

PREVENTION AND MANAGEMENT OF CONTAMINATION OF LAND

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OVERVIEW

Historical industrial and waste management practices have left a legacy of contamination which can make land unsuitable for either its current or proposed uses. Contamination of land can be a significant barrier to the redevelopment of disused industrial land. Where land is not managed properly the health, environmental and economic effects can be significant.

The *State environment protection policy (Prevention and Management of Contamination of Land)* [SEPP (PMCL)] provides a statutory framework for protecting people and the environment from the effects of land contamination. The policy sets in place measures to prevent and manage contamination. The SEPP (PMCL) aims to maintain and where appropriate and practicable improve the condition of land to protect current and future uses from contamination.

Where pollution has occurred, the SEPP requires management practices that will ensure:

- unacceptable risks to human health and the environment are prevented; and
- pollution is cleaned-up or otherwise managed.

The SEPP will:

- continue to improve the environmental audit system by providing a framework for the interaction between the planning and audit systems;

- define the uses of land and provide measures to ensure those uses are protected;
- adopt elements of the National Environment Protection Measure (NEPM) for the assessment of land contamination;
- require best practice in the prevention of contamination; and
- reinforce that treatment and reuse of contaminated soil is preferred compared to containment or disposal when assessing preferred options for clean-up of a site.

This Information Bulletin provides an overview of these key elements of the SEPP. It should be read in conjunction with the SEPP and its explanatory notes. Additional background to, and discussion of, the SEPP may be found in the policy impact assessment, *Prevention and Management of Contamination of Land in Victoria* (EPA Publication 854). Both the SEPP and the policy impact assessment may be accessed via EPA's website – www.epa.vic.gov.au. Copies of the SEPP are also available from EPA's Information Centre (Tel. 03 9695 2722).

LAND USES, INDICATORS AND OBJECTIVES

Defining the uses of land and providing measures to ensure those uses are protected is a fundamental component of the SEPP (PMCL).

For example, the community expects that to be suitable for residential use, land should be safe for humans, capable of supporting modified and highly modified ecosystems (for example, domestic gardens and visiting wildlife), not corrosive to buildings, aesthetically pleasing (for example, not comprised of concrete rubble) and suitable for the production of food (for example, vegetable gardens). In contrast, the community would not expect that land used for industrial purposes be suitable for growing vegetables.

For each land use the SEPP nominates indicators and objectives of use in assessing whether the use is protected. For the most part these have been adopted from the *NEPM (Assessment of Site Contamination)*, although the option for site-specific risk assessment is also provided.

In addition, the SEPP seeks to maintain land as close to background levels as practicable.

THE PLANNING AND AUDIT SYSTEMS

The environment audit system has been a core element of EPA Victoria's approach to management of contamination of land during the last 10 years.

In that period more than 1000 sites have been subject to audit and signed-off as suitable for certain uses, with Ministers Direction No. 1 the primary trigger for such audits¹.

¹ Ministers Direction No.1, made pursuant to the *Planning and Environment Act 1987*, requires that in preparing a planning scheme amendment, with the effect of allowing potentially contaminated land to be used for a sensitive use, open space or agriculture, a planning authority must satisfy itself that the land is suitable for the use. In the case of a sensitive use the environmental audit system is the means by which the planning authority must be satisfied.

The audit system, managed by EPA, ensures auditors are independent and competent meaning that planners, purchasers, financial institutions and others can have confidence in an audit's outcome.

These measures are important in ensuring a robust interface between the audit system and the planning system.

The SEPP (PMCL) builds on existing requirements set out in the *Planning and Environment Act 1987* and in Ministers Direction No.1. The SEPP does this by reinforcing that where a planning decision would have the effect of allowing potentially contaminated land² to be used for a sensitive use³ an environmental audit should be required, irrespective of whether the decision relates to a planning permit or a planning scheme amendment.

Further, where the outcome of the audit is a Statement of Environmental Audit with conditions that must be met to ensure that the site is suitable for the use, the SEPP identifies the need for mechanisms to ensure such conditions are met.

PREVENTION OF CONTAMINATION

The SEPP indicates that best practice should be applied to avoid contamination of land. In particular, an environment improvement plan should be prepared to prevent contamination where the principal activity at the premises is the handling of chemicals or waste with the potential to contaminate land. Further, while the application of

² Potentially contaminated land is land used or known to have been used for industry, mining, or the storage of chemicals, gas, wastes or liquid fuels (if not ancillary to another use of land).

³ Sensitive use means residential use, a child care centre, a pre-school centre or a primary school.

chemicals and wastes to land can be useful to optimise the use of some land, this must only occur in accordance with best practice or other specific approvals (in order to minimise the risk of contamination).

MANAGEMENT OF CONTAMINATION

Where a site is to be investigated for land contamination, it is important that, wherever practicable, the information obtained is collected in accordance with established protocols, maximising comparability and reliability. The SEPP refers to EPA Publication 441 *Sampling and Analysis of Waters, Wastewaters, Wastes, Soils and Sediments*. Publication 441 is currently being amended to reflect the NEPM (Assessment of Site Contamination) – thereby adopting the nationally agreed standards of practice for site assessment.

The SEPP makes clear that the preferred strategies for clean-up of pollution of land should reflect the waste hierarchy and seek to achieve the best practicable environmental outcome. This is consistent with existing Government commitments to avoid the disposal of prescribed industrial waste (including contaminated soil) to landfill, and supports other initiatives, pursuant to the *Industrial Waste Management Policy (Prescribed Industrial Waste)*, to change the way prescribed industrial wastes are managed.

NOTIFICATION TO POTENTIAL PURCHASERS

People with an interest in land, should have access to reliable information about the condition of that land and the implications of any contamination for use of the land. EPA will work with a range of interested parties to maximise the availability of such information. Currently EPA makes information available about sites as follows:

- Priority Sites Register – a listing of sites where EPA requires action in relation to the condition of land and/or groundwater (refer to www.epa.vic.gov.au for details on accessing the Priority Sites Register); and
- List of Certificates and Statements of Environmental Audit – enabling purchasers and others to identify those sites that have been through the rigorous assessment process and ‘sign-off’ as either suitable for all uses or a selected range of uses (possibly subject to conditions) (currently available from the EPA Library).