



POLICY

Contaminated Land Policy

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Responsible Officer

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1. INTRODUCTION

The Environment Protection (Site Contamination) Amendment Act 2007 will shortly come into operation on a day to be fixed by proclamation. Under the Environment Protection (Site Contamination) Amendment Act 2007, the definition for site contamination is:

“site contamination exists at a site if:

- (a) chemical substances are present on or below the surface of the site in concentrations above the background concentrations (if any); and*
- (b) the chemical substances have, at least in part, come to be present there as a result of an activity at the site or elsewhere; and*
- (c) the presence of the chemical substances in those concentrations has resulted in—*
 - (i) actual or potential harm to the health or safety of human beings that is not trivial, taking into account current or proposed land uses; or*
 - (ii) actual or potential harm to water that is not trivial; or*
 - (iii) other actual or potential environmental harm that is not trivial, taking into account current or proposed land uses”.*

Site contamination can result from past and current land uses and can pose significant risks to human health and the natural environment. In addition to managing these risks from a business perspective (i.e. managing environmental and human health issues whilst minimising reputation risk, financials costs and project delays aligned to Council’s strategic objectives) there are also legislative requirements in relation to contaminated land.

In February 2007, Council received an Internal Audit Report from Ernst & Young that investigated internal processes and procedures in relation to contaminated land. The Audit Report identifies potential risks and makes recommendations to assist Council in mitigating or eliminating these risks.

The Contaminated Land Policy and Operating Guidelines support implementation of management undertakings to the recommendations of the Audit Report and will ensure Council, land owners, developers and contractors comply with the Environmental Protection (Site Contamination) Amendment Act 2007.

1.1 Scope

The Policy and Operating Guidelines are applicable to all land and buildings within the Adelaide City Council Local Government Area where Council has responsibilities as a land owner or land manager or Statutory Authority under the Development Act 1993. In particular, it provides a policy framework and operating guidelines to mitigate or eliminate site contamination risks to the natural environmental, human health and the Corporation in the following areas:

- Council owned and/or occupied land and buildings - Corporate Real Estate, Strategic Property Projects and Special Projects real estate portfolios;
- Council managed public land – Crown Land, Community Land and Public Roadways (Park Lands, Squares, roads and footpaths);
- Acquisition, transfer and divestment of contaminated land and/or buildings to and from the Corporation; and
- Private Land – Council’s role in Development Assessment.

The Asbestos Management Policy and the ACC Asbestos Management Plan will continue as Council’s Policy on asbestos management and asbestos related issues.

2. POLICY OBJECTIVES

The Policy provides sound guiding principles and procedures to ensure Council minimises its risk and develops a culture of best practice in the field of managing contaminated sites; the ongoing monitoring of those sites and subsequent remediation.

Further to this, the Adelaide City Council Site Contamination Policy and Operating Guidelines will assist:

1. Compliance with the requirements of all relevant legislation;
2. To prevent the creation of additional contaminated land;
3. To effectively manage the Corporation's risks associated with contaminated land;
4. To enable the issue of land contamination to be considered at a sufficiently early stage in the planning, design and development process so as to ensure that the proposed land use is suitable;
5. To promote remediation of contaminated land to a level that is compatible with the desired future uses of the site;
6. To enable Council to fulfil its responsibilities relating to the consideration of applications for rezoning, development and building activities and to provide accurate information in response to section 7 requests for information, pursuant to the Land and Business (Sale and Conveyancing) Act 1994;
7. To protect community health standards and the environment through the long-term management of contaminated land in the City; and
8. To ensure that the community (including owners, developers) and Council officers are aware of the implications of contaminated and potentially contaminated land by providing consistent and reliable information about land that is or may be contaminated land, or that was formerly contaminated land.

3. POLICY STATEMENTS

Adelaide City Council will undertake to improve the quality of land within its boundaries with the development of sound procedures in assessing, managing and assisting both internal and external stakeholders on land contamination issues.

Adelaide City Council will allow for the following requirements to be applied generally within the Corporation.

3.1 Legislative Requirements

- 3.1.1 The Corporation commits to review, manage and implement its policies and practices to comply with the requirements of all relevant legislation, including the provision of written notification to the Environment Protection Authority when the Corporation becomes aware of, or the potential for, site contamination of underground water.

3.2 Site Contamination Prevention

- 3.2.1 The Corporation commits to review, manage and implement its policies and practices to prevent further site contamination.

3.3 Contaminated Site Management and Remediation

- 3.3.1 The Corporation commits to review, manage and implement policies and practices that manage or eliminate risks to the Corporation, natural environment and human health arising from site contamination.
- 3.3.2 Wherever practicable, the Corporation commits to adopt environmentally sustainable practices when managing and remediating contaminated land (e.g. treatment onsite rather than disposal to landfill)

3.4 Purchase, Transfer and Divestment of Ownership of Land and/or Buildings

- 3.4.1 The Corporation will not purchase or accept responsibility over land and/or buildings which are contaminated or have been partially or fully remediated unless:
- Legislative and human health risks can be established; and
 - Full disclosure is made and an acceptably prudent transfer of financial and environmental risks can be established; and/or
 - Site management and remediation costs and risks are fully covered by the vendor or a third party.
- 3.4.2 The Corporation will not divest land and/or buildings which are contaminated and have not been remediated unless:
- Legislative and human health risks can be established; and
 - Full disclosure is made and an acceptably prudent transfer of financial and environmental risks can be established; and/or
 - Site management and remediation costs and risks are fully covered by the recipient, purchaser or a third party.

3.5 Leasing or Occupying Land and/or Buildings

- 3.5.1 The Corporation will not enter into a lease or occupy land and/or buildings which are contaminated and have not been remediated unless:
- Legislative and human health risk can be established; and
 - Full disclosure is made and an acceptably prudent transfer of financial and environmental risks can be established; and/or
 - Site management and remediation costs and risks are fully covered by the lessor.

3.6 Site Contamination Register

- 3.6.1 The Corporation will maintain a Site Contamination Register of land in the City where there is evidence of, or reasonable suspicion that land, buildings and/or water, including underground water, may have been contaminated or there is evidence of past potentially contaminating activities.
- 3.6.2 The Corporation will disclose information on the Site Contamination Register in accordance with the Privacy Policy and Contaminated Land Operating Guidelines.

3.7 Private Land

- 3.7.1 The Corporation will require others to uphold their responsibilities as land owners and tenants.

3.8 Risk Management

- 3.8.1 The Corporation will ensure that appropriate practices and procedures of internal control and risk management are in place for its management of land including risk identification, assessment and implementation of controls.

Managers will be responsible for ensuring appropriate standard operating practices and procedures for internal controls and risk management are developed, implemented, monitored for compliance, reviewed for adequacy and updated.

3.9 Policy Review

- 3.9.1 The Adelaide City Council Contaminated Land Policy will be reviewed in October 2011.

4. LEGISLATIVE AND CORPORATE POLICY CONTEXT

In adopting this policy, it is recognised that there are specific legislative requirements to be met as well as other corporate goals.

4.1 Legislative Provisions

Relevant major legislative requirements are the:

- Local Government Act 1999
- Development Act 1993
- Environmental Protection Act 1993
- Environmental Protection (Site Contamination) Amendment Act 2008
- Sale and Conveyancing Act 1994
- Freedom of Information Act 1991
- Occupational Health, Safety and Welfare Act 1986
- Public and Environmental Health Act 1987

4.2 Corporate Policy Context

This Policy is to be implemented in conjunction with the Council's Strategic Directions and other relevant Policies, Strategies and Operating Guidelines including:

- Adelaide (City) Development Plan
- Environmental Management Plan (2000)
- Park Lands Management Strategy 1999
- Community Land Management Plans and Park Lands Master Plans
- Corporate Occupational Health, Safety and Welfare Administrative Policy
- Emergency Management Administrative Policy
- Corporate Emergency Response Plan
- Hazard Management Policy
- Asbestos Management Policy and ACC Asbestos Management Plan
- Privacy Policy
- Risk Management Framework and Operating Guidelines
- Sale and Disposal of Land and Other Assets Policy (6 August 2001)

5. MONITORING AND REVIEW

The effectiveness of this Policy will be reviewed and evaluated by the Manager Sustainability in October 2011. The Manager Sustainability will report to the Executive Management Team on the outcome of the evaluation and make recommendations for amendment, alteration or substitution of a new Policy as necessary.

5.1 Key Performance Indicators

Acquisition, Transfer and Divestment of Council Owned or Managed Land and Buildings

1. Risks associated with land contamination are quantified and mitigated prior to the acquisition, transfer or divestment of all Council owned or managed land or buildings.

Capital Projects - Council Owned or Managed Land and Buildings

2. All project briefs and work instructions give appropriate direction on contaminated land risks and remediation and/or management processes and expectations.
3. All projects eliminate or suitably mitigate health risks to workers arising from site contamination.

Private Land – Development Assessment

4. All development applications involving a change to a sensitive land use eliminate or suitably mitigate site contamination risks to the natural environment and human health.