



Resource Sheet 1

Triggers for assessment

Key considerations

Compliance	Determine the obligations for awareness and for responsible management of contamination to achieve compliance with relevant legislation
Corporate objectives	Establish any relationships between the management of contaminated land risks and the achievement of corporate objectives
Due diligence	Consider due diligence obligations for assessing and mitigating human health, environmental and business risks associated with contamination
Commercial	Consider commercial drivers for assessing contamination to facilitate property transactions, impact on property values and reduction in financial liabilities
Responsibility	Identification of parties responsible for any potential contamination

Legislation and standards

NSW Legislation	<i>Contaminated Land Management Act 1997</i> The Act enables the EPA to respond to contamination that it has reason to believe is significant enough to warrant regulation. The Act gives the EPA power to: <ul style="list-style-type: none">▪ declare land to be significantly contaminated land▪ order a person to undertake a preliminary investigation of land that the EPA suspects to be contaminated▪ order a person to take management action in relation to significantly contaminated land▪ approve a voluntary proposal to manage significantly contaminated land▪ order that land that has been the subject of a management order or approved voluntary management proposal be subject to an ongoing maintenance order. The hierarchy of people that the EPA may direct to take action is as follows: <ol style="list-style-type: none">1. the person/s responsible for the contamination2. the owner/s
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3. the notional owner/s.

The EPA may also direct a public authority to carry out management action in relation to contaminated land. Those ordered to take management action may appeal against the order. They can also recover costs from the person/s responsible for the contamination in some circumstances.

Duty to notify

The Act requires landowners and persons who carry on contaminating activities to notify the EPA of the contamination of land in certain circumstances.

Site Auditor Accreditation scheme

The Act allows the EPA to accredit people as site auditors. Site auditors must issue a Site Audit Statement indicating the land uses that any site is suitable for.

NSW Legislation

Environmental Planning and Assessment Act 1979

The Act provides for the development of State and Local environmental planning instruments. These instruments may contain requirements for the management of contaminated land.

The Act also requires determining authorities to take into account all matters likely to affect the environment (which generally includes contaminated land issues) when assessing activities.

NSW Legislation

State Environmental Planning Policy 55 – Remediation of Land

The Policy imposes obligations on planning authorities to consider whether land is contaminated when assessing rezoning and development applications. It also establishes the types of remediation activities that require development consent.

NSW Legislation

State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1, clause 24 specifies when the remediation of contaminated land qualifies as state significant development.

NSW Legislation

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

This Regulation sets out requirements for the installation, management, monitoring and decommissioning of underground petroleum storage tanks.

NSW Legislation

Work Health and Safety Act 2011

	The Act requires a person conducting a business or undertaking to ensure a safe work environment for employees, and establishes requirements for the assessment and management of asbestos.
Australian Standard	Risk Management – Principles and Guidelines (AS/NZS ISO 31000:2009) The Standard establishes processes for the identification, assessment, evaluation, control and monitoring of risks. The standard can be applied to assist in decision-making regarding contaminated land.
Australian Standard	Provisions, Contingent Liabilities and Contingent Assets (AASB137) The Standard sets out requirements for the calculation of provisional and contingent liabilities.

Other considerations

Organisational Frameworks	Business Plans and Risk Frameworks The organisational business plans of land owners typically set out corporate objectives that may influence the management of contaminated land. Similarly, enterprise risk frameworks typically require the identification, evaluation and control of risks relating to health and safety, the environment, legal obligations, finances and reputation; all of which may be affected by contaminated land issues.
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