



Register of Contaminated Land Consent Conditions

AUGUST 2017

This publication was produced by the Hunter Joint Organisation of Councils

Hunter Joint Organisation of Councils

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Disclaimer

The development of this Register of Contaminated Land Consent Conditions has been coordinated by the Hunter Joint Organisation of Councils. It is designed as a register for Councils to consider when developing their requests for information and consent conditions for development applications. The content of this register is current at the time of publication. While every effort has been made to ensure accuracy and completeness, no responsibility is taken, nor guarantee given, by the Hunter Joint Organisation of Councils with respect to errors or omissions in the materials contained in the register. The contents do not constitute legal advice, are not intended to be a substitute for legal advice, and should not be relied upon as such. The Hunter Joint Organisation of Councils does not accept any responsibility or liability in regard to your use of any information given in this register.

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 a 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. Its application can directly assist councils ensure they act in “good faith” with their legislative obligations, and that 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 Regional Contaminated Land 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 HCCREMS (2012) guideline *Developing Quality Conditions of Consent*, available at the Hunter Joint Organisation of Councils web page (www.hccrems.com.au).

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 of Councils, 2017). Figure 1 presents the Register in the context of the document series.

The Register is designed to:

- Provide a consistent approach by Councils in the Hunter Region to the assessment and management of contaminated land through the development assessment process; and
- 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 of Councils, 2017). 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>[Grey shaded 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="667 1189 1299 1292" style="border: 1px solid black; background-color: #fce4d6; padding: 5px; margin: 10px auto; width: fit-content;"> <p><i>Advisory Notes for the assessor are provided in boxes.</i></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.

**MODEL REGIONAL CONTAMINATED LAND
POLICY - LAND USE PLANNING: FOCUS
AREAS**

SUPPORTING RESOURCES AND GUIDES

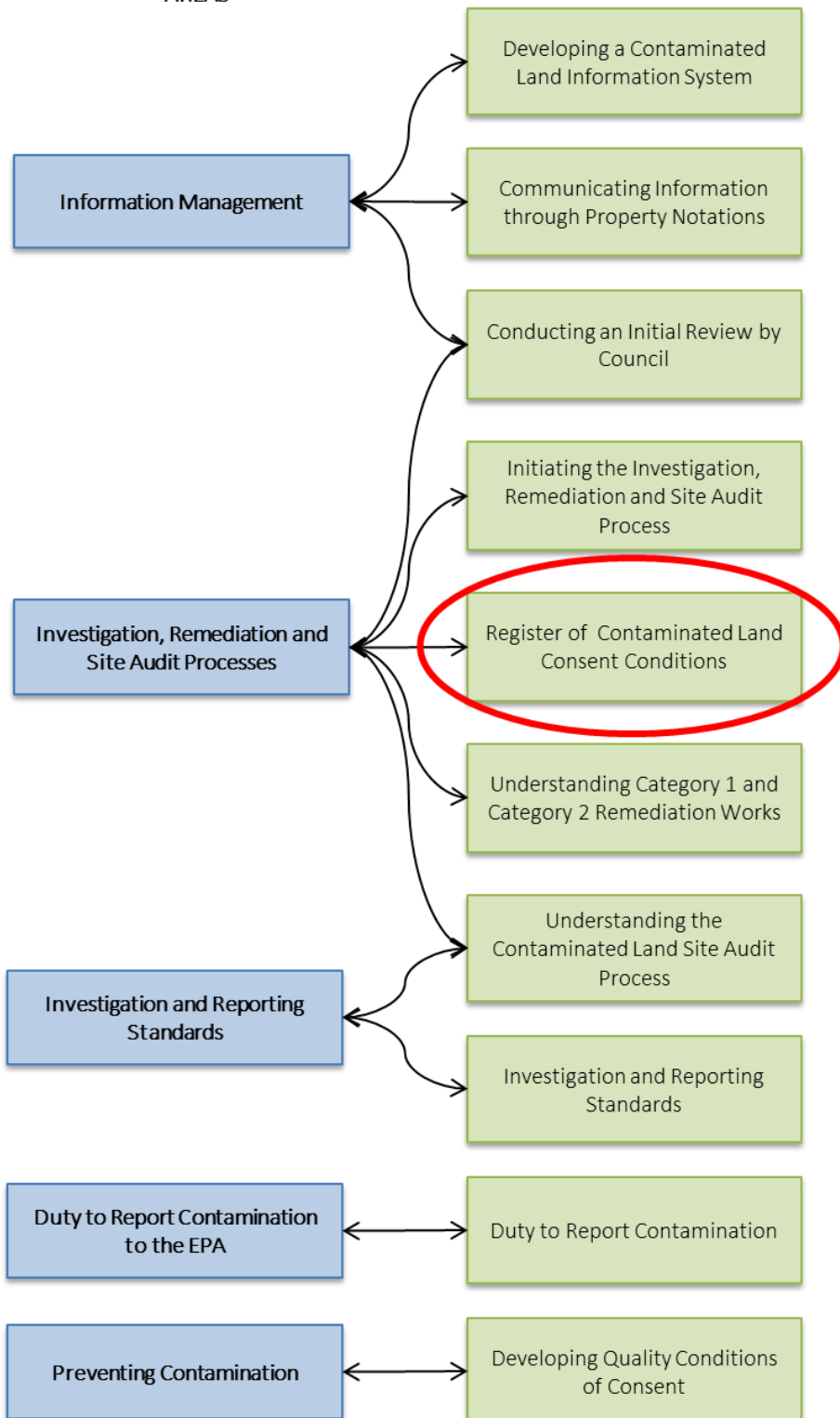


Figure 1. Contaminated Land Resources and Guides for the Planning Process, produced as part of the Contaminated Land Capacity Building Program.

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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 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> <ul style="list-style-type: none">• Preliminary Site Investigation (PSI)• Detailed Site Investigation (DSI): Several reports, such as additional investigations, contamination delineation, monitoring, and/or Site Specific Risk Assessments may be included in this stage)• Remedial Action Plan (RAP)• Remediation• Validation (including Monitoring if applicable)• Ongoing Environmental Management Plan (OEMP) and Monitoring
CLM Act	<i>Contaminated Land Management Act 1997</i> (NSW)
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</i> (2015)
EPA	Environment Protection Authority
Initial Evaluation	An evaluation 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 Planning Instruments from the <i>Environmental Planning & Assessment Act 1979</i>
LGA	Local Government Area
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</i> (1998)
Planning Proposal	A formal application submitted by Council that proposes to rezone land
POEO	<i>Protection of the Environment Operations Act 1997</i> (NSW)
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 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
s149 Certificate	Planning Certificate under Section 149 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW)
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 55	<i>State Environmental Planning Policy No 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</i> (with changes made through the <i>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
Table 1 of the Planning Guidelines	List of potentially contaminating activities included in Table 1 of the <i>NSW Managing Land Contamination Planning Guidelines</i> (1998)
Validation	The objective of the validation stage of the Contaminated Land Process is to demonstrate whether or not the objectives stated in the Remedial Action Plan have been achieved

Key Legislative Instruments, Regulations, Policies & Guidelines

<i>Contaminated Land Management Act 1997</i>	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 Amendment Act 2008</i>	Introduced amendments aimed to allow sites to be cleaned up more efficiently while reinforcing the 'polluter pays' principle
<i>Contaminated Land Management Regulation 2013</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>
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>
<i>Environmental Planning & 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 2000</i>
<i>Environmental Planning and Assessment Regulation 2000</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
NSW Managing Land Contamination Planning Guidelines – SEPP 55 Remediation of Land (1998)	The Planning Guidelines support SEPP55 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
State Environmental Planning Policy No 55 – Remediation of Land	Ensures planning decisions take into account possible land contamination, and promotes remediation to reduce risk of harm

1. 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.

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 requirements of SEPP 55 (s7):

"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 of 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".*

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.

1.2. 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. Detailed Site Investigation (DSI): Several reports, such as additional investigations, contamination delineation, monitoring, and/or site specific risk assessments may be included in this stage)
3. Remedial Action Plan (RAP)
4. Remediation
5. Validation (including Monitoring if applicable)
6. Ongoing Environmental Management Plan (OEMP) and Monitoring

Notes:

1. 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 (2014) and must be considered when considering development applications involving UPSS (refer Section 4).
2. Accredited Site Auditors may be engaged 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.

This typically occurs in two stages:

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

1.3.1. Requests for Information

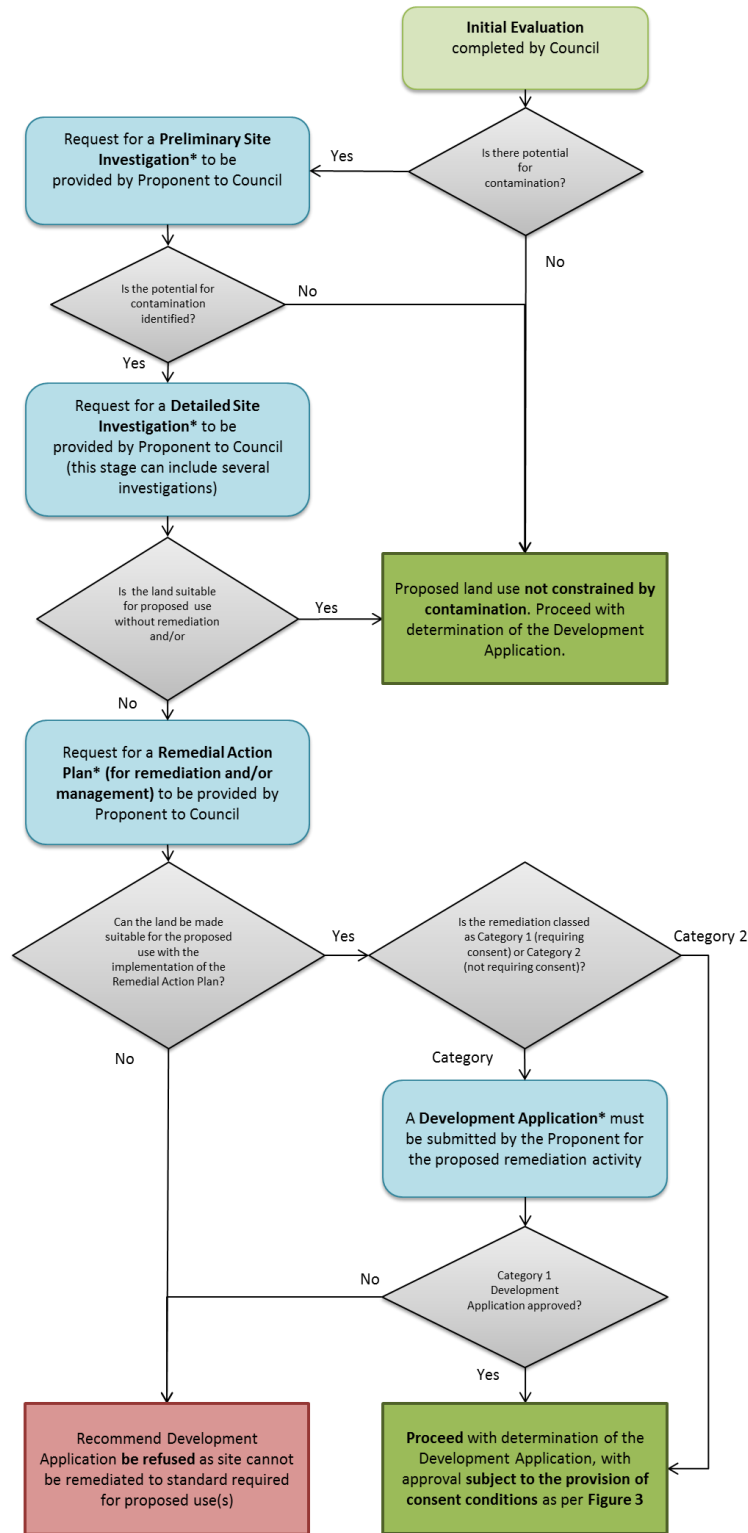
Council, as the regulatory authority, is unable to provide consent for a development until it is satisfied that the site is, or can be made, suitable (during the development stage with the implementation of remediation and/or management) for the proposed land use. For that reason, Site Investigation 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 Request for Information (refer to Section 2.1). 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 (refer to Section 4)

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
Detailed Site Investigation	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

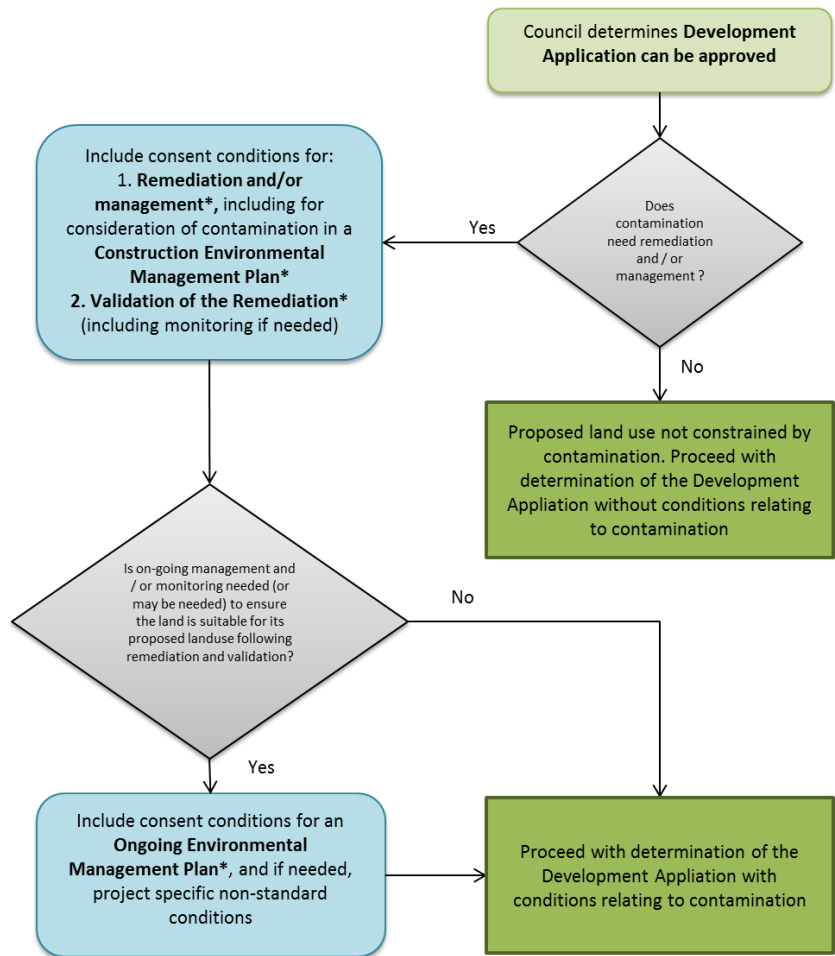
Conditions of Consent accompany a development approval (issued when Council is satisfied that the site is, or can be made, suitable for the proposed land use), to identify the actions and information required by the Proponent before and during construction, or that will apply to ongoing management and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

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 conditions should be added where Underground Petroleum Storage Systems are or may be present, or are proposed as part of the development (refer to Section 4)

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 Model Policy

The *Model Regional Contaminated Land Policy - Land Use Planning* (the Model Policy) 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*.

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

2. 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*. Section 4 of the Act defines a Site Audit as a review:

- *“that relates to management, carried out in respect of the actual or possible contamination of land; and*
- *that is conducted for the purpose of determining any one of the following matters:*
 - *the nature and extent of any contamination of the land;*
 - *the nature and extent of any management of actual or possible contamination of the land;*
 - *whether the land is suitable for any specified use or range of uses;*
 - *what management remains necessary before the land is suitable for any specified use or range of uses; or*
 - *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.

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 (which are identified in the Site Audit Statement) are:

- A To determine land use suitability (the intended land use needs to be specified).
- B(i) To determine the nature and extent of contamination; and/or
- B(ii) To determine the appropriateness of an investigation/remedial action/management plan (the specific plan/report needs to be defined); and/or
- B(iii) To determine if the land can be made suitable for a particular use or uses by implementation of a specified remedial action plan/management plan (the specific plan needs to be identified, and the intended land use(s) need to be specified).

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 data-bbox="292 398 1010 427"><u>Contaminated Site Audit of the Contaminated Land Process</u></p> <ol data-bbox="341 465 1398 1077" style="list-style-type: none"> <li data-bbox="341 465 1398 568">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. <li data-bbox="341 611 1398 786">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. <li data-bbox="341 828 1398 931">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. <li data-bbox="341 974 1398 1077">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 <i>Government Information (Public Access) Act 2009</i>. <p data-bbox="292 1115 360 1144">Note:</p> <p data-bbox="292 1182 1366 1285">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 data-bbox="341 1323 1366 1608" style="list-style-type: none"> <li data-bbox="341 1323 794 1352">1. Preliminary Site Investigation (PSI) <li data-bbox="341 1359 1366 1462">2. Detailed Site Investigation (DSI) (Note that several reports, such as supplementary investigations, contamination delineation, monitoring, and/or Site Specific Risk Assessments may be may be included in this stage) <li data-bbox="341 1469 711 1498">3. Remedial Action Plan (RAP) <li data-bbox="341 1505 539 1534">4. Remediation <li data-bbox="341 1541 927 1570">5. Validation (including Monitoring if applicable) <li data-bbox="341 1576 994 1606">6. Ongoing Environmental Management Plan (OEMP)

No.	Model Requests for Information
2	<p data-bbox="292 331 839 360"><u>Contaminated Site Audit of Site Investigations</u></p> <ol data-bbox="341 398 1401 1010" style="list-style-type: none"> <li data-bbox="341 398 1353 465">1. The [INSERT TYPE OF INVESTIGATION] must be reviewed by a NSW Environment Protection Authority Accredited Site Auditor. <li data-bbox="341 510 1401 719">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] [HAS SUFFICIENTLY DETERMINED THE NATURE AND EXTENT OF CONTAMINATION, OR; IS APPROPRIATE, OR; THAT THE SITE IS SUITABLE FOR ITS PROPOSED LAND USE AS (INCLUDE SPECIFIC LAND USE)]. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. <li data-bbox="341 763 1401 864">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. <li data-bbox="341 909 1362 1010">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 <i>Government Information (Public Access) Act 2009</i>.
3	<p data-bbox="292 1079 876 1108"><u>Contaminated Site Audit of Remedial Action Plan</u></p> <ol data-bbox="341 1146 1401 1758" style="list-style-type: none"> <li data-bbox="341 1146 1401 1214">1. The Remedial Action Plan (RAP) must be reviewed by a NSW Environment Protection Authority Accredited Site Auditor. <li data-bbox="341 1258 1401 1467">2. Prior to consideration of development consent, a Site Audit Statement and Site Audit Report, which clearly states that the RAP [IS APPROPRIATE, OR; CAN MAKE THE SITE SUITABLE FOR THE INTENDED LAND USE AS (INCLUDE SPECIFIC LAND USE)], 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. <li data-bbox="341 1512 1401 1612">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. <li data-bbox="341 1657 1362 1758">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 <i>Government Information (Public Access) Act 2009</i>.
4	<p data-bbox="292 1827 887 1856"><u>Audit of Conceptual Design of a Containment Cell</u></p> <ol data-bbox="341 1895 1374 1995" style="list-style-type: none"> <li data-bbox="341 1895 1374 1995">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.

Notes for Assessor

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><u>Contaminated Site Investigations</u></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 OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, 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] 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.

	<p>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 <i>Government Information (Public Access) Act 2009</i>.</p> <p>6. 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.</p> <p>Note:</p> <p>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:</p> <ol style="list-style-type: none"> 1. Preliminary Site Investigation (PSI) 2. Detailed Site Investigation (DSI) (Note that several reports, such as supplementary investigations, contamination delineation, monitoring, and/or Site Specific Risk Assessments may be included in this stage) 3. Remedial Action Plan (RAP) 4. Remediation 5. Validation (including Monitoring if applicable) 6. Ongoing Environmental Management Plan (OEMP) 7. Contaminated Site Audit on any or all steps of the process
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2.3. Preliminary Site Investigation

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

- Identify any past or present potentially contaminating activities; and
- Provide a preliminary assessment of any site contamination, and if required, provide a basis for a Detailed Site Investigation.

A Preliminary Site Investigation report should 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 OEH (2011) *Guidelines for Consultants Reporting on Contaminated Sites*. It is important that all relevant information about the Site is sought and assessed to determine the potential for site contamination, and (if needed) to base further investigations on.

Notes for Assessor

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 data-bbox="288 398 815 427"><u>Preliminary Contaminated Site Investigation</u></p> <ol style="list-style-type: none"> <li data-bbox="336 465 1390 824">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"> <li data-bbox="432 613 911 642">a. Council's Contaminated Land Policy, <li data-bbox="432 647 1182 676">b. Managing Land Contamination Planning Guidelines (1998), <li data-bbox="432 680 1310 748">c. Relevant EPA Guidelines, in particular NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and <li data-bbox="432 752 1310 819">d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). <li data-bbox="336 869 1390 1037">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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. <li data-bbox="336 1081 1390 1182">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. <li data-bbox="336 1227 1390 1361">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. <li data-bbox="336 1406 1390 1507">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 <i>Government Information (Public Access) Act 2009</i>. <li data-bbox="336 1552 1390 1686">6. 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. <p data-bbox="288 1731 352 1760">Note:</p> <p data-bbox="288 1798 1390 1933">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</i>, amended in 2013 (ASC NEPM, 2013).</p>

2.4. Detailed Site Investigation

The objectives of a Detailed Site Investigation (DSI) are 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 (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 OEH (2011) *Guidelines for Consultants Reporting on Contaminated Sites*. 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) can be undertaken by the Proponent's Consultant should the Tier 1 assessment indicate that risks are present.

2.4.1. Sampling and Analysis Quality Plan

A Sampling and Analysis Quality Plan (SAQP) is a requirement for contaminated site investigations. Where considered appropriate, the Sampling and Analysis Quality Plan can be requested as a separate document to 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, eco-systems, 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 effected 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.

Notes for Assessor

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 4. Detailed Site Investigation

No.	Model Requests for Information
7	<p><u>Detailed Contaminated Site Investigation</u></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 NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and d. 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] 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.

	<ol style="list-style-type: none"> 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 <i>Government Information (Public Access) Act 2009</i>. 6. 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. <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 <i>National Environment Protection (Assessment of Site Contamination) Measure 1999</i>, amended in 2013 (ASC NEPM, 2013).</p>
8	<p><u>Sampling and Analysis Quality Plan (Contaminated Land)</u></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 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. 3. 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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. 4. 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. 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 <i>Government Information (Public Access) Act 2009</i>.

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, a Remedial Action Plan must be submitted with the development application (refer to SEPP 55 - Remediation of Land). For remediation not requiring consent ("Category 2" Remediation), Council must be notified prior to commencement and upon completion. These notifications must include a Remedial Action Plan (prior to commencement), and a Validation Report (upon completion) (refer to Section 3.3 for more information about the validation process).

Notes for Assessor

- 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. 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 data-bbox="288 398 544 427"><u>Remedial Action Plan</u></p> <ol style="list-style-type: none"> <li data-bbox="339 465 1374 824">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"> <li data-bbox="435 613 916 642">a. Council's Contaminated Land Policy, <li data-bbox="435 647 1187 676">b. Managing Land Contamination Planning Guidelines (1998), <li data-bbox="435 680 1315 748">c. Relevant EPA Guidelines, in particular NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and <li data-bbox="435 752 1310 819">d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). <li data-bbox="339 864 1385 931">2. 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. <li data-bbox="339 972 1390 1111">3. 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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. <li data-bbox="339 1151 1390 1218">4. 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. <li data-bbox="339 1258 1305 1366">5. 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. <li data-bbox="339 1406 1358 1514">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 <i>Government Information (Public Access) Act 2009</i>. <li data-bbox="339 1554 1369 1693">7. 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. <li data-bbox="339 1733 1398 1872">8. 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 No 55—Remediation of Land, and Council's Contaminated Land Policy.

3. 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><u>Contaminated Site Audit for the Contaminated Land Process</u></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.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 Ongoing Environmental Management Plan 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 <i>Government Information (Public Access) Act 2009</i>.

No.	Model Conditions of Consent
11	<p data-bbox="277 327 879 360"><u>Contaminated Site Audit of [INSERT REPORT TYPE]</u></p> <ol data-bbox="325 398 1401 1081" style="list-style-type: none"> <li data-bbox="325 398 1318 465">1. The [INSERT REPORT TYPE] must be audited by a NSW Environment Protection Authority Accredited Site Auditor. <li data-bbox="325 506 1401 790">2. Prior to issue of a [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE] a Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor which clearly states that the [INSERT REPORT] [IS APPROPRIATE, OR; IDENTIFIES THE NATURE AND EXTENT OF CONTAMINATION, OR; THAT THE SITE CAN BE MADE SUITABLE FOR THE PROPOSED LAND USE WITH ITS IMPLEMENTATION, OR; THAT THE SITE IS SUITABLE FOR ITS INTENDED LAND USE (INCLUDE SPECIFIC LAND USE)]. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. <li data-bbox="325 831 1369 936">3. Implementation of an Auditor approved Ongoing Environmental Management Plan and any other conditions on the Site Audit Statement must be adhered to and interpreted to form part of the consent. <li data-bbox="325 976 1390 1081">4. 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 <i>Government Information (Public Access) Act 2009</i>.
12	<p data-bbox="277 1149 818 1182"><u>Contaminated Site Audit of Validation Report</u></p> <ol data-bbox="325 1220 1398 1794" style="list-style-type: none"> <li data-bbox="325 1220 1374 1288">1. The Validation Report must be audited by a NSW Environment Protection Authority Accredited Site Auditor. <li data-bbox="325 1328 1398 1503">2. Prior to issue of a [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE] a Site Audit Statement and Site Audit Report must be provided to Council from the Site Auditor which clearly states that the site is suitable for the intended use. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site. <li data-bbox="325 1543 1369 1648">3. Implementation of an Auditor approved Ongoing Environmental Management Plan and any other conditions on the Site Audit Statement must be interpreted to form part of the consent. <li data-bbox="325 1688 1390 1794">4. 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 <i>Government Information (Public Access) Act 2009</i>.

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 procedural changes), to engineering controls (such as fencing, signage and capping) through to elimination (such as active removal or treatment of contamination).

SEPP No. 55 - Remediation of Land, 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:
 - i. Pollution Prevention and Controls
 - ii. Vehicles and Equipment
 - iii. Site Access
 - iv. Acid Sulphate Soils
 - v. Containment areas/cells
 - vi. Water management
 - vii. 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 for Assessor

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
13	<p data-bbox="280 398 767 432"><u>Notice of Category 2 Remediation Works</u></p> <ol style="list-style-type: none"> <li data-bbox="328 465 1398 645">1. At least 30 days prior to any remediation works commencing on site, the Remedial Action Plan must be submitted to Council along with the notification in writing required under clause 16 of SEPP 55 advising on the commencement date and contact details of the responsible supervising person overseeing the implementation of the Remedial Action Plan. <li data-bbox="328 685 1398 752">2. Contact details must include telephone number including after hours contact, postal address and email contact details. <li data-bbox="328 792 1398 898">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. Construction Environmental Management Plans

As identified in Department of Infrastructure, Planning and Natural Resources (2004) *Guideline for the Preparation of 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 operation. There are various types of EMPs; Construction Environmental Management Plan (CEMP), Operational Environmental Management Plan (Operational EMP), and Ongoing Environmental Management Plan (OEMP, also known as Long Term Environmental Management Plan (LTEMP)). This Section deals with Construction Environmental Management Plans only (refer to Section 3.4.1 for conditions relating to Ongoing Environmental Management Plans. Operational Environmental Management Plans are not part of this register as they deal with pollution prevention rather than contamination).

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.

Notes for Assessor

1. 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.
2. Depending on the conditions of the site, council may wish to include specific requirements for the CEMP. Some such requirements are presented in Section 3.2.3.

Table 8. Construction Environmental Management Plan for Contaminated Sites

No.	Model Conditions of Consent
14	<p><u>Construction Environmental Management Plan (Contaminated Sites)</u></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 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)]. 3. 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]. 4. 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 5. 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. 6. 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 <i>Government Information (Public Access) Act 2009</i>.

No.	Model Conditions of Consent
15	<p data-bbox="288 331 1342 360"><u>Implementation of Construction Environmental Management Plan (Contaminated Sites)</u></p> <ol data-bbox="336 398 1406 1518" style="list-style-type: none"> <li data-bbox="336 398 1406 465">1. The Construction Environmental Management Plan (CEMP) must be adhered to during the [CONSTRUCTION STAGE, OR; REMEDIATION WORKS]. <li data-bbox="336 510 1406 645">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]. <li data-bbox="336 689 1406 869">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. <li data-bbox="336 913 1406 1048">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. <li data-bbox="336 1093 1406 1193">5. Any changes to the approved CEMP must be submitted to Council and the Principal Certifying Authority [AND/OR ACCREDITED SITE AUDITOR IF REQUIRED BY COUNCIL] prior to the implementation of the changes. <li data-bbox="336 1238 1406 1339">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 <i>Government Information (Public Access) Act 2009</i>. <li data-bbox="336 1384 1406 1518">7. 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.

3.2.3. 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. Conditions are included for the following:

- Pollution Prevention and Controls
- Vehicles and Equipment
- Site Access
- Acid Sulphate Soils
- Contamination Containment Areas/Cells
- Water Management
- Community Consultation

Table 9. Pollution Prevention and Controls

No.	Model Conditions of Consent
16	<p><u>Preventing Pollution</u></p> <ol style="list-style-type: none"> 1. All activities associated with the development must be carried out so as not to create a “pollution” incident as defined by the <i>Protection of the Environment Operations (POEO) Act 1997</i>.
17	<p><u>Dust Mitigation</u></p> <ol style="list-style-type: none"> 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]. 2. The dust mitigation measures must be designed and implemented so as to minimise particulate dust emissions leaving the site during construction.
18	<p><u>Contaminated Dust</u></p> <ol style="list-style-type: none"> 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), and the removal, storage, and disposal of contaminated soil or materials.

No.	Model Conditions of Consent
19	<p><u>Vapours</u></p> <ol style="list-style-type: none"> 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.
20	<p><u>Asbestos</u></p> <ol style="list-style-type: none"> 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]. The CEMP must describe how asbestos risks will be monitored, and how cross contamination of non-contaminated areas will be avoided.
21	<p><u>Contaminated Groundwater</u></p> <ol style="list-style-type: none"> 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].
22	<p><u>Contaminated Surface Water</u></p> <ol style="list-style-type: none"> 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 <i>Protection of the Environment Operations (POEO) Act 1997</i>.
23	<p><u>Air Quality</u></p> <ol style="list-style-type: none"> Remediation activities must be managed to ensure that dust, odour, gases or fumes are not emitted beyond the boundary of the remediation site to the extent that such emissions would constitute a pollution incident as defined under the provisions of the <i>Protection of the Environment Operations (POEO) Act 1997</i>.
24	<p><u>Erosion and Sediment Control</u></p> <ol style="list-style-type: none"> 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 <i>Managing Urban Stormwater Soils & Construction Volume 1</i> (Landcom, 2004) until the issuing of the Occupation Certificate or Council's approval of the contamination Validation Report.

No.	Model Conditions of Consent
25	<p data-bbox="280 331 644 360"><u>Erosion and Sediment Control</u></p> <ol style="list-style-type: none"> <li data-bbox="328 398 1401 577">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. <li data-bbox="328 616 1401 1081">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: <ol style="list-style-type: none"> <li data-bbox="424 723 1390 752">a. The diversion of uncontaminated run-off around cleared or disturbed areas. <li data-bbox="424 763 1390 831">b. The erection of a silt fence to prevent debris escaping into drainage systems or waterways. <li data-bbox="424 842 1222 871">c. The prevention of tracking of sediment by vehicles onto roads. <li data-bbox="424 882 1171 911">d. Covering of vehicles entering/exiting the site with material. <li data-bbox="424 922 1382 1012">e. 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. <li data-bbox="424 1023 1355 1081">f. Maintenance of control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction.
26	<p data-bbox="280 1153 667 1182"><u>Impact of Remediation Activities</u></p> <ol style="list-style-type: none"> <li data-bbox="328 1220 1369 1288">1. Remediation activities must not cause any environmental harm outside of the area nominated for remediation. <p data-bbox="280 1326 347 1355">Note:</p> <p data-bbox="280 1393 959 1422">Environment means components of the earth, including:</p> <ol style="list-style-type: none"> <li data-bbox="424 1438 756 1467">a. land, air and water, and <li data-bbox="424 1478 871 1507">b. any layer of the atmosphere, and <li data-bbox="424 1518 1198 1547">c. any organic or inorganic matter and any living organism, and <li data-bbox="424 1559 1038 1588">d. human-made or modified structures and areas

Table 10. Vehicles and Equipment

No.	Model Conditions of Consent
27	<p><u>Loading and Unloading of Vehicles</u></p> <ol style="list-style-type: none"> 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. 2. Measures must be implemented to prevent tracking of sediment by vehicles onto roads. 3. Vehicle loads must be covered when entering and exiting the site with material.
28	<p><u>Equipment and Material Storage</u></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.
29	<p><u>Noise from Equipment</u></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

No.	Model Conditions of Consent
30	<p><u>Owner to Restrict Access to the Site</u></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.

Table 12. Acid Sulphate Soils

No.	Model Conditions of Consent
31	<p><u>For Land Impacted by Acid Sulphate Soils (ASS):</u></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 Construction Certificate and the commencement of building works onsite. 2. The plan must be prepared by a duly qualified consultant. 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] 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.

Table 13. Containment Areas/Cells

No.	Model Conditions of Consent
32	<p><u>Survey of Contamination Containment Area</u></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]. <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p><i>Note for Assessor</i></p> <p><i>Where contamination remains on site contained in certain areas or placed in purpose built containment cells, an ongoing 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 Ongoing Environmental Management Plans (OEMPs)</i></p> </div>

No.	Model Conditions of Consent
33	<p><u>Stockpiling of grass and topsoil for re-use</u></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
34	<p><u>Diversion of Uncontaminated Water</u></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.
35	<p><u>Criteria for Discharge of Water</u></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] 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.

Table 15. Community Consultation

No.	Model Conditions of Consent
36	<p><u>Community Consultation</u></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.

3.2.4. 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.

<p><i>Notes for Assessor</i></p> <ol style="list-style-type: none"> 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. 	
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Table 16. Compliance with Remedial Action Plan

No.	Model Conditions of Consent
37	<p><u>Implementation of Remedial Action Plan</u></p> <ol style="list-style-type: none"> 1. 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 No. 55 - Remediation of Land; d. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and e. The guidelines in force under the <i>Contaminated Land Management Act 1997</i>. 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.

	<ol style="list-style-type: none"> 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] 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 <i>Government Information (Public Access) Act 2009</i>. 7. 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.
38	<p><u>Groundwater Remediation</u></p> <ol style="list-style-type: none"> 1. Groundwater remediation must be undertaken in accordance with the [INSERT REMEDIAL ACTION PLAN DETAILS] approved by Council. 2. The remediation must be supervised by an adequately experienced and qualified consultant. 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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification.
39	<p><u>Variation(s) to Remedial Action Plan</u></p> <ol style="list-style-type: none"> 1. Any variation to the RAP must be communicated to Council in writing before substantially commenced to determine if any proposed variation will require reassessment under s96 of the <i>Environmental Planning and Assessment (EP&A) Act 1979</i>.

3.2.5. 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
40	<p><u>New Information/Unexpected Finds</u></p> <ol style="list-style-type: none"> <li data-bbox="331 640 1394 920">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 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. <li data-bbox="331 969 1394 1104">2. 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.

3.2.6. Waste

Any contaminated material(s) transported off-site for disposal must be classified, handled, and transported as waste. Table 18 provides conditions for the appropriate management of contaminated waste.

Table 18. Waste

No.	Model Conditions of Consent
41	<p data-bbox="280 398 1331 427"><u>Waste Classification and Disposal of Contaminated Soil and Material(s), Solid and Liquid</u></p> <ol style="list-style-type: none"> <li data-bbox="328 465 1394 640">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 <i>Protection of the Environment (Waste) Regulation 2014</i> and related guidelines, in particular <i>NSW EPA Waste Classification Guidelines (2014)</i>, prior to off-site disposal. <li data-bbox="328 685 1385 931">2. The 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] of Councils Contaminated Land Policy. The front cover of the report must include the details of the consultant’s certification. <li data-bbox="328 976 1366 1077">3. All waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to council within [INSERT NUMBER] days of the waste being disposed. <li data-bbox="328 1122 1347 1256">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. <li data-bbox="328 1301 1273 1361">5. Waste tracking must be undertaken in accordance with [INSERT RELEVANT STANDARD OR SPECIFIC PLAN]. <li data-bbox="328 1406 1390 1507">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. <li data-bbox="328 1552 1374 1653">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 <i>Government Information (Public Access) Act 2009</i>. <div data-bbox="293 1682 1390 1928" style="border: 1px solid black; padding: 10px; margin-top: 20px;"> <p data-bbox="312 1727 507 1756"><i>Note for Assessor</i></p> <p data-bbox="312 1794 1342 1895"><i>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.</i></p> </div>

No.	Model Conditions of Consent
42	<p data-bbox="280 331 512 360"><u>Discharge of Water</u></p> <ol data-bbox="328 398 1398 611" style="list-style-type: none"> <li data-bbox="328 398 1398 465">1. Waters likely to be contaminated (including water from excavations) must be discharged to [INSERT APPROPRIATE RECEIVING LOCATION]. <li data-bbox="328 506 1398 611">2. Prior to any discharge, appropriate licences and approvals must be obtained and any requirements of the relevant Authority must be met, to the satisfaction of the Authority.
43	<p data-bbox="280 683 647 712"><u>Criteria for Discharge of Water</u></p> <ol data-bbox="328 750 1398 1144" style="list-style-type: none"> <li data-bbox="328 750 1398 999">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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. <li data-bbox="328 1039 1398 1144">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.
44	<p data-bbox="280 1214 727 1243"><u>Water Testing for Discharge of Water</u></p> <ol data-bbox="328 1281 1398 1637" style="list-style-type: none"> <li data-bbox="328 1281 1398 1386">1. Water testing must be carried out by a suitably qualified consultant to verify that waste water discharges comply with [INSERT RELEVANT SEWAGE MANAGEMENT AUTHORITY'S GUIDELINES/STANDARD]. <li data-bbox="328 1426 1398 1532">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. <li data-bbox="328 1572 1398 1637">3. Details of methods of disposal shall be approved by Council/relevant Water Authority prior to any disposal of waste waters.

3.2.7. 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
45	<p><u>Imported Fill Materials</u></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; PROVIDED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE, OR; PROVIDED TO COUNCIL PRIOR TO FILLING] 3. Fill imported on to the site must be compatible with the existing soil characteristic for site drainage purposes.
46	<p><u>Limitations on Type of Filling Material Permitted</u></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 <i>Protection of the Environment Operations (Waste) Regulations 2014</i>. c. Material subject to a Waste exemption under Clauses 91 and 92 <i>Protection of the Environment Operations (Waste) Regulations 2014</i> 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].

No.	Model Conditions of Consent
47	<p><u>Reuse of Soils within the Site</u></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 <i>National Environment Protection (Assessment of Site Contamination) Measure 1999</i> (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.

3.2.8. 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
48	<p><u>Complaints Register</u></p> <ol style="list-style-type: none"> 1. While the remediation activities are undertaken, the principle 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.
49	<p><u>Notification of Complaint</u></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 55 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 is an essential prerequisite 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.

Notes for Assessor

- 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
50	<p><u>Validation Report</u></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 OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites 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] 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 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. 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 <i>Government Information (Public Access) Act 2009</i>.
51	<p><u>Notice of Completion for Category 2 Remediation Works</u></p> <ol style="list-style-type: none"> 1. Within 30 days of completion of the remediation work, a Validation Report must be provided to Council along with the notice of completion as required under clause 17 and 18 of SEPP 55 to confirm that the remediation has been carried out in accordance with the Remedial Action Plan, requirement(s) of this consent, and SEPP 55.

No.	Model Conditions of Consent
52	<p data-bbox="280 331 564 360"><u>Residual Contamination</u></p> <ol data-bbox="328 398 1374 501" style="list-style-type: none"> 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. <div data-bbox="280 539 1401 779" style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p data-bbox="300 584 496 613"><i>Note for Assessor</i></p> <p data-bbox="300 651 1358 754"><i>Where contamination remains on site, an Ongoing Environmental Management Plan may be needed. Refer to Section 3.4 for consent conditions relating to ongoing management and monitoring.</i></p> </div>
53	<p data-bbox="280 846 991 875"><u>Survey of Contaminated Soil Containment and Fill Materials</u></p> <ol data-bbox="328 913 1385 1160" style="list-style-type: none"> 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. 2. The extent and depth of all fill material in relation to existing roadways and buildings must also be presented on the plan.
54	<p data-bbox="280 1234 730 1263"><u>Waste Material(s) in Validation Report</u></p> <ol data-bbox="328 1301 1353 1435" style="list-style-type: none"> 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.

3.4. Ongoing Monitoring and Management

Ongoing monitoring/management is 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/management is 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/management program. An **Ongoing Environmental Management Plan (OEMP)** is the document outlining the requirements and specific details of an ongoing monitoring/management program.

The requirements of implementation of an OEMP can form part of the conditions of consent. To further ensure that an OEMP is implemented and that the relevant parties are aware of their responsibilities, it can also be placed as a restriction or covenant on the land.

3.4.1. Ongoing Environmental Management Plan

Table 22 provides model conditions for Ongoing Environmental Management Plans.

<p><i>Notes for Assessor</i></p> <ol style="list-style-type: none"> 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. 	
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Table 22. Ongoing Environmental Management Plan

No.	Model Conditions of Consent
55	<p><u>Ongoing Environmental Management Plan</u></p> <ol style="list-style-type: none"> 1. Where the Validation Report identifies the need for implementation of an Ongoing Environmental Management Plan (OEMP), the plan must be submitted to Council and the Certifying Authority. The OEMP 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. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013) 2. The OEMP 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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification.

	<ol style="list-style-type: none"> 3. The OEMP must be submitted to, and approved by, Council prior to the issue of a [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE] 4. The OEMP 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. 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 <i>Government Information (Public Access) Act 2009</i>.
56	<p><u>Site with Containment Cell</u></p> <ol style="list-style-type: none"> 1. The OEMP 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 OEMP 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><i>Notes for Assessor</i></p> <ol style="list-style-type: none"> 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, specific requirements apply, and relevant conditions are included in Section 4.
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Table 23. Monitoring

No.	Model Conditions of Consent
57	<p><u>Groundwater Monitoring as part of Validation</u></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; ONGOING 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.

No.	Model Conditions of Consent
	<p data-bbox="325 331 1358 398">3. The groundwater monitoring results must be included in the Validation Report for the remediation.</p> <div data-bbox="292 432 1393 667" style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p data-bbox="309 479 507 510"><i>Note for Assessor</i></p> <p data-bbox="309 546 1337 613"><i>Model wording for conditions relating to the Validation Report are presented in Section 3.3, and should be used in combination with this condition.</i></p> </div>
58	<p data-bbox="277 741 692 772"><u>Groundwater Monitoring (Specific)</u></p> <ol data-bbox="325 808 1398 1749" style="list-style-type: none"> <li data-bbox="325 808 1358 1025">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]. <li data-bbox="325 1066 1374 1097">2. Monitoring must be undertaken by a suitably qualified and experienced consultant. <li data-bbox="325 1137 1398 1317">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] of Councils Contaminated Land Policy. The front cover of the report(s) must include the details of the consultant's certification. <li data-bbox="325 1357 1366 1460">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. <li data-bbox="325 1500 1334 1603">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. <li data-bbox="325 1644 1350 1749">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 <i>Government Information (Public Access) Act 2009</i>.

No.	Model Conditions of Consent
59	<p data-bbox="279 331 799 360"><u>Ongoing Groundwater Monitoring Program</u></p> <ol style="list-style-type: none"> <li data-bbox="328 398 1369 539">1. Prior to the issue of a [CONSTRUCTION CERTIFICATE, OR; OCCUPATION CERTIFICATE], an ongoing groundwater monitoring program must be developed as part of the Ongoing Environmental Management Plan (OEMP), and submitted to Council for approval. <li data-bbox="328 577 1369 719">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. <li data-bbox="328 757 1398 936">3. The OEMP 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] of Council's Contaminated Land Policy. The front cover of the report(s) must include the details of the consultant's certification. <li data-bbox="328 974 1374 1003">4. Monitoring must be undertaken by a suitably qualified and experienced consultant. <li data-bbox="328 1041 1358 1444">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"> <li data-bbox="424 1160 967 1189">a. A description of the monitoring program; <li data-bbox="424 1196 1002 1225">b. Figures presenting the monitoring locations; <li data-bbox="424 1232 1238 1261">c. The results of all sampling undertaken as a part of the program; <li data-bbox="424 1267 1294 1296">d. A review of such results against the relevant pre-determined criteria; <li data-bbox="424 1303 1094 1332">e. Data Quality Objectives for the monitoring program; <li data-bbox="424 1339 986 1368">f. Quality Assurance and Quality Control; and <li data-bbox="424 1375 1398 1444">g. An assessment relating to the contamination status including comments on any exceedences of the adopted criteria or increases in contamination levels. <li data-bbox="328 1482 1334 1585">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. <li data-bbox="328 1624 1350 1727">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>.

No.	Model Conditions of Consent
60	<p data-bbox="277 331 742 365"><u>Ongoing Monitoring: Contingency Plan</u></p> <ol data-bbox="327 398 1390 1155" style="list-style-type: none"> <li data-bbox="327 398 1390 539">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. <li data-bbox="327 577 1390 757">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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification. <li data-bbox="327 795 1390 869">3. Subject to approval by Council, the groundwater remediation plan must be implemented until specified outcomes are achieved. <li data-bbox="327 907 1390 1010">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. <li data-bbox="327 1048 1390 1155">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 <i>Government Information (Public Access) Act 2009</i>.

4. 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* (revised in September 2014) 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 fuel tanks and pipes used to store and handle petroleum products. 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:

- A system for detecting and monitoring leaks;
- Groundwater monitoring wells at sensitive locations and a program to test them;
- An Environment Protection Plan for the facility; and
- Systems in place for record keeping, reporting of leaks and notifying the local council when a UPSS is decommissioned.

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:
Installation and commissioning of a new UPSS	<p>A new UPSS must meet the following requirements before commissioning:</p> <ul style="list-style-type: none"> • Be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation; • Have at least minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks, associated pipework, and overflow protection devices; • Have groundwater monitoring wells installed and tested in accordance with the Regulation; and • Have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

Scenario	Planning Conditions should consider:
Installation of groundwater monitoring wells on UPSS sites	<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> <ul style="list-style-type: none"> • Sealed to exclude surface water; • 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.
Operational management of a new UPSS	<p>All sites with operating UPSS must have an Environment Protection Plan (EPP) in place. Procedures must also be prepared and documented for loss monitoring and detection, and incident management.</p>
Modification of a UPSS	<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. If a tank has been removed or replaced, the system may not be recommissioned unless a validation report has been submitted to the relevant local authority:</p> <ul style="list-style-type: none"> • No later than 60 days after a tank's removal or replacement; or • No later than 60 days after remediation of the site is completed, where this is required. <p>Validation reports must be kept for seven years from the date of creation or seven years after the decommissioning of the tank.</p>
Repair to a UPSS	<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>

Scenario	Planning Conditions should consider:
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 55. 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 a site with known or suspected UPSS prior to making a determination on a development application, the model wording for requests for information in Table 25 can be used.

Note for Assessor

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 Requests for Information
61	<p><u>Underground Petroleum Storage Systems (UPSS): Contamination Investigation(s)</u></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 the <i>UPSS Regulation 2014</i>, and the NSW Environment Protection Authority, <i>Technical Note: Investigation of Service station Sites</i> (2014).
62	<p><u>Underground Petroleum Storage Systems (UPSS): Remedial Action Plan (RAP)</u></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 the <i>UPSS Regulation 2014</i>, and the NSW Environment Protection Authority, 2014, <i>Technical Note: Investigation of Service station Sites</i>.

4.2. Conditions of Consent for Remediation, Decommissioning and Validation of Underground Petroleum Storage Systems

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

Note for Assessor

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
63	<p><u>Underground Petroleum Storage Systems (UPSS): Remediation</u></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 suitably experienced and qualified consultant.
64	<p><u>Underground Petroleum Storage Systems (UPSS): Validation of Decommissioning or Remediation</u></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. The Validation of the UPSS remediation must be undertaken in accordance with relevant Regulation and NSW Environment Protection Authority Guidelines, in particular the <i>UPSS Regulation 2014</i>, and the NSW Environment Protection Authority, <i>Technical Note: Investigation of Service station Sites</i> (2014). 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 2014*. 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.

Notes for Assessor

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
65	<p><u>Underground Petroleum Storage Systems (UPSS): New or Modified Service Stations</u></p> <ol style="list-style-type: none"> 1. The installation and operation of UPSS must comply with the provisions of the Protection of the <i>Environment Operations (Underground Petroleum Storage Systems) Regulation 2014</i> – the UPSS Regulation. 2. Prior to issue of the Construction Certificate, the detailed design specification of the UPSS must be submitted to the Principal Certifying Authority showing compliance with the UPSS Regulation and having a minimum mandatory pollution protective equipment installed comprising non corrodible secondary containment tanks and associated pipework and overfill protection devices. 3. Prior to the issue of any occupation certificate, certification must be submitted to the Principal Certifying Authority that the UPSS was: <ol style="list-style-type: none"> a. Installed, tested (including Equipment Integrity Testing (EIT)) and commissioned by duly qualified persons in accordance with the UPSS regulation. b. 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 Validation Report must be provided to Council within 60 days of the removal or the completion of remediation. A Validation report must be kept a minimum seven years from the date of creation or after the decommissioning of a UPSS. 4. Prior to the issue of any Occupation Certificate, groundwater monitoring wells must be designed, installed, and tested by a duly qualified and experienced consultant in accordance with UPSS Regulation.

No.	Model Conditions of Consent
	<p>5. The groundwater monitoring wells must be:</p> <ol style="list-style-type: none"> a. Sealed to exclude surface water; b. Properly installed to target the hydrocarbon contamination of concern; c. Constructed to prevent cross-contamination with other groundwater monitoring wells; d. Clearly marked to indicate their presence and properly secured; and e. Tested for hydrocarbon contamination at minimum intervals of six months. <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] of Council's Contaminated Land Policy. The front cover of the report must include the details of the consultant's certification.</p> <p>7. The site must have an Environment Protection Plan (EPP) that includes (as a minimum) the following matters (as specified in Clause 19 of the UPSS Regulation):</p> <ol style="list-style-type: none"> a. Specific information about the storage system, including identifying the 'person responsible' for the system; b. Loss monitoring and detection procedures; c. Incident management procedures; d. Details about system maintenance; e. Current 'as built' drawings for the system; f. A plan of the storage site. The plan must also include information on site drainage and services; g. A copy of industry standards that have been followed in constructing and maintaining the UPSS; and h. A copy of the specifications of the UPSS. <p>8. The EPP must be held either electronically or in hardcopy form, either as a dedicated document or as part of other site management procedures, and must be available to the Council or relevant authority when requested.</p> <p>9. Wastewater generated in the undercover refuelling forecourt must be collected and appropriately stored for removal by an NSW Environment Protection Authority licensed contractor and disposed of at an appropriate facility.</p> <p>10. Should repairs be required to the UPSS system during the operational phase, the system must not be recommissioned unless it satisfies the requirements outlined in the UPSS Regulation.</p> <p>11. 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 <i>Government Information (Public Access) Act 2009</i>.</p>

5. References and Further Information

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

Hunter Joint Organisation of Councils (2017). MODEL Regional Contaminated Land Policy – Land Use Planning. Hunter Joint Organisation of Councils, 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 2013

NSW Department of Environment and Conservation (2006). Guidelines for the NSW Site Auditor Scheme (2nd edition), currently being updated.

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 2000

NSW Environment Protection Authority (2014), Technical Note: Investigation of Service station Sites

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

NSW Environment Protection Authority (2016) Guidelines under the CLM Act.
<http://www.epa.nsw.gov.au/clm/guidelines.htm>

NSW Environment Protection Authority (2016). Role of Site Auditors.
<http://www.epa.nsw.gov.au/clm/auditorscheme.htm>

NSW Office of Environment and Heritage (2011). Guidelines for Consultants Reporting on Contaminated Sites

NSW Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014

State Environmental Planning Guideline (SEPP) 55 – Remediation of Land 1998

