VR1 is only required for service stations supplying or which have previously supplied more than 0.5 million L per year

For Newcastle, Mid Coast and Lake Macquarie Councils – VR1 and VR2 is required for all new or modified stations since 2009 which supply or which have previously supplied more than 0.5 million L per year

For Dungog, Muswellbrook, Singleton and Upper Hunter Councils VR requirements under the Regulation do not apply.

However, Councils can choose to implement VR if desired by developing individual policies requiring VR via consent conditions.

Design (Prior to CC)

1. Prior to issue of the Construction Certificate, the detailed design specification of the [STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT, OR; STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT AND STAGE 2 VAPOUR RECOVERY CONTROL EQUIPMENT] must be submitted to the Principal Certifying Authority showing compliance with the Protection of the Environment Operations (Clean Air) Regulation 2022 (POEO (Clean Air) Regulation 2022) and the Standards and Best Practice Guidelines for VR at Petrol Service Stations March 2017.
2. Design of the [STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT, OR; STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT AND STAGE 2 VAPOUR RECOVERY CONTROL EQUIPMENT] is to be performed by a Duly Qualified Person, which is defined in the POEO (Clean Air) Regulation 2022 [AS, IN RELATION TO ANY ACTIVITY, A PERSON WHO HAS SUCH COMPETENCE AND EXPERIENCE IN RELATION TO THAT ACTIVITY AS IS RECOGNISED IN THE RELEVANT INDUSTRY AS APPROPRIATE TO CARRY OUT THAT ACTIVITY]. The design is to be approved by the Duly Qualified Person as satisfying this requirement prior to the issue of CC.

Installation (During Works)

3. Install [STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT, OR; STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT AND STAGE 2 VAPOUR RECOVERY CONTROL EQUIPMENT] in accordance with the detailed design specification [ENTER DETAILS TO IDENTIFY DOCUMENT] and Part 6 of the Protection of the Environment Operations (Clear Air) Regulation 2022 and the Standards and Best Practice Guidelines for VR at Petrol Service Stations March 2017.
4. Installation of [STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT, OR; STAGE 1 VAPOUR RECOVERY CONTROL EQUIPMENT AND STAGE 2 VAPOUR RECOVERY CONTROL EQUIPMENT] is to be performed by a duly qualified person, which is defined in the POEO (Clean Air) Regulation 2022 [AS, IN RELATION TO ANY ACTIVITY, A PERSON WHO HAS SUCH COMPETENCE AND EXPERIENCE IN RELATION TO THAT ACTIVITY AS IS RECOGNISED IN THE RELEVANT INDUSTRY AS APPROPRIATE TO CARRY OUT THAT ACTIVITY].

No.	Model Conditions of Consent
80	<p>Commissioning (Prior to OC)</p> <p>5. Prior to the issue of any Occupation Certificate, a commissioning report must be submitted to the Principal Certifying Authority within one month of commissioning the vapour recovery system in accordance with Clause 75 (1) of the POEO (Clear Air) Regulation 2022 and the Standards and Best Practice Guidelines for VR at Petrol Service Stations March 2017.</p> <p>[The commissioning report must be in the format set out in the Standards and Best Practice Guidelines for VR at Petrol Service Stations March 2017.]</p> <p>Ongoing operation (During Works)</p> <p>Nil.</p> <div data-bbox="288 575 1409 891" style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>NOTE:</p> <p>The service station owner needs to keep a log book to store the approval certificates, results of tank tests to tanks, lines and dispensers and name/s of the duly qualified tester, and name, address and contact details of the owner, and any other details as required in the Standards and Best Practice Guidelines for VR at Petrol Service Stations March 2017. The logbook must be made available to the Appropriate Regulatory Authority upon request.</p> </div>
81	<p>Underground Petroleum Storage Systems (UPSS): Management of Run-Off from New or Modified Service Station Forecourts using CONTAINMENT VESSEL</p> <p>Design (Prior to CC)</p> <p>Nil.</p> <p>Installation (During Works)</p> <p>1. Installation of the service station forecourt and run-off treatment must be undertaken in accordance with the approved detailed design specification [ENTER DETAILS TO IDENTIFY DOCUMENT] and NSW EPA Practice Note: Managing run-off from service station forecourts and is to be overseen by a Duly Qualified Person, which is defined in the UPSS Regulation 2019.</p> <div data-bbox="288 1341 1409 1590" style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>NOTE:</p> <p>All ground surfaces within the service station forecourt must be made of impervious material (asphalt is not suitable). High risk contamination zones must be delineated with a physical divide and covered by a canopy with 10-degree overhang.</p> </div> <p>2. High contamination risk zone/s must be graded to an underground containment vessel (i.e. sump/tank). The underground containment vessel must:</p> <ol style="list-style-type: none"> a) Be designed and constructed to ensure it is compatible with petroleum products and other likely water pollutants; b) Have a minimum capture volume of the capacity of the largest compartment of a delivery tank using the service stations; or 9000L, whichever the greatest; and c) Be fitted with a high level audible and visual alarm. <p>3. Drainage inlets located within the service station forecourt area must be provided with signage indicating the fate of flow such as “flows to containment sump”.</p>

No.	Model Conditions of Consent
81	<p>Commissioning (Prior to OC)</p> <p>4. Prior to the issue of any Occupation Certificate a commissioning report must be completed and submitted to the Certifying Authority, authorized by a Duly Qualified Person, which is defined in the UPSS Regulation 2019, and includes:</p> <ol style="list-style-type: none"> The date of completion of the installation of the Containment Vessel; and Certification installation of the service station forecourt and run-off treatment was undertaken in accordance with the approved Detailed Design Specification [ENTER DETAILS TO IDENTIFY DOCUMENT] and NSW EPA Practice Note: Managing run-off from service station forecourts. <p>Ongoing Operation</p> <p>5. Wastewater generated in high contamination risk zone/s must be managed in accordance with NSW EPA Practice Note: Managing run-off from service station forecourts and collected and appropriately stored for removal in an underground containment vessel as per the approved Detailed Design Specification [ENTER DETAILS TO IDENTIFY DOCUMENT]</p> <p>6. Wastewater from high contamination risk zone/s stored in an underground containment vessel is classified as liquid waste and must only be removed off site by a NSW Environment Protection Authority licensed contractor and disposed of at an appropriate facility.</p> <p>7. Records of removal and disposal by licensed contractor and disposal at an appropriate facility must be held either electronically or in hardcopy form that is accessible on-site, either as a dedicated document or as part of other site management procedures and must be made available to the Council or other Appropriate Regulatory Authorities when requested.</p> <p>8. Spills occurring in the forecourt area must be spot cleaned using a suitable absorbent material only. The forecourt is not to be hosed or washed to the forecourt or storm water drainage systems.</p>
82	<p>Underground Petroleum Storage Systems (UPSS): Management of Run-Off from New or Modified Service Station Forecourts using ONSITE TREATMENT</p> <p>Design (Prior to CC)</p> <ol style="list-style-type: none"> All spills and leaks from bulk fuel transfer activities must be contained on-site. Fuel delivery standing areas outside of the canopy must be modified so that run-off is automatically diverted to the underground containment vessel during bulk fuel transfers. High contamination risk zone/s must be graded to an underground containment vessel (i.e. sump/tank). The underground containment vessel must: <ol style="list-style-type: none"> Be designed and constructed to ensure it is compatible with petroleum products and other likely water pollutants; Have a minimum capture volume of the capacity of the largest compartment of a delivery tank using the service stations; or 9000L, whichever the greatest; and Be fitted with a high level audible and visual alarm. <p>Installation (During Works)</p> <ol style="list-style-type: none"> Installation of the service station forecourt and run-off treatment must be undertaken in accordance with the approved detailed design specification [ENTER DETAILS TO IDENTIFY DOCUMENT] and NSW EPA Practice Note: Managing run-off from service station forecourts and is to be overseen by a Duly Qualified Person, which is defined in the POEO (Underground Petroleum Storage System) Regulation 2019. Drainage inlets located within the service station forecourt area must be provided with signage indicating the fate of flow such as "flows to stormwater system via treatment".

No.	Model Conditions of Consent
82	<p>Commissioning (Prior to OC)</p> <ol style="list-style-type: none"> 5. Prior to the issue of the Occupation Certificate, a Comprehensive Monitoring and Management Plan for the treatment device must be developed by a suitably qualified person and submitted to the Certifying Authority. The Comprehensive Monitoring and Management Plan must: <ol style="list-style-type: none"> a) Demonstrate ongoing compliance with Class 1 requirements of European British Standard BSEN 857-1:2002; and b) Provide a water quality monitoring program to monitor the effectiveness of the treatment device on the receiving environment. At a minimum, the water quality monitoring program must: <ol style="list-style-type: none"> i. Identify suitable monitoring and sampling location(s), including stormwater discharge outlet points; ii. Require measurement of the total petroleum hydrocarbons (TPHs) at the sampling locations at six monthly intervals in accordance with the most current version of the publication 'Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales' and in accordance with the ANZECC Guidelines; iii. Require visual inspections of stormwater discharge outlet points after rainfall events to identify the presence of hydrocarbons; iv. Identify responsible persons and contact details; v. Require review and update at six monthly intervals, for the lifetime of the treatment device; vi. Provide for corrective actions if the system fails or becomes non-compliant with the manufacturers recommendations of the European British Standard BSEN 857-1:2002; and vii. Record the results from steps i-iii. Findings must be kept on-site and made available to an Authorised Officer upon request. 6. Prior to the issue of an Occupation Certificate, certification must be submitted to the Certifying Authority demonstrating that all treatment devices shown in the approved Detailed Design Specification [ENTER RELEVANT DOCUMENT DETAILS] have been installed on-site in accordance with the manufacturers recommendations and is adequately sized for the type and volume of storm water treated. 7. Prior to the issue of any Occupation Certificate a commissioning report must be completed and submitted to the Certifying Authority, authorized by a Duly Qualified Person, which is defined in the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2019 that includes: <ol style="list-style-type: none"> a) The date of completion of the installation of the Treatment Device; and b) Certification installation of the service station forecourt and run-off treatment was undertaken in accordance with the approved detailed design specification [ENTER DETAILS TO IDENTIFY DOCUMENT] and NSW EPA Practice Note: Managing run-off from service station forecourts. <p>Ongoing Operation</p> <ol style="list-style-type: none"> 8. The Comprehensive Monitoring and Management Plan, [ENTER DOCUMENT REFERENCE], as updated from time to time, must be implemented on an ongoing basis for the lifetime of the treatment system. 9. Spills occurring in the forecourt area must be spot cleaned using a suitable absorbent material only. The forecourt is not to be hosed or washed to the forecourt or storm water drainage systems.

NOTE:

Where possible, Council should maximise opportunity to enforce Water Sensitive Urban Design (WSUD) strategies. Consider whether your Council has WSUD plan objectives or if these are considered as part of the broader assessment process.



Part Five

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Appendices

Appendix A – Key Terms and Acronyms

Category 1 Remediation	Remediation works requiring Development Consent
Category 2 Remediation	Remediation works that do not require Development Consent (but must be notified to Council)
Conditions of Consent	Requirements imposed by Council on a development approval to ensure the development complies with required standards. Conditions may apply to both the immediate construction stages of the development and occasionally beyond
Contamination	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 level, and represents, or potentially represents, an adverse health or environmental impact
Contaminated Land Information Register	A Contaminated Land Register forms part of a Contaminated Land Information System and refers to the register created in a property system to capture data relating to contaminated land
Contaminated Land Process	<p>The process includes several stages of investigations and actions. The level ultimately required is determined by the circumstances and outcomes from the previous stage.</p> <p>The potential stages of the Contaminated Land Process are:</p> <ol style="list-style-type: none">1. Preliminary Site Investigation (PSI)2. Sampling and analysis quality plan (SAQP)3. Detailed Site Investigation (DSI): N.B. Several reports, such as additional investigations, contamination delineation, and monitoring may be included in this stage.4. Site specific risk assessment and modelling5. Remedial action plan6. Site remediation and validation7. Long Term Environmental management plan8. Ongoing monitoring
CLM Act	<i>Contaminated Land Management Act 1997 (NSW)</i>
Detailed Site Investigation (DSI)	An investigation with the objective to define the nature, extent and degree of contamination; assess potential risk posed by contaminants to health and the environment; and obtain sufficient information to develop a Remedial Action Plan (if needed)

Data Quality Indicators (DQI)	Pre-determined indicators used to assess if the data is considered fit for its intended uses in operations, decision making and planning. The typical parameters adopted are Precision, Accuracy, Representativeness, Completeness and Comparability (PARCC)
Data Quality Objectives (DQO)	The DQO Process is a seven-step planning approach used to define the type, quality and quantity of data required to inform a specified decision relating to the environmental condition of a site
Development Application	A development application is a formal request for consent to carry out development and is considered under Part 4 of the <i>Environmental Planning & Assessment Act 1979</i>
Development Consent	Formal approval from Local Councils to proceed with a development. Development Consent is required prior to commencement of any works associated with development governed by Part 4 of the <i>Environmental Planning & Assessment Act 1979</i>
Duty to Report	The duty to report significant contamination to the NSW EPA is a requirement under the <i>Contaminated Land Management Act 1997</i> , with updates provided in the <i>Contaminated Land Management Amendment Act 2008</i> . The triggers for reporting are presented in the <i>Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997 (2015)</i>
EPA	Environment Protection Authority
Initial Review	A review undertaken by Council to determine whether contamination is likely to be an issue, and to assess whether further information is required for it to conduct its planning functions in good faith
Land Contamination	Land contamination may be the result of past or current uses. The land may be contaminated by a current or historical land use activity directly on that site or through migration of contamination from adjacent sites. See also definition of "Contamination"
LEP	Local Environmental Plan. An LEP guides planning decisions for Local Government Areas through zoning and development controls, which provide a framework for the way land can be used. LEPs are <i>Planning Instruments from the Environmental Planning & Assessment Act 1979</i>
LGA	Local Government Area
Long Term Environmental Management Plan (LTEMP) / Ongoing Environmental Management Plan (OEMP)	A plan outlining monitoring and management requirements where contamination remains on site, and there is uncertainty as to its potential to migrate; and/or the effectiveness of the management measures implemented to contain the contamination following remediation and validation; and/or monitoring and ongoing management forms part of the remediation strategy
Planning Guidelines	<i>NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)</i>
Planning Proposal	A planning proposal is the first step in making and amending local environmental plans (LEPs) as set out under Division 3.4 of the NSW <i>Environmental Planning and Assessment Act 1979</i> . It may be through rezoning or amend the development standards
POEO Act	<i>Protection of the Environment Operations Act 1997 (NSW)</i>

Preliminary Site Investigation (PSI)	An investigation to identify any past or present potentially contaminating activities, to provide a preliminary assessment of any site contamination, and if required, to provide a basis for a more detailed investigation
Proponent	The person who puts forward the development application or planning proposal to Council
Quality Assurance/Quality Control Process (QA/QC)	A process used to assess the reliability of field work and analytical results for an investigation
Remedial Action Plan (RAP)	A plan that sets objectives, and documents the process, for remediating a contaminated site
Request for Information	Requests by Council to the Proponent prior to determination of a development application to ensure Council is provided with adequate information to determine whether consent can be granted
s10.7 Certificate	Planning Certificate under Section 10.7 of the <i>Environmental Planning and Assessment Act 1979 (NSW)</i>
Sampling and Analysis Quality Plan (SAQP)	A document outlining the details for a sampling program, such as the objective(s) and the intended process
SEPP (Resilience and Hazards)	<i>State Environmental Planning Policy (Resilience and Hazards), includes the former SEPP 55 – Remediation of Land</i>
Significantly Contaminated Land	A site is declared Significantly Contaminated Land by the EPA where contamination is considered significant enough to warrant regulation under the <i>Contaminated Land Management Act 1997 (with changes made through the Contaminated Land Management Amendment Act 2008)</i> given the site's current or approved use
Site Audit	An independent review by a Contaminated Land Auditor, accredited by the NSW EPA, of any or all stages of the site investigation process, conducted in accordance with the requirements of the <i>Contaminated Land Management Act 1997</i>
Site Audit Report (SAR)	A report which summarises the report(s) audited and provides the Auditor's opinion and conclusions. A Site Audit Report must be accompanied by a Site Audit Statement
Site Audit Statement (SAS)	A statement which outlines the conclusions of a Site Audit. A Site Audit Statement must be accompanied by a Site Audit Report
Site Remediation and Validation	The objective of the site remediation and validation report is to detail the site work undertaken and demonstrate compliance with the RAP, and with relevant guidelines and regulations
Table 1 of the Planning Guidelines	List of potentially contaminating activities included in Table 1 of the <i>NSW Managing Land Contamination Planning Guidelines (1998)</i>

Appendix B – Key Legislative Instruments, Regulations, Policies & Guidelines

Legislation / Policy	Council Function
<i>Contaminated Land Management Act 1997</i> (Section 59)	Sets out the role of the EPA and the rights and responsibilities of parties it might direct to manage land where contamination is significant enough to warrant regulation
<i>Contaminated Land Management Regulation 2022</i>	Sets out the recovery of administrative costs for the EPA relating to regulated sites and the auditor system. It also sets out timeframes for administrative matters under the <i>Contaminated Land Management Act 1997</i>
Consultants reporting on contaminated land: contaminated land guidelines (2020)	Provides information to ensure reports prepared by consultants on the management of contaminated land have the right information in a suitable format
Guidelines on the Duty to Report Contamination under the <i>Contaminated Land Management Act 1997</i> (2015)	Details the circumstances that can trigger the requirement to notify the EPA about contamination under Section 60 of the <i>Contaminated Land Management Act 1997</i>
Other guidelines adopted or prepared by the NSW EPA under the <i>Contaminated Land Management Act 1997</i>	Statutory and non-statutory guidelines currently in place are listed on the NSW EPA website: Statutory guidelines Non-statutory guidelines
<i>Environmental Planning and Assessment Act 1979</i>	Provides the overarching structure for regulation of planning and development in NSW together with the <i>Environmental Planning and Assessment Regulation 2021</i>
<i>Environmental Planning and Assessment Regulation 2021</i>	Provides the overarching structure for the regulation of planning and development in NSW together with the <i>Environmental Planning and Assessment Act 1979</i>
National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013)	Establishes a nationally consistent approach to the assessment of site contamination to ensure sound environmental management practices by the community which includes regulators, site assessors, site auditors, landowners, developers and industry

Legislation / Policy	Council Function
NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)	The Planning Guidelines support the former SEPP55, now SEPP – Resilience and Hazards, and address the policy framework, identification and investigation of contamination, the decision-making process, management of contaminated sites and remediation, information management, and principles for proactively preventing future contamination
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	The SEPP (R&H) includes remediation of land within Chapter 4, which ensures planning decisions take into account possible land contamination, and promotes remediation to reduce risk of harm
Ministerial Direction 4.4 – Remediation of Land	Direction that applies for certain planning proposals and seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

Appendix C – References and Further Information

Hunter Joint Organisation (2023). Model Regional Contaminated Land Policy – Land Use Planning. Hunter Joint Organisation, Thornton, NSW.

National Environment Protection (Assessment of Site Contamination) Measure 1999, amended 2013

NSW Contaminated Land Management Act 1997, and Contaminated Land Management Amendment Act 2008

NSW Contaminated Land Management Regulation 2022

NSW Environment Protection Authority (2017). Guidelines for the NSW Site Auditor Scheme (3rd edition).

NSW Department of Environment, Climate Change and Water (2009) Planning and Development Process for Sites with Underground Petroleum Storage Systems

NSW Department of Urban Affairs and Planning & NSW Environment Protection Authority (1998). Managing Land Contamination Planning Guidelines - SEPP 55 Remediation of Land. Crown Copyright

NSW Environmental Planning and Assessment Act 1979

NSW Environmental Planning and Assessment Regulation 2021

NSW Environment Protection Authority (2015). Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997

NSW Environment Protection Authority - Guidelines under the CLM Act.

Statutory guidelines: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>

Non-statutory guidelines: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/non-statutory-guidance-documents>

NSW Environment Protection Authority (2023). Role of Site Auditors. <https://www.epa.nsw.gov.au/your-environment/contaminated-land/site-auditor-scheme>

NSW Environment Protection Authority (2020). Consultants Reporting on Contaminated Land – Contaminated Land Guidelines

NSW Environment Protection Authority (2020). Guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

NSW Environment Protection Authority (2022). Contaminated land guidelines: Sampling Design

NSW Environment Protection Authority (2023). Contamination assessment of service station sites – Minimum sampling requirements (EPA, 2023)

NSW Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

State Environmental Planning Guideline (SEPP) – Resilience and Hazards (2021)





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